

EXPLANATORY STATEMENT

Migration Regulations 1994

SPECIFICATION OF OCCUPATIONS, A PERSON OR BODY, A COUNTRY OR COUNTRIES 2016/059

(Regulation 1.03, subregulations 1.15I(1) and 2.26B(1), paragraphs 2.72(10)(aa) and 2.72I(5)(ba), sub-subparagraph 5.19(4)(h)(i)(A), Item 4(a) of the table in subitem 1137(4), Item 4(a) of the table in subitem 1138(4) and Item 4(a) of the table in subitem 1230(4), paragraph 1229(3)(k) and paragraph 186.234(2)(a))

1. Instrument IMMI 16/059 is made under regulation 1.03, subregulations 1.15I(1) and 2.26B(1), paragraphs 2.72(10)(aa) and 2.72I(5)(ba), sub-subparagraph 5.19(4)(h)(i)(A), Item 4(a) of the table in subitem 1137(4), Item 4(a) of the table in subitem 1138(4) and Item 4(a) of the table in subitem 1230(4), paragraph 1229(3)(k) and paragraph 186.234(2)(a) of the Migration Regulations 1994 (the Regulations).
2. The Instrument revokes IMMI 15/092 (F2015L01059) and IMMI 15/108 (F2015L01147) under subsection 33(3) of the *Acts Interpretation Act 1901*, which states where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The Instrument operates to specify the:
 - a. skilled occupations;
 - b. relevant ANZSCO code for an occupation;
 - c. relevant assessing authority for that occupation; and
 - d. country (where an application for a skills assessment is made by a resident of that country)
4. Schedule 1 to the Instrument contains the Skilled Occupation List (SOL), which is used to determine eligible occupations for independent, or relative sponsored skilled migration purposes.

5. Schedule 1 and Schedule 2 to the Instrument form the Consolidated Sponsored Occupation List (CSOL). The CSOL applies to both State and Territory nominated points tested visa, the Direct Entry stream, of the Employer Nomination Scheme the Temporary Work (Skilled) visa, the Occupational Trainee stream of the Training and Research visa and the Occupational Trainee visa.
6. The purpose of the Instrument is to:
 - a. include applications, to which the Instruments provisions apply, submitted on or after 1 July 2016; and
 - b. update occupations for a specified visa applicant's spouse or de facto partner, to enable points to be awarded to a visa applicant where an applicant's partner has an occupation on the SOL;
7. Consultation was undertaken with the Department of Education and Training before the instrument was made.
8. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 20873).
9. Under section 42 of the *Legislation Act 2003*, the Instrument is subject to disallowance and therefore a Statement of Compatibility with Human Rights has been provided.
10. The Instrument commences on 1 July 2016.

Statement of Compatibility with Human Rights

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

Specification of Occupations, a Person or Body, a Country or Countries

Legislative Instrument

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 Specification of Occupations, a Person or Body, a Country or Countries Legislative Instrument

This instrument (IMMI 16/059) specifies skilled occupations, Australian and New Zealand Standard Classification of Occupations (ANZSCO) codes and relevant assessing authorities relevant to assessment of applications for skilled migration under the *Migration Regulations 1994* (Migration Regulations).

The ANZSCO code is used by the Department of Immigration and Border Protection to ensure that applicants who wish to migrate as skilled migrants nominate a skilled occupation for migration purposes. Assessing authorities are independent expert bodies who certify that the applicant's educational qualifications and, in some cases, skilled work experience in their occupation, is comparable to that necessary to undertake the same position in Australia.

This instrument specifies the Skilled Occupation List (SOL) which provides eligible occupations, ANZSCO codes and assessing authorities for independent or family sponsored skilled visas. Occupations on the SOL are those identified as being in shortage in the Australian labour market in the medium to long term.

The instrument also specifies the Consolidated Sponsored Occupation List (CSOL) which similarly provides eligible occupations, ANZSCO codes and assessing authorities for applicants who apply for:

- State/Territory nominated visas;
- the Temporary Work (Skilled) visa;
- the Direct Entry stream of the Employer Nomination Scheme;
- the Occupational Trainee stream of the Training and Research visa; and
- the Occupational Trainee visa.

Human rights implications

As the instrument specifies the skilled occupations, ANZSCO codes and assessing authorities described above, and specification of those occupations, codes and authorities is enabled under the Migration Regulations, it does not engage any of the applicable rights and freedoms contained in the seven core international human rights treaties and does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Peter Dutton, Minister for Immigration and Border Protection