

EXPLANATORY STATEMENT

Issued by the Minister for Immigration, Citizenship and Multicultural Affairs

Migration Act 1958

Migration Amendment (Visa Application Charges) Regulations 2022

The *Migration Act 1958* (the Migration Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Migration Act provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

Subsection 45B(1) of the Migration Act provides that the amount of the visa application charge (VAC) is the amount, not exceeding the VAC limit, prescribed in relation to the application. The VAC limit is determined under the *Migration (Visa Application) Charge Act 1997*.

The purpose of the *Migration Amendment (Visa Application Charges) Regulations 2022* (the Regulations) is to amend the *Migration Regulations 1994* (the Migration Regulations) to make changes to VACs for certain visas to implement the Government's policy of indexing VACs.

The Regulations amend the Migration Regulations to increase VACs for a number of visas by the forecast consumer price index (CPI). From 2017-18, annual indexation of the VACs has been in accordance with the forecast CPI published annually in the Budget papers.

In effect, this means that the affected VACs are increased from their 2021-22 baseline amounts by the 2022-23 forecast CPI of 3.00 per cent, which is published in the 2022-23 Budget Paper No.1. The indexed amount of VAC is also rounded to the nearest \$5. It is intended that these indexation amendments will continue to be made on an annual basis.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. A copy of the Statement is at [Attachment A](#).

Details of the Regulations are set out in [Attachment B](#).

The Office of Best Practice Regulation (the OBPR) has been consulted in relation to the amendments made by the Regulations. No Regulation Impact Statement is required. The OBPR consultation reference is 26022.

Public consultation was not considered necessary as the changes are mechanical in nature and implement long standing Government policy. The amendments do not substantially alter existing arrangements. This accords with subsection 17(1) of the *Legislation Act 2003* (the Legislation Act) which requires that appropriate and reasonably practicable consultation be undertaken.

The Migration Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the Legislation Act.

The Regulations commence on 1 July 2022 and will align with updates to Department of Home Affairs' systems.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration Amendment (Visa Application Charges) Regulations 2022

ADJUSTMENT OF VISA APPLICATION CHARGES

This Disallowable Legislative Instrument, entitled the *Migration Amendment (Visa Application Charges) Regulations 2022* (the Regulations) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The purpose of the *Migration Amendment (Visa Application Charges) Regulations 2022* (the Regulations) is to amend the *Migration Regulations 1994* (the Migration Regulations) to make changes to VACs for certain visas to implement the Government's policy of indexing VACs.

The Regulations amend the Migration Regulations to increase VACs for a number of visas by the forecast consumer price index (CPI). From 2017-18, annual indexation of the VACs has been in accordance with the forecast CPI published annually in the Budget papers.

In effect, this means that the affected VACs are increased from their 2021-22 baseline amounts by the 2022-23 forecast CPI of 3.00 per cent, which is published in the 2022-23 Budget Paper No.1. The indexed amount of VAC is also rounded to the nearest \$5. It is intended that these indexation amendments will continue to be made on an annual basis.

Human rights implications

The Regulations do not engage any of the applicable rights or freedoms.

Conclusion

The Regulations are compatible with human rights as they do not raise any human rights issues.

The Hon. Andrew Giles, MP
Minister for Immigration, Citizenship and Multicultural Affairs

Details of the Migration Amendment (Visa Application Charges) Regulations 2022

Section 1 – Name

This section provides that the name of the instrument is the *Migration Amendment (Visa Application Charges) Regulations 2022* (the Regulations).

Section 2 – Commencement

This section provides for the commencement of the instrument. The whole of the instrument commences on 1 July 2022.

Section 3 – Authority

This section provides that the instrument is made under the *Migration Act 1958* (the Migration Act).

Section 4 – Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Part 1 – Increases to visa application charges

Items [1 to 206]

Part 1 of Schedule 1 to the Regulations gives effect to Government policy of indexing visa application charges (VACs) annually in line with increases to consumer price index (CPI). VACs are increased from their 2021-22 baseline amounts by the 2022-23 forecast CPI of 3.00 per cent, which is published in the 2022-23 Budget Paper No.1.

The amendments made by items 1 to 206 substitute existing VAC amounts with indexed VAC amounts for the corresponding visa provided by the provision being amended.

All increases are rounded to a multiple of \$5.00 according to the following methodology:

- if the amount of the charge calculated under this formula is not a multiple of \$5.00, and exceeds the nearest lower multiple of \$5.00 by \$2.50 or more, the amount is rounded up to the nearest \$5.00;
- in any other case, where the charge calculated under the formula is not a multiple of \$5.00, the amount is rounded down to the nearest lower multiple of \$5.00.

If the increase is less than \$2.50, it is rounded down nil, and no change is made to the VAC. This means that the indexation of some VACs have not triggered a price change.

The amount of the increase in these items does not exceed the applicable charge limit set out in the *Migration (Visa Application) Charge Act 1997*.

Part 2 – Application of amendments

Item [207] - In the appropriate position in Schedule 13

This item inserts new Part 110 into Schedule 13 to the Migration Regulations. Schedule 13 provides for the application and transitional provisions that apply to amendments to the Migration Regulations.

This item provides that the amendments made by Schedule 1 apply to visa applications made on or after 1 July 2022.