

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 20/103: Subclass 417 (Working Holiday) Visa – Regional Australia and Specified Work) Instrument 2020

(Subitem 1225(5) of Schedule 1)

1. The instrument, LIN 20/103, is made under the definitions of ***regional Australia*** and ***specified work*** in subitem 1225(5) of Schedule 1 of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals the *Migration (IMMI 17/018: Working Holiday Visa – Specified Work and Regional Australia) Instrument 2017* (IMMI 17/018) (F2017L01032), also made under the same definitions in subitem 1225(5) of Schedule 1 to the Regulations in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The instrument operates to specify areas of regional Australia and kinds of specified work for the definition of those terms in subitem 1225(5) of Schedule 1 to the Regulations, for the purposes of Working Holiday (Temporary) (Class TZ) visa. Paragraphs 417.211(5)(a) and 417.211(6)(a) of Schedule 2 to the Regulations require that applicants for a second or third Subclass 417 (Working Holiday) visa (Subclass 417 visa) within Class TZ to have carried out a period or periods of specified work in regional Australia.
4. One of the purposes of the instrument is to specify, at subsection 6(2), areas of Australia affected by bushfires occurring after 31 July 2019 and before 1 March 2020 as regional Australia.

5. Another purpose of the instrument is to specify, at section 8, bushfire recovery work carried out after 31 July 2019 in an area specified by subsection 6(2), either as paid employment or voluntary work, as specified work. Bushfire recovery work is defined in section 4 of the instrument.
6. Other than those changes, the instrument maintains the regional Australia areas and the kinds of work that were specified in IMMI 17/018.
7. The specification of bushfire affected areas as regional Australia and bushfire recovery work as specified work enables Subclass 417 visa holders to assist in bushfire recovery efforts in the affected areas after 31 July 2019. As a result, these visa holders can count such work, either as paid employment or volunteer work, towards their eligibility for a second or third Subclass 417 visa application.
8. Consultation was undertaken before the instrument was made with the National Bushfire Recovery Agency, the Department of Education, Skills and Employment and Commonwealth departments' Secretaries through Inter-departmental Committee meetings. This consultation was in relation to the specification of bushfire affected areas as regional Australia and bushfire recovery work as specified work. For other parts of the instrument that remain unchanged from the previous instrument IMMI 17/018, no further consultation was required.
9. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR reference 26175).
10. The officer who made the instrument was delegated the powers required to make the instrument in the *Instrument Making Powers (Minister) Instrument 2019/228*, signed on 12 September 2019.
11. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.

12. The instrument commences on the day after it is registered on the Federal Register of Legislation.