

EXPLANATORY STATEMENT

Migration Regulations 1994

**SPECIFICATION OF OCCUPATIONS FOR NOMINATIONS IN RELATION TO
SUBCLASS 457 (BUSINESS (LONG STAY)) AND
SUBCLASS 442 (OCCUPATIONAL TRAINEE) VISAS**

(PARAGRAPHS 2.72(10)(aa) and 2.72I(5)(ba))

1. This Instrument is made under paragraphs 2.72(10)(aa) and 2.72I(5)(ba) of Division 2.17 of Part 2A of the *Migration Regulations 1994* ('the Regulations'), inserted in the Regulations on 1 July 2010 by the *Migration Amendment Regulations 2010 (No. 6)*.
2. Regulation 2.72 of the Regulations sets out the criteria for approval of a nomination in relation to the holder of, or an applicant or proposed applicant for, a Subclass 457 (Business (Long Stay)) visa. Regulation 2.72I of the Regulations sets out the criteria for approval of a nomination in relation to a holder of, or an applicant or proposed applicant for, a Subclass 442 (Occupational Trainee) visa.
3. Paragraph 2.72(10)(aa) of the Regulations provides that for standard business sponsors who make nominations in relation to Subclass 457 (Business (Long Stay)) visas on or after 1 July 2010, the Minister must be satisfied that the nominated occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified by the Minister in an instrument in writing for the paragraph. The purpose of this provision is to provide that persons seeking to satisfy the criteria for approval of a nomination for a Subclass 457 (Business (Long Stay)) visa made on or after 1 July 2010 must include in the nomination the name of the occupation, and the corresponding 6-digit code (if any) specified and include the location or locations at which the nominated occupation is to be carried out.
4. Paragraph 2.72I(5)(ba) of the Regulations provides that for occupational trainee sponsors who make nominations in relation to Subclass 442 (Occupational Trainee) visas on or after 1 July 2010, the Minister must be satisfied that the nominated occupational training is in relation to an occupation specified, with its corresponding 6-digit code, by the Minister in an instrument in writing for the paragraph.

5. Item (1) of the Instrument specifies occupations for the purposes of paragraph 2.72(10)(aa) of the Regulations as the occupations listed in Schedule 1 to the Instrument. Item (2) of the Instrument specifies occupations for the purposes of paragraph 2.72I(5)(ba) of the Regulations as the occupations listed in Schedule 1 to the Instrument, and, in addition, the occupation set out in Schedule 2 to the Instrument. Schedules 1 and 2 to the Instrument also specify the corresponding 6-digit code for each relevant occupation. This code is listed in accordance with the ANZSCO (the Australian and New Zealand Standard Classification of Occupations).
6. The specified occupations are unchanged from those in Instrument number IMMI 09/125 signed by the Minister on 22 October 2009, for the purposes of paragraphs 2.72(10)(a) and 2.72I(5)(b) of the Regulations. The only difference is that occupations are specified in Instrument number IMMI 09/125 generally with reference to the relevant code in accordance with the ASCO (the Australian Standard Classification of Occupations).
7. Paragraphs 2.72(10)(a) and 2.72I(5)(b) of the Regulations, and consequently Instrument number IMMI 09/125, continue to apply in respect of nominations made prior to 1 July 2010. Paragraphs 2.72(10)(aa) and 2.72I(5)(ba) and this Instrument number IMMI 10/032 apply in respect of nominations made on and after 1 July 2010. This reflects the operational requirements of the Department of Immigration and Citizenship from 1 July 2010 when the ANZSCO, rather than the ASCO, will become the accepted descriptor of occupations. New nominations from that date will be required to nominate an occupation with its corresponding 6-digit ANZSCO code.
8. The following document is incorporated in the Instrument by reference:
 - ANZSCO means, under regulation 1.03 of the Regulations, the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics as current on 1 July 2010. The ANZSCO - First Edition, Revision 1 (ABS Catalogue No. 1220.0) is available online at <http://www.abs.gov.au>.
9. Affected government departments and agencies were consulted on the proposal to introduce the ANZSCO standard into the Department's skilled migration programs. These included the Australian Bureau of Statistics, the Department of Education, Employment and Workplace Relations, and the Department of Infrastructure, Transport, Regional Development and Local Government.

10. State and Territory Governments were consulted via the Commonwealth State Working Party on Skilled Migration (CSWPSM). This included the ACT Chief Minister's Department, the NSW Department of State and Regional Development, the NT Department of Business and Employment, the Queensland Department of Employment, Economic Development and Innovation, the Tasmanian Department of Economic Development, Tourism and the Arts, and the SA Department of Trade and Economic Development.
11. The Office of Best Practice Regulation was consulted and advised that because changes from ASCO to ANZSCO are a consequence of the new approach adopted by the Australian Bureau of Statistics for classifying occupations, no regulation impact statement or business cost calculator report was required.
12. This Instrument number IMMI 10/032 commences on 1 July 2010, immediately after the commencement of *Migration Amendment Regulations 2010 (No. 6)*.