

EXPLANATORY STATEMENT*Migration Regulations 1994***Migration (LIN 19/184: Arrangements for Work and Holiday Visa Applications)****Instrument 2019**

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

1. The instrument, LIN 19/184, is made under subregulation 2.07(5), paragraph 1224A(3)(a) and subparagraph 1224A(3)(b)(iii) of Schedule 1 to the *Migration Regulations 1994* (the Regulations) and paragraphs 462.212(b) and 462.221(c) of Schedule 2 to the Regulations.
2. The instrument repeals LIN 18/174 (F2019C00170) made under subregulation 2.07(5), paragraph 1224A(3)(a) and subparagraph 1224A(3)(b)(iii) of Schedule 1 to the Regulations and paragraphs 462.212(b) and 462.221(c) of Schedule 2 to the Regulations, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA 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 specify the requirements needed when applying to an application for a Work and Holiday (Temporary) (Class US) visa (Work and Holiday visa) as follows:
 - a. for the purposes of subitem 1224(1) of Schedule 1 to the Regulations, the instrument specifies the approved form for making a valid application;
 - b. for the purposes of paragraph 1224A(3)(a) of Schedule 1 to the Regulations, the instrument specifies the foreign countries that an applicant's valid passport must be issued by;

- c. for the purposes of paragraph 1224A(3)(aa) of Schedule 1 to the Regulations, the instrument specifies the place and manner in which an application must be made;
 - d. for the purposes of subparagraph 1224A(3)(b)(iii) of Schedule 1 to the Regulations, the instrument specifies the class of persons that do not have to provide evidence of government support for the grant of a Work and Holiday visa.
4. The instrument also operates to specify:
 - a. the minimum standards of education qualifications an applicant for a Subclass 462 (Work and Holiday) visa must satisfy at the time of application; and
 - b. the maximum age for persons seeking to meet the criteria for a Subclass 462 visa.
5. The purpose of the instrument is to:
 - a. amend lodgement requirements for Indonesian, Singaporean, Thai, Turkish and Vietnamese applicants, to provide that applications are to be made online except if an officer of the Department has sent an authorising email to the applicant; and
 - b. add Ecuador and Greece as specified foreign countries for the purposes of paragraph 1224A(3)(a) of Schedule 1 to the Regulations, allowing Ecuadorian and Greek passport holders to apply for and be granted a Work and Holiday visa; and
 - c. exempt Austrian, Portuguese and Spanish applicants from providing evidence of government support for the grant of their visa.
6. The changes will only apply in relation to new applications for a Work and Holiday visa made on or after 1 July 2019. Applications made before 1 July 2019 are subject to the requirements set out in LIN 18/174.
7. Consultation was undertaken before the instrument was made as follows:
 - a. The Governments of Ecuador and Greece were consulted, in collaboration with the Department of Foreign Affairs, regarding the addition of these two

countries to the Work and Holiday visa program. A Memorandum of Understanding was signed with Greece on 14 May 2014 and with Ecuador on 19 January 2017.

- b. The embassies of Austria, Portugal and Spain were consulted through the exchange of diplomatic letters regarding the change to exempt applicants from providing evidence of government support for the grant of a Work and Holiday visa. The Australian post in Germany was also consulted in this process.
8. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 23760, 24785 and 25257).
 9. The officer (Senior Executive Service, Band one, Immigration and Visa Services Division) who made the instrument was delegated the powers required to make the instrument in *Minister – Delegations Instrument No. 5 of 2018 (Instrument Making Powers) (MHA No. 5 of 2018)*, signed on 10 April 2018.
 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 1 July 2019.