

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (IMMI 18/102: Arrangements for Work and Holiday and Working Holiday Visa Applications) Instrument 2018

(Subregulation 2.07(5), paragraph 1224A(3)(a), subparagraph 1224A(3)(b)(iii) and subitem 1225(5) of Schedule 1 and subclause 417.211(2) and paragraphs 462.212(b) and 462.221(c) of Schedule 2 to the Regulations)

1. Instrument IMMI 18/102 is made under subregulation 2.07(5), paragraph 1224A(3)(a), subparagraph 1224A(3)(b)(iii) and subitem 1225(5) of Schedule 1 and subclause 417.211(2) and paragraphs 462.212(b) and 462.221(c) of Schedule 2 to the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals *Migration (IMMI 18/023: Arrangements for Work and Holiday and Working Holiday Visa Applications) Instrument 2018* under subsection 33(3) of the *Acts Interpretation Act 1901* (the 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 instrument operates to:
 - a. specify foreign countries that have issued a valid passport that must be held by a person seeking to make a valid application for a Work and Holiday (Temporary) (Class US) visa;
 - b. specify education qualifications that must be held by a person seeking to meet the criteria for a Work and Holiday (Temporary) (Class US) visa and Subclass 462 (Work and Holiday) visa where the applicant is not, and has not previously been, in Australia as the holder of a Subclass 462 (Work and Holiday) visa;
 - c. specify the approved forms, place and manner for making a valid application for either a Working Holiday (Temporary) (Class TZ) visa or a Work and Holiday (Temporary) (Class US) visa;

- d. specify the foreign countries that may issue a working holiday eligible passport that must be held by a person seeking to meet the criteria for a Subclass 417 (Working Holiday) visa;
 - e. specify the upper age limit for persons seeking to meet the criteria for either a Subclass 462 (Work and Holiday) visa or a Subclass 417 (Working Holiday) visa; and
 - f. specify that applicants holding a passport issued by specified foreign countries are a class of persons who do not have to provide evidence of government support for the grant of a Work and Holiday (Temporary) (Class US) visa.
4. The instrument is substantively the same as the previous instrument (IMMI 18/023) except for the following changes:
- a. the instrument specifies that an applicant who is or has previously been, in Australia as the holder of a Work and Holiday (Temporary) (Class US) visa, may only make a valid application online using Form 1208 (Internet), unless an authorising email is sent to the applicant;
 - b. the instrument specifies that an officer of the Department may authorise an applicant for a Work and Holiday (Temporary) (Class US) visa, by authorising email, to make an application using paper Form 1208, to a different place or in a different manner, in accordance with the directions in the authorising email;
 - c. the instrument specifies that an applicant who is not, and has not, previously been in Australia as the holder of a Work and Holiday (Temporary) Class US visa; and holds a valid passport issued by any of the following countries: Argentina, Slovak Republic, Spain, United States of America and Uruguay, may only make a valid application online using Form 1208 (Internet), unless an authorising email is sent to the applicant;
 - d. the instrument specifies that an officer of the Department may authorise an applicant for a Work and Holiday (Temporary) (Class US) visa, who holds a valid passport issued by any of the following foreign countries: Argentina; Slovak Republic; Spain; United States of America; and Uruguay, by authorising email, to make an application using paper Form 1208, to a different place or in a different manner, in accordance with the directions in the authorising email;

- e. the instrument updates the address to which applications must be sent for applicants from the State of Israel, who are not, and have not previously been in Australia as the holder of a Work and Holiday (Temporary) (Class US) visa;
 - f. the instrument specifies that all applicants for a Working Holiday (Temporary) (Class TZ) visa must make an application using Form 1150 (Internet), unless an authorising email is sent to the applicant;
 - g. the instrument specifies that an officer of the Department may authorise an applicant to make an application for a Working Holiday (Temporary) (Class TZ) visa, by authorising email, to make an application using paper Form 1150, to a different place or in a different manner, in accordance with the directions in the authorising email.
5. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference: 23760).
6. 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.
7. This instrument commences on 1 July 2018.