

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 19/260: Assessing Authorities for Subclass 494 Visas) Instrument 2019

(subclause 494.224(6) of Schedule 2)

1. The instrument, LIN 19/260, is made under subclause 494.224(6) of Schedule 2 of the *Migration Regulations 1994* (the Regulations).
2. The purpose of the instrument is to address changes to the Regulations by the *Migration Amendment (New Skilled Regional Visas) Regulations 2019*. In particular, the instrument specifies the assessing authorities for the new Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (Subclass 494 visa) in the Employer Sponsored stream.
3. Paragraph 1242(5)(a) of Schedule 1, paragraph 494.224(2)(a) and paragraph 494.224(4)(b) of the Regulations require an applicant seeking to satisfy the primary criteria for the grant of a Subclass 494 visa in the Employer Sponsored stream to declare in their application that, for a nominated occupation, the applicant's skills have been assessed as suitable by the person or body (the assessing authorities) specified by the Minister.
4. The instrument operates to specify, for the purposes of paragraph 1242(5)(a) of Schedule 1, paragraph 494.224(2)(a) and paragraph 494.224(4)(b) of the Regulations, the assessing authorities for an occupation specified in either the Medium and Long-term Strategic Skills List (MLTSSL) or the Regional Occupation List (ROL). Occupations for the MLTSSL and ROL are specified in an instrument made under subregulation 2.72C(11) of the Regulations.
5. Section 8 of the instrument ensures that skills assessments which occurred before 16 November 2019 and are specified in the table in that section are valid for the purposes of subregulation 494.224(4) of Schedule 2 to the Regulations. The table provides that the assessing authorities for the occupations of child care centre manager and podiatrist are specified as Trades Recognition Australia and the Australian and New Zealand

Podiatry Accreditation Council Limited respectively. These assessing authorities are only specified for the purposes of subclause 494.224(6) for assessments that occur prior to 16 November 2019.

6. The instrument will apply to all applicants seeking to satisfy the primary criteria for a Subclass 494 visa in the Employer Sponsored stream, for applications lodged on or after 16 November 2019.
7. The subject of this instrument is part of a package introducing new regional visas designed to deliver a migration program that can respond more effectively to the needs of regional Australia. These changes will also assist with governmental priorities to attract highly skilled migrants to regional areas and ease population pressure in major cities.
8. Pursuant to the frequency and volume of the legislative amendments that are required to maintain a dynamic and responsive immigration program, it has been a consistent practice to include certain criteria and conditions in delegated legislation. The criteria for the new Subclass 494 visa has been included in delegated legislation rather than primary legislation to give the Government oversight and the ability to respond in a timely and transparent manner to emerging situations which may include changes in the labour market and the economy. In addition, instruments made under delegated legislation are subject to the scrutiny framework out in the *Legislation Act 2003*, and oversight of the amendments is available to the Parliament under the same legislation.
9. Section 17 of the *Legislation Act 2003* requires consultations which are appropriate and reasonably practicable to be undertaken. The following Commonwealth government agencies were consulted in relation to the instrument: the Department of the Prime Minister and Cabinet; the Department of Foreign Affairs and Trade; the Attorney-General's Department; the Department of the Treasury; the Department of Finance; the Department of Social Services; Department of Education (then Department of Education and Training); the Department of Employment, Skills, Small and Family Business (then Department of Jobs and Small Business); the Department of Industry, Innovation and Science; the Department of Infrastructure, Transport, Cities and Regional Development (then Department of Infrastructure, Regional Development and

Cities); the Department of Health; and Services Australian (then Department of Human Services).

10. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 25045).
11. 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.
12. The instrument commences at the same time as the commencement of Schedule 2 to the *Migration Amendment (New Skilled Regional Visas) Regulations 2019*.