

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (Appropriate Regional Authority) Instrument (LIN 20/236) 2020

(Regulation 1.03)

1. The instrument, LIN 20/236, is made under the definition of *appropriate regional authority* in regulation 1.03 of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals the instrument *APPROPRIATE REGIONAL AUTHORITY (IMMI 10/041) (F2010L01487)* made under the definition of *appropriate regional authority* in regulation 1.03 of the Regulations. 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 define an ‘appropriate regional authority’ for the purpose of regulation 1.03 of the Regulations. The definition in regulation 1.03 provides that in relation to a State or Territory and applications for visas of a particular class, an ‘appropriate regional authority’ is a Department or authority of that State or Territory that is specified in a legislative instrument made by the Minister in relation to the grant of that class.
4. The instrument also operates to specify *appropriate regional authorities* for the purpose of the definition of *appropriate regional authority* in regulation 1.03 of the Regulations. Specifically to reflect the correct names for the appropriate regional authorities who are able to sign sponsorship forms required to be lodged with an application for one of five legacy classes of visa. The names that differ from the previous instrument and are the current *appropriate regional authorities* are as follows:
 - New South Wales Treasury (NSW);
 - Department of Jobs, Precincts and Regions (VIC);
 - Trade and Investment Queensland (BSMQ)(QLD);
 - Small Business Development Corporation (WA);
 - Department for Innovation and Skills (SA);

- Department of State Growth (TAS);
 - Department of Industry, Tourism and Trade (NT);
 - ACT Chief Minister, Treasury and Economic Development Directorate (ACT).
5. Legislative Instrument IMMI 10/041 is due to sunset on 1 October 2020. The purpose of this instrument is to remake IMMI 10/041 to safeguard the rights of the holders of five residual classes of visa, whose visa functionality will be impacted if LIN 20/236 is not made. The five legacy classes of visa are the following visas:
- Business Skills (Migrant) (Class AD);
 - Business Skills – Established Business (Residence) (Class BH);
 - Business Skills (Residence) (Class DF);
 - Business Skills (Provisional) (Class UR);
 - Investor Retirement (Class UY).
6. The Business Skills (Migrant) (Class AD) visa and the Business Skills – Established Business (Residence) (Class BH) have been omitted from the Regulations. However both of these visa classes have transitional savings provisions in the amending regulations, for the Class AD visa, see *Migration Amendment Regulations 2002 (No. 10)* (F2002B00355) and for the Class BH visa, see *Migration Amendment Regulation 2012 (No. 2)* (F2012L01105).
7. Consultation was undertaken before the instrument was made with all States and Territory governments listed under item 4 above.
8. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 43087).
9. Under item 20 of the table in section 10 of the *Legislation (Exemption and other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
10. The instrument commences on the day after it is registered on the Federal Register of Legislation.