

EXPLANATORY STATEMENT

Migration Regulations 1994

**MIGRATION (IMMI 18/013: CLASSES OF PERSONS FOR STUDENT
(TEMPORARY) (CLASS TU) VISA) INSTRUMENT 2018**
(subitem 1222(5))

1. Instrument IMMI 18/013 is made under paragraph 1222(5)(a) of Schedule 1 to the *Migration Regulations 1994* (the Regulations), for the purposes of subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations.
2. The Instrument repeals IMMI 16/015 (F2016L00628) under paragraph 1222(5)(a) of Schedule 1 to the Regulations and in accordance with 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 for the Minister to specify classes of persons to whom subparagraph 1222(2)(a)(i) of Schedule 1 to the Regulations applies. For applicants included in these classes of persons, the first instalment of the visa application charge amount is nil.
4. The purpose of the instrument is for the Minister to specify the classes of persons specified in the repealed instrument IMMI 16/015.
5. The purpose of this instrument is also to specify as a class of persons an applicant who claims to be a member of the family unit of a subsequent applicant, and seeks to combine their application with the subsequent applicant who is seeking to satisfy the secondary criteria for the grant of a Subclass 500 visa, and where the subsequent applicant claims to be a member of the family unit of a Subclass 500 visa holder who is enrolled in a postgraduate research course.

6. The instrument reflects the policy intent of the Simplified Student Visa Framework (SSVF), which commenced on 1 July 2016. The intention of the SSVF was for the pricing dimensions for all categories of visa applicants to carry over from the pre-1 July 2016 structure, including that family members of postgraduate research student applicants would not pay an additional applicant charge.
7. Consultation was undertaken with key international education sector stakeholders as part of the project to simplify Australia's student visa framework before this instrument was made. Stakeholders consulted included: Commonwealth agencies (Department of Education and Training, Austrade, Department of Foreign Affairs and Trade, the Department of Defence, the Australian Skills Quality Authority, and the Tertiary Education Quality and Standards Agency), state and territory government agencies (including school regulators), as well as industry peak bodies (Australian Council for Private Education and Training, Australian Government Schools International, Council of Private Higher Education, English Australia, Independent Schools Council of Australia, International Education Association of Australia, TAFE Directors Australia, and Universities Australia).
8. The Office of Best Practice Regulation (OBPR) has been consulted and has advised that a Regulatory Impact Statement is not required for the instrument (OBPR Reference 21643).
9. The Senior Executive Service, Band Two, Immigration and Citizenship Policy Division was delegated the powers in subitem 1222(5) in instrument of delegation DEL 17/077, signed on 9 November 2017.
10. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
11. The instrument commences on the day after it is registered on the Federal Register of Legislation.