

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 19/084: Specification of a superyacht) Instrument 2019

(Regulation 1.15G)

1. The instrument, LIN 19/084, is made under regulation 1.15G of the *Migration Regulations 1994* (the Regulations) for the definition of ‘superyacht’ in regulation 1.03 of the Regulations.
2. The instrument repeals IMMI 09/019 (F2009L01302) made under regulations 1.03 and 1.15G of the Regulations and 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 kind of sailing ship or motor vessel that satisfy the definition of a ‘superyacht’. Regulation 1.03 of the Regulations states that ‘superyacht’ means a sailing ship or motor vessel of a kind that is specified by the Minister under regulation 1.15G of the Regulations to be a superyacht. Under regulation 1.15G of the Regulations, the Minister may specify in an instrument in writing that a sailing ship of a particular kind or a motor vessel of a particular kind is a superyacht for the purposes of the Regulations.
4. The purpose of the instrument is to remake the instrument defining a superyacht under regulation 1.15G of the Regulations as the instrument IMMI 09/019 is scheduled to sunset on 1 October 2019. The instrument replicates the definition of superyacht in the previous instrument IMMI 09/019. The new instrument, LIN continues to provide the necessary framework for applicants to meet criteria in relation to the superyacht stream of the Subclass 408 (Temporary Activity) visa.
5. Consultation was not undertaken before the instrument was made. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation was deemed to be not

necessary in the circumstances. The instrument is of a minor or machinery nature and does not substantially alter existing arrangements.

6. The Office of Best Practice Regulation (OBPR) have advised that a Regulatory Impact Statement is not required (OBPR Reference: 24045).
7. 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.
8. The instrument commences on 1 October 2019.