

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

Migration Regulations 1994

Migration (Arrangements for Child visas) Amendment Instrument (LIN 22/017) 2022

- 1 The instrument, Departmental reference LIN 22/017, is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument amends *Arrangements for Child Visa Applications 2016/051* (IMMI 16/051) (F2020C00612) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*. That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
- 3 The instrument commences 5 March 2022, and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 The purpose of the instrument is to update the approved form, place and manner (the arrangements) for making an application for the Extended Eligibility (Temporary) (Class TK) visa (Class TK visa). The instrument follows recent amendments to the Regulations by the *Migration Amendment (2022 Measures No. 1) Regulations 2022* (the amendment Regulations). Prior to the amendment Regulations, an applicant for a Class TK visa had to be in Australia to make a valid visa application in Australia, and an applicant who was outside Australia had to make an application outside Australia. The instrument specifies updated arrangements for the Class TK visa following the amendment Regulations, which allow applicants outside Australia to make an application in Australia.
- 5 The instrument also updates the arrangements for the Class TK visa by providing that anyone is able to make an application. IMMI 16/051 previously only specified a place and manner for applications by certain dependent children, rather than for all applicants. The instrument removes this limitation. A requirement for an applicant to claim to be a dependent child of a holder of a certain visa is now specified in the Regulations (see paragraph 1211(3)(ab) of Schedule 1).
- 6 The instrument continues to specify arrangements for making an application for a Child (Migrant) (Class AH) visa (Class AH visa) and for a Child (Residence) (Class BT) visa (Class BT visa). The instrument does not change the arrangements for those visas.
- 7 The instrument also updates the drafting of IMMI 16/051 to align with current standards and remove redundant provisions.

Consultation

- 8 No consultation was done for this instrument. This is because the changes are minor and machinery in nature and do not substantially alter the existing arrangements.

- 9 The Office of Best Practice Regulation (OBPR) was consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OBPR reference number is 44683.

Details of the instrument

- 10 Section 1 sets out the name of the instrument.
- 11 Section 2 provides for the commencement of the instrument on 5 March 2022.
- 12 Section 3 provides that IMMI 16/051 is amended as set out in Schedule 1.
- 13 Item 1 of Schedule 1 to the instrument substitutes section 4 of IMMI 16/051, which specifies the arrangements for making an application for a Class AH visa, a Class BT visa and a Class TK visa.
- 14 Item 1 of the table specifies the arrangements for making a Class AH visa application for subitem 1108(1) and paragraph 1108(3)(a) of Schedule 1 to the Regulations. Applicants for a Class AH visa must use form 47CH.
- 15 Item 2 of the table specifies the arrangements for making a Class BT visa application for subitem 1108A(1) and paragraph 1108A(3)(a) of Schedule 1 to the Regulations. Applicants for a Class BT visa must use form 47CH.
- 16 Item 3 of the table specifies the arrangements for making a Class TK visa application for subitem 1211(1) and paragraph 1211(3)(a) of Schedule 1 to the Regulations. Applicants for a Class TK visa must use form 918.
- 17 Applicants for all visa classes must either post the relevant form with sufficient prepaid postage to the address specified, or deliver it by courier service to the address specified. An applicant is not required to both post and courier the application. The addresses are the same for all visa classes.

Parliamentary scrutiny etc.

- 18 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Part 2 of, and Schedule 1 to, the Regulations are exempt under paragraph (b) of item 20 of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 19 The instrument is appropriate to be exempt from disallowance as it concerns matters of an administrative nature. Updating legislative instruments that specify administrative matters allows for consistent internal management of the migration policy framework.
- 20 The instrument was made by the Minister, in accordance with subregulation 2.07(5) of, and items 1108, 1108A and 1211 of Schedule 1 to, the Regulations.