

EXPLANATORY STATEMENT

Migration Regulations 1994

SPECIFICATION OF TRAINING BENCHMARKS

(Subregulations 2.59(d) and 2.68(e) and
sub-sub-subparagraphs 5.19(4)(h)(i)(B)(I) and 5.19(4)(h)(i)(B)(II))

1. This Instrument is made under subregulation 2.59(d) and 2.68(e) and sub-sub-subparagraphs 5.19(4)(h)(i)(B)(I) and 5.19(4)(h)(i)(B)(II) to the *Migration Regulations 1994* ('the Regulations').
2. Subregulations 2.59(d) and 2.68(e) of Part 2A of the Regulations provides that if an applicant who is applying for approval as a standard business sponsor, or who is applying to vary their terms of approval as a standard business sponsor, and who is lawfully operating a business in Australia and has traded in Australia for 12 months or more, needs to demonstrate that they meet the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing.
3. Sub-sub-subparagraph 5.19(4)(h)(i)(B)(I) of the Regulations provides that the nominator's business has operated for at least 12 months, and the nominator meets the requirements for the training of Australian citizens and Australian permanent residents that are specified by the Minister in an instrument in writing for this sub-sub-subparagraph.
4. Sub-sub-subparagraph 5.19(4)(h)(i)(B)(II) provides that the nominator's business has operated for less than 12 months, and the nominator has an auditable plan for meeting the requirements specified in the instrument mentioned in sub-sub-subparagraph 5.19(4)(h)(i)(B)(I).
5. The purpose of this Instrument is to provide training benchmarks for a person to meet or have an auditable plan to meet when they apply for an approval of nominated positions (employer nomination).
6. The Instrument operates to allow delegates to assess the training requirements for applications for an approval of nominated positions (employer nomination).

7. Consultation was undertaken before the Instrument was made with a wide range of Commonwealth Government Departments, State/Territory Government Departments, representative peak bodies for Migration Agents and the legal profession, and other relevant organisations and the general public.
8. The Office of Best Practice Regulation was consulted in relation to the new points test and has advised that a Regulatory Impact Statement is not required (OBPR Reference 2012/13021).
9. Under section 42 of the *Legislative Instruments Act 2003* the Instrument is subject to disallowance and therefore a Human Rights Statement of Compatibility has been provided.
10. The Instrument, IMMI 12/062 commences on 1 July 2012 immediately after the commencement of the *Migration Amendment Regulation 2012 (No. 2)*.