

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 20/179: Arrangements for child visa applications) Amendment

Instrument 2020

(Subparagraph 2.07(5))

1. The instrument, *Migration (LIN 20/179: Arrangements for child visa applications) Amendment Instrument 2020*, which may be cited as LIN 20/179, is made under subparagraph 2.07(5) of the *Migration Regulations 1994* (the Regulations).
2. The instrument amends IMMI 16/051 (F2016L01389) made under subparagraph 2.07(5) 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 amend IMMI 16/051 to specify the form, place and manner for making an application for certain classes of dependent visas. The instrument is made under subregulation 2.07(5) of the Regulations, which allows an instrument to specify the approved form, place and manner for making a visa application, if an item in Schedule 1 to the Regulations requires this. The instrument is made for the purpose of the form, place and manner requirements in the following provisions of the Regulations:
 - a. subitem 1108(1) and paragraph 1108(3)(a) of Schedule 1;
 - b. subitem 1108A(1) and paragraph 1108A(3)(a) of Schedule 1;
 - c. subitem 1211(1) and paragraph 1211 (3)(a) of Schedule 1.
4. The purpose of the instrument is to amend a drafting error, where the option for an application for a dependent child outside Australia to be made outside Australia, was

removed from the principal instrument 16/051 when it was amended by 20/049. The amending instrument, *Migration (LIN 20/049: Arrangements for child visa applications) Amendment Instrument 2020*, was signed on 27 March 2020 and will be in force until this amending instrument is made. This amendment instrument provides further guidance on how such an application is to be made.

5. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation was not required as this instrument rectifies a drafting error and the change is considered to be minor and machinery in nature.
6. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 26320).
7. The officer (acting Senior Executive Service, Band One, Immigration Programs Division) who made the instrument, was delegated the powers under which the instrument is made in the *Instrument Making Powers (Minister) Instrument 2019/228* (LIN 19/228), signed on 12 September 2019.
8. 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.
9. The instrument commences on the day after the instrument is registered on the Federal Register of Legislation.