

EXPLANATORY STATEMENT

Migration Regulations 1994

FORMS, FEES, CIRCUMSTANCES AND DIFFERENT WAY OF MAKING AN APPLICATION AMENDMENT INSTRUMENT 2016/107

(Regulations 2.61, 2.66, 2.73 and 2.73A, and subitem 1223A(1))

1. The Instrument amends the instrument Forms, Fees, Circumstances and Different Way of Making an Application, IMMI 13/063. The Instrument is made under subregulations 2.07(5), 2.61(3A), 2.61(3B), 2.66(3), 2.66(4), 2.66(5), 2.73(3), 2.73(5), 2.73(9) and 2.73A(2) and 2.73A(3), and paragraphs 1223A(1)(bb), 1223A(1)(b), 1223A(1)(ba) and 1223A(1)(bc) of the *Migration Regulations 1994* (the Regulations).
2. The Instrument operates to specify matters relating to nominations, approvals and variation to approvals for standard business sponsors and temporary activity sponsors.
3. The purpose of the Instrument is to specify the process:
 - a. for making an application for approval as a temporary activity sponsor, and the process for making an application to vary the terms of approval as a temporary activity sponsor; and
 - b. for nomination for a Subclass 407 (Training) visa;
 as a consequence of the *Migration Amendment (Temporary Activity Visas) Regulation 2016*.
4. To clarify the amendments the Instrument inserts headings to distinguish the new content from the existing provisions relating to standard business sponsors, Subclass 457 (Temporary Work (Skilled)) nominations and applications for a Temporary Business Entry (Class UC) visa.
5. The fees that are set by the Instrument IMMI, specifically the fee applicable to an application to be approved as a Temporary Activity Sponsor (\$420) and a Training Visa Nomination (\$170), remain the same as the fees that were applicable to the products that they replaced. These price points ensure uniformity with similar visa products.

6. In the case of the Temporary Activity Sponsorship, the price point represents better value than the products it replaces as the validity period for sponsorship has been extended from three to five years, and once approved a sponsor will be eligible to sponsor multiple activities and visa types within the Temporary Activity visa framework. This removes the need for many organisations to become multiple classes of sponsor.
7. Extensive consultation was undertaken for the development of the new visa framework for temporary activity visas that is given effect by the *Migration Amendment (Temporary Activity Visas) Regulation 2016*.
8. The Department of Immigration and Border Protection (the Department) consulted extensively in developing the new visa framework. In September 2014, the Department issued a discussion paper and received 68 submissions. The submissions were considered in the formulation of a proposed framework that was released for consultation in December 2014. Responses were received from 71 industry stakeholders. In April 2015, the Department again sought stakeholder views by conducting a survey and received 1177 responses. The responses were considered by the Department in formulating the final framework.
9. Adjacent to this review, the Department and the Ministry for the Arts undertook a joint review of the Entertainment (subclass 420) visa and released a discussion paper on 12 January 2015, which provided an overview of a range of deregulation opportunities and proposed changes to longstanding VAC concessions. Sixty-three key stakeholders, including unions, entertainment bodies, current sponsors, relevant government agencies and migration agents were advised of the review. The department met with a number of stakeholders to discuss their comments about the range of deregulation opportunities raised in the paper. Most recently, public information sessions on the temporary activity visas were conducted in Perth, Melbourne, Brisbane and Sydney from 23 to 30 September 2016.
10. The Office of Best Practice Regulation (OBPR) has been consulted (OBPR Reference: 19898). OBPR advised that a Regulatory Impact Statement is not required for this instrument.

11. 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 at **Attachment A** to this Explanatory Statement.
12. The Instrument commences immediately after the commencement of the *Migration Amendment (Temporary Activity Visas) Regulation 2016*.

ATTACHMENT A**Statement of Compatibility with Human Rights**

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

**Fees, Circumstances and Different Way of Making an Application Amendment
Instrument IMMI 2016/107**

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

This Legislative Instrument specifies the process for making an application for approval as a temporary activity sponsor, and the process for making an application to vary the terms of approval, as a temporary activity sponsor. The Legislative Instrument also sets out the process for nominations for a Subclass 407 (Training) visa. This includes the associated sponsorship and nomination fees and enables internet based application forms to be used, as well as paper-based application forms.

The fees set by the Legislative Instrument, specifically the fee applicable to an application to be approved as a Temporary Activity Sponsor (\$420) and a Training Visa Nomination (\$170), remain the same as the fees that were applicable to the products that they replaced. These price points ensure uniformity with similar visa products.

For the Temporary Activity Sponsorship, the price point represents better value than the products it replaced, as the validity period for sponsorship has been extended from three to five years. In addition, once approved, a sponsor will be eligible to sponsor multiple activities and visa types within the Temporary Activity visa framework. This removes the need for many organisations to become multiple classes of sponsor.

Human rights implications

This Legislative Instrument has been considered against each of the seven core international human rights treaties. To the extent that the Legislative Instrument applies to persons within Australia's territory and jurisdiction, the legislative instrument positively engages the right to work as provided for in Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by making these temporary work visas more accessible for applicants and sponsors.

Conclusion

This Legislative Instrument is compatible with human rights because it positively engages and supports the right in Article 6 of the ICESCR.

The Hon. Peter Dutton MP, Minister for Immigration and Border Protection