**EXPLANATORY STATEMENT**

*Migration Regulations 1994*

**Migration (Specification of Transit Passengers Having Prescribed Status – Special Purpose Visas) Instrument 2017**

(*Paragraph 2.40(1)(n))*

1. Instrument IMMI 17/053 is made under paragraph 2.40(1)(n) of the *Migration Regulations 1994* (the Regulations).
2. The Instrument repeals IMMI 15/057 (F2015L00790) under paragraph 2.40(1)(n) of the Regulations and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, which states that where an Act confers a power to make, grant, or issues 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 such an instrument.
3. The Instrument operates for the Minister to specify under paragraph 2.40(1)(n) the classes of persons which a transit passenger must belong to in order to have a prescribed status for the purposes of being granted a special purpose visa.
4. Non-citizens who hold a prescribed status include transit passengers who are citizens of specified foreign countries. This instrument has been updated to also include official passport holders from India as a specified class of persons.
5. Transit passengers from the specified countries are taken to have been granted a Special Purpose Visa and are able to access “Transit Without Visa” arrangements.
6. Consultation was undertaken, prior to the making of the Instrument, with the Department of Foreign Affairs and Trade, the Australian Federal Police and the Australian Security Intelligence Organisation.
7. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 22420).
8. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, this instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
9. The instrument commences on the day after it is registered.