

EXPLANATORY STATEMENT

Migration Agents Regulations 1998

1. This Notice is made under clause 3 of Schedule 1 to the *Migration Agent Regulations 1998* ('the Regulations').
2. Clause 3 of Schedule 1 to the Regulations allows the Migration Agents Registration Authority (the 'Authority') to specify, by notice published on its web site, approved activities for the purposes of Continuing Professional Development for registered migration agents. The notice may include in relation to each activity: the name of the activity; the provider (if any) of the activity; whether the activity is a core activity or an elective activity; the number of points for each activity, and the requirements for completion of the activity.
3. The purpose of the Instrument is to specify approved Private Study of Audio, Video or Written Material for the purposes of Continuing Professional Development for Registered Migration Agents.
4. In order to be eligible to complete an activity, a participant must at the time of commencing the activity, meet the eligibility requirement specified in column 6.
5. The eligibility requirement is specified in terms of levels explained in the table under paragraph 3 of the instrument. Activities which are specified as Level 1, have no eligibility requirements, and may be commenced and completed by any participant. Activities which are specified as Level 2 or 3, require the participant, at the time of commencing the activity, to have the years of experience as a migration agent, to have completed the requisite number of approved CPD activities, or to have the Authority's approval, as specified in the table under paragraph 3 of the instrument.
6. The instrument will revoke the notice entitled Migration Agents (Continuing Professional Development – Private Study of Audio, Video or Written Material) MARA Notice MN38-05b of 2005, published on 19/09/2005, and specify a new set of material described in columns 2 and 3 of an item as set out in the attached Schedule.

7. These new activities are approved activities for the purposes of clause 3 of Schedule 1 to the Regulations. They are approved activities for the purposes of Continuing Professional Development for Registered Migration Agents with the status specified in column 4; having the value specified in column 5; and having the eligibility requirement specified in column 6.
8. The instrument is of a minor or machinery nature and does not substantially alter existing arrangements for the purposes of Continuing Professional Development for Registered Migration Agents. The instrument confers points on, and sets completion requirements for, all activities set out in column 2 in the Schedule; revokes the previous listing of approved activities; and alters those activities specified as approved activities by the Authority. Consultation under these circumstances is not required.
9. The instrument revokes a previously published notice however the new notice must be approved effective on 1 April 1998. Accordingly the instrument requires retrospective application.
10. The instrument requires retrospectivity because it includes activities approved in previous notices which have now been revoked (see clause 1 of the Instrument).
11. Unless retrospectivity is granted, that is the Notice is effective from 1 April 1998, individuals who have completed activities under previous notices (now revoked) will be disadvantaged as the activities undertaken before the instrument is registered will have the effect of no longer being approved activities. Therefore individuals who completed an approved activity at the time of undertaking the activity will be unable to rely on these points for continuing professional development – required under section 290A of the *Migration Act 1958*.
12. The Commonwealth is neither advantaged nor disadvantaged by the retrospectivity.