

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 67

Issued by the Minister for Immigration and Citizenship

Migration Act 1958

Migration Amendment Regulations 2009 (No. 3)

Subsection 504(1) of the *Migration Act 1958* (the “Act”) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 31(3) of the Act also provides that the regulations may prescribe criteria for a visa of a specified class.

The purpose of the Regulations is to amend the *Migration Regulations 1994* to increase the minimum International English Language Testing System (IELTS) score required to be met by certain persons, who are proposing to work in certain occupations (including tradespersons, clerical and service workers, production and transport workers, and the occupations of Head Chef and Chef), to satisfy the criteria for grant of a Subclass 457 (Business (Long Stay)) visa.

Specifically, the Regulations increase the “average band score” where an International English Language Testing System (IELTS) test is required for grant of a Subclass 457 (Business (Long Stay)) visa from a score of 4.5 to 5 or a score of more than 4.5 to more than 5. This increase improves consistency between the English language requirements for work-related temporary visas and permanent visas, many of which require an IELTS score of 5 or more. The IELTS test scores range from 0 (did not attempt the test) to 9 (“expert user”). A score of 4 is considered a “limited user”, while a score of 5 is considered a “modest user”.

The Regulations commence on 14 April 2009 and apply to applications made on or after this date.

The Office of Best Practice Regulation’s Business Cost Calculator and Assessment Checklists were used to determine that there was no compliance cost on business or impact on competition in relation to these amendments.

The Department of Foreign Affairs and Trade (“DFAT”) has been consulted in relation to these amendments.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.