

EXPLANATORY STATEMENT

Migration Regulations 1994

CLASS OF PERSONS (PARAGRAPHS 050.613A and 051.611A)

1. This Instrument is made under paragraph 050.613A and 051.611A of the *Migration Regulations 1994* (“the Regulations”).
2. The Instrument revokes Instrument IMMI 11/078 signed on 27 March 2012.
3. Paragraphs 050.613A and 051.611A of the Regulations provide that condition 8101 (‘no work’) does not apply to a class of persons specified by the Minister in an instrument in writing.
4. The purpose of the Instrument is to allow the Minister to specify which classes of persons who have been granted a visa Class WE are not subject to condition 8101.
5. The instrument operates to make work rights discretionary for persons granted a BVE subclass 050 or a BVE subclass 051 visa under s195A of the Act. The Instrument does not apply to offshore entry persons granted a Bridging E (Class WE) visa (subclasses 050 or 051) under section 195A of the Act who enter Australia on or after 13 August 2012. Currently condition 8101 (‘no work’) is mandatory when conditions are imposed under paragraphs 050.613A(1)(a) and 051.611A(1)(c). However, paragraphs 050.613A(1)(b) and 051.611A(1)(c) provide that the Minister may specify a class of persons are not subject to having condition 8101 imposed on their visa. Therefore it is necessary to specify a class of persons in an instrument for the purposes of paragraphs 050.613A(1)(b) and 051.611A(1)(c). This means that clauses 050.617 and 051.612 operate to specify the discretionary conditions that may be imposed on the applicant’s visa.
6. Under subsection 44 of the *Legislative Instruments Act 2003* the Instrument is exempt from disallowance and therefore a Human Rights Statement of Compatibility is not required.
7. Consultation is unnecessary as, under section 18(1) of the *Legislative Instruments Act 2003*, the Instrument is of a minor or machinery nature and does not substantially alter existing arrangements.

8. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required. (OBPR Ref: 14294)
9. The Instrument, IMMI 12/114, commences on the day after registration on the Federal Register of Legislative Instruments.