# EXPLANATORY STATEMENT

## *Migration Regulations 1994*

**MIGRATION (AUSTRALIAN VALUES STATEMENT FOR PUBLIC CRITERION 4019 – 2016/113) AMENDMENT INSTRUMENT 2018**

*(Clause 3.1 of Part 3 of Schedule 4 to the Regulations)*

1. Instrument IMMI 18/025 is made under clause 3.1 of Part 3 of Schedule 4to the *Migration Regulations 1994* (the Regulations).
2. The instrument IMMI 18/025 amends instrument IMMI 16/113, *Approval of Australian Values Statement for Public Interest Criterion 4019 - 2016/113* (F2016L01783) made under clause 3.1 of Part 3 of Schedule 4to the Regulationsand in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (Interpretation Act). Subsection 33(3) of the Interpretation Act states that 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 amended instrument, IMMI 16/113, operates to specify, for relevant visa subclasses, the values statement an applicant must sign to meet the requirements of public interest criterion 4019 of Schedule 4 to the Regulations. The instrument specifies for visa subclasses that require a statement, one values statement that includes provisions relating to matters concerning Australian citizenship, and one values statement for visa subclasses that do not.
4. The purpose of instrument IMMI 18/025 is for the Minister to amend IMMI 16/113 to approve a values statement for Subclass 808 Confirmatory (Residence) visa applicants and for Subclass 482 (Temporary Skill Shortage) visa applicants. The values statement specified for Subclass 808 Confirmatory (Residence) visa applicants includes provisions relating to values that are important to Australian society, compliance with the laws of Australia; and matters concerning Australian citizenship. The values statement specified for Subclass 482 (Temporary Skill Short) visa applicants includes provisions relating to the respect of Australian values and compliance with the laws of Australia.
5. In relation to the approval of the values statement for Subclass 808 Confirmatory (Residence) visa applicants, consultation was undertaken in 2016 as part of the Norfolk Island governance reforms. This included consultation with: the Norfolk Island Reform Taskforce; Department of Social Services; Attorney General’s Department; Department of Employment; Department of Health; the Administrator of Norfolk Island and Norfolk Island Immigration; and the Norfolk Island community. This instrument reflects the policy intention following the Norfolk Island governance reforms and, as such, further consultation was not considered necessary.
6. The approval of the values statement for Subclass 482 (Temporary Skill Shortage) visa applicants is part of a broad package of reforms for the employer sponsored skilled visa programs, announced by the Government on 18 April 2017. The reforms include replacing the Subclass 457 (Temporary Work (Skilled)) visa with the Subclass 482 (Temporary Skill Shortage) visa. The Department of Home Affairs has engaged with external stakeholders since the announcement in developing the policy settings and considered feedback received. Some settings of the existing framework have been carried over to the Subclass 482 visa without amendment, and have not been the subject of consultation.
7. These reforms were also informed by earlier reviews including: the 2014 Independent Review into the Integrity of the Subclass 457 programme; the 2016 Productivity Commission Inquiry Report: Migrant Intake into Australia; the 2016 Review of the Temporary Skilled Migration Income Threshold; and the 2016 Senate Inquiry A National Disgrace: The Exploitation of Temporary Work Visa Holders. These reviews were subject to extensive consultation processes, including: individuals; academics; bodies and businesses who use the employer sponsored skilled visa programs; migration agents; representatives of foreign governments; the Ministerial Advisory Council on Skilled Migration; and government departments and agencies.
8. The Office of Best Practice Regulation (OBPR) has advised that a Regulation Impact Statement is not required in relation to Subclass 808 Confirmatory (Residence) visa applicants (OBPR Reference: 22572).
9. In relation to Subclass 482 (Temporary Skill Shortage) visa applicants, a Regulation Impact Statement has been prepared in accordance with advice from the Office of Best Practice Regulation (OBPR). The OBPR Reference number is 21946.
10. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is not subject to disallowance and therefore a Statement of Compatibility with Human Rights is not required.
11. The instrument commences on 18 March 2018.