

## **EXPLANATORY STATEMENT**

### *Migration Regulations 1994*

#### **EVIDENCE OF FURTHER FUNDS AND LIVING COSTS**

(Paragraphs 570.613(3)(b), 572.613(3)(b), 573.613(3)(b), 574.613(3)(b), 575.613(3)(b) and 5B102(1)(a), clause 580.111 and subclause 5A104(1))

1. This Instrument is made under Schedule 2, paragraphs 570.613(3)(b), 572.613(3)(b), 573.613(3)(b), 574.613(3)(b), 575.613(3)(b) and clause 580.111; and schedule 5A, subclause 5A104(1); and schedule 5B, paragraph 5B102(1)(a) of the *Migration Regulations 1994* ('the Regulations').
2. Subclause 5A104(1) and paragraphs 5B102(1)(a) and 580.111 of the Regulations provides the **living costs** a student visa applicant must declare, and demonstrate having access to, is an amount specified in an instrument in writing.
3. Paragraphs 570.613(3)(b), 572.613(3)(b), 573.613(3)(b), 574.613(3)(b), and 575.613(3)(b), of the Regulations provide for an additional requirement in relation to the further amount of funds from an acceptable source a student visa applicant must demonstrate having access to. These paragraphs apply if:
  - the student is subject to an assessment level of 3,
  - proposes to study in Australia for 10 months or less, and
  - does not want to be granted a student visa subject to Condition 8534 - this condition prevents a student from being granted a further substantive visa while in Australia (except for a protection visa, student visa, Subclass 497 (Graduate – Skilled) visa or Subclass 580 visa).
4. The purpose of the Instrument is to specify the living costs amount and the further amounts of funds for student visa purposes as AUD \$18 610 per year. The Instrument is updated to remove reference to paragraph 5A302(b) pertaining to assessment level 5, which has become redundant. Assessment levels 4 and 5 have been removed from the Regulations as part of the simplification of the Student visa Assessment level Framework (recommendation 3 of the *Review of the Student Visa Assessment Level Framework 2013*).

5. The Instrument operates to specify ‘living costs amounts’ and ‘further amounts of funds’ in line with the Consumer Price Index (CPI). The amounts specified in the Instrument have not been amended.
6. Consultation was conducted with relevant external stakeholders from the international education sector and other Commonwealth government agencies as part of the broader consultation during the *Review of the Student Visa Assessment Level Framework 2013*. These include education peak bodies, State/Territory and Commonwealth Departments of Education, Austrade and an External Reference Group comprising members with expertise in international education and immigration risk.
7. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 16151).
8. 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 (attached).
9. The Instrument, IMMI 14/004, commences on 22 March 2014, immediately after the commencement of *Migration Amendment (Redundant and Other Provisions) Regulation 2014*.

## 10. Statement of Compatibility with Human Rights

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

### Evidence of further funds and living costs

This Legislative Instrument 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 Legislative Instrument

The purpose of this Legislative Instrument is to replace Legislative Instrument, IMMI 12/054 (F2012LO1350). The new instrument will remove references to Subclause 5A302(b) of Schedule 5A of the *Migration Regulations* 1994 (the Regulations) pertaining to Assessment Level (AL) 5 which will be repealed as part of amendments to the Regulations.

This change is proposed in accordance with a recommendation contained in the Department of Immigration and Border Protection report entitled '*Review of the Student Visa Assessment Level Framework 2013*'. The review recommended that the student visa AL framework be simplified with the removal of AL4 and AL5.

### Human rights implications

The amendments merely remove references to Subclause 5A302(b) of Schedule 5A of the Regulations.

The amendments are technical in nature and do not make substantive changes to persons' rights or interests. As such, the amendments do not engage any of the rights contained in the seven core international human rights treaties.

### Conclusion

The Legislative Instrument is compatible with human rights as the amendments are technical in nature only and do not engage any of the human rights articulated in the seven core international human rights treaties.

**The Hon. Michaelia Cash, Assistant Minister for Immigration and Border Protection**