

EXPLANATORY STATEMENT

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

Migration Act 1958

Migration Amendment (Pacific Australia Labour Mobility Scheme) Regulations 2024

The *Migration Act 1958* (the Migration Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Migration Act provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

In addition, regulations may be made pursuant to the provisions listed in Attachment A.

The *Migration Amendment (Pacific Australia Labour Mobility Scheme) Regulations 2024* (the Regulations) amend the *Migration Regulations 1994* (the Migration Regulations) to commence a pilot to allow family members of certain long-term workers participating in the PALM scheme to travel to and live in Australia on a temporary basis.

The PALM scheme provides for the entry and temporary stay of workers from certain Pacific island nations and Timor-Leste to fill critical workforce shortages across Australia, predominantly across the agricultural sector (as well as other related sectors such as meat processing and forestry) and is a key foreign policy focus of Australia's engagement in the Pacific. Previously, the Migration Regulations only allowed for the worker participating in the PALM scheme to apply for and be granted a visa.

Following these amendments, certain PALM scheme workers who are granted visas allowing them to live and work in Australia for between one and four years will be eligible to apply to bring their family to Australia, if supported by the scheme. Workers who had their visas approved under the now repealed Pacific Labour Scheme (known as the PLS – all of whom received up to four year visa grants) will also be eligible to apply to bring their family over, if supported by the scheme. These amendments recognise that long periods of family separation may have a social cost, and are intended to contribute to addressing these issues.

Some PALM scheme workers are granted visas allowing them to live and work in Australia for up to nine months at a time; however, they will not be eligible to bring their families to Australia on this visa. This is to avoid disruption to the family unit and the expense associated with needing to depart Australia after a short period. The intention is to achieve the best possible outcome for the family unit, noting that workers are predominantly in industries that attract lower salaries due to the lower-skilled nature of the work and the high cost involved in supporting a family in Australia.

With these matters in mind, initial rollout of the pilot will be limited to 200 families in the 2023-2024 financial year, with a focus on ensuring access to early childhood care and schooling, employment opportunities for spouses, health services, social supports and

diaspora groups, and in locations experiencing lower rental pressure. The Department of Foreign Affairs and Trade (DFAT) will manage selection of families with the view to ensuring they receive the necessary support upon their arrival in Australia.

In particular, the Regulations:

- allow members of the family unit of a long-term PALM worker, or a PLS worker to apply for a PALM visa as a secondary applicant, if they have the support in writing of a Government Department administering the PALM scheme; and
- amend references to ‘Foreign Affairs’ throughout to reflect that administration of the scheme is managed by more than one Government agency, currently by both DFAT and the Department of Employment and Workplace Relations (DEWR).

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Regulations are compatible with human rights. The Statement is at [Attachment B](#).

Further details of the Regulations are set out in [Attachment C](#).

The Office of Impact Analysis (OIA) has been consulted in relation to the amendments. No Impact Analysis is required. The OIA consultation reference is 22-03693.

Consultation was undertaken with DFAT and the Department of Employment and Workplace Relations (DEWR), which are the lead agencies associated with the PALM scheme. This accords with subsection 17(1) of the *Legislation Act 2003* (the Legislation Act). Information in relation to the amendments will be provided to stakeholders and prospective visa applicants following commencement.

The matters dealt with in the Regulations are appropriate for implementation in regulations rather than by Parliamentary enactment. It has been the consistent practice of the Government of the day to provide for detailed visa criteria and conditions in the Migration Regulations rather than in the Migration Act itself. The Migration Act expressly provides for these matters to be prescribed in regulations. The current Migration Regulations have been in place since 1994, when they replaced regulations made in 1989 and 1993. Providing for these details to be in delegated legislation rather than primary legislation gives the Government the ability to respond quickly to emerging situations.

The Regulations amend the Migration Regulations, which are exempt from sunseting under table item 38A of section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. The Migration Regulations are exempt from sunseting on the basis that the repeal and remaking of the Migration Regulations:

- is unnecessary as the Migration Regulations are regularly amended numerous times each year to update policy settings for immigration programs;
- would require complex and difficult to administer transitional provisions to ensure, amongst other things, the position of the many people who hold Australian visas, and similarly, there would likely be a significant impact on undecided visa and sponsorship applications; and

- would demand complicated and costly systems, training and operational changes that would impose significant strain on Government resources and the Australian public for insignificant gain, while not advancing the aims of the Legislation Act.

The Regulations commence on 25 March 2024 following the relevant Information and Communications Technology change release.

The Regulations are a legislative instrument for the purposes of the Legislation Act.

AUTHORISING PROVISIONS

Subsection 504(1) of the *Migration Act 1958* (the Migration Act) relevantly provides that the Governor-General may make regulations (the Regulations) prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

In addition, the following provisions of the Migration Act may also be relevant:

- subsection 29(1), which provides that the Minister may grant a non-citizen permission, to be known as a visa, to do either or both of the following: (a) travel to and enter Australia; (b) remain in Australia;
- subsection 29(2), which provides that, without limiting subsection 29(1), a visa to travel to, enter and remain in Australia may be one to:
 - (a) travel to and enter Australia during a prescribed or specified period; and
 - (b) if, and only if, the holder travels to and enters during that period, remain in Australia during a prescribed or specified period or indefinitely;
- subsection 30(1), which provides that a visa to remain in Australia (whether also a visa to travel to and enter Australia) may be a visa, to be known as a permanent visa, to remain indefinitely;
- subsection 31(1), which provides that the Regulations may prescribe classes of visas;
- subsection 31(3), which provides that the Regulations may prescribe criteria for a visa or visas of a specified class;
- subsection 31(4), which provides that the Regulations may prescribe whether visas of a class are visas to travel to and enter Australia, or to remain in Australia, or both;
- subsection 31(5), which provides that the Regulations may specify that a visa is a visa of a particular class;
- section 40, which provides that the Regulations may provide that visas or visas of a specified class may only be granted in specified circumstances;
- subsection 41(1) which provides that the regulations may provide that visas, or visas of a specified class, are subject to specified conditions;
- subsection 45B(1), which provides that the amount of visa application charge is the amount, not exceeding the visa application charge limit, prescribed in relation to the application (the visa application charge limit is determined under the *Migration (Visa Application) Charge Act 1997*);

- paragraph 46(1)(b), which provides that the Regulations may prescribe the criteria and requirements for making a valid application for a visa;
- subsection 46(4), which provides that, without limiting subsection 46(3), the Regulations may prescribe:
 - (a) the circumstances that must exist for an application for a visa of a specified class to be a valid application; and
 - (b) how an application for a visa of a specified class must be made; and
 - (c) where an application for a visa of a specified class must be made; and
 - (d) where an applicant must be when an application for a visa of a specified class is made.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration Amendment (Pacific Australia Labour Mobility) Regulations 2024

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The Pacific Australia Labour Mobility (PALM) scheme provides for the entry and temporary stay of workers from Pacific island countries and Timor-Leste with which Australia has arrangements for this purpose. PALM scheme workers can be employed across a range of industry sectors where there are identified market gaps and workforce needs including but not limited to horticulture, meat processing, dairy, wool, grains, fisheries (including aquaculture), forestry, hospitality and aged care. The scheme is central to Australia's engagement with the Pacific and Timor-Leste and efforts to deepen links between Australia and the Pacific family.

As part of the 2022-23 Federal Budget, the Government announced that PALM scheme workers on long term placements would be able to bring their immediate family to Australia. Previously the regulations only allowed for a primary visa holder and did not allow for members of their family unit to apply for and be granted a visa as secondary applicants.

The *Migration Amendment (Pacific Australia Labour Mobility) Regulations 2024* (the Amendment Regulations) amend the *Migration Regulations 1994* (the Migration Regulations) to permit secondary applicants for the PALM stream of the Subclass 403 (Temporary Work (International Relations)) visa.

The Amendment Regulations support the Government's election commitments by allowing PALM scheme workers who are on long term placements of between one and four years to bring their immediate family to Australia. The commitment, also known as the Family Accompaniment pilot, aims to address the negative social impacts of long periods of family separation and build deeper connections with participating PALM scheme countries.

The initiative is commencing with a pilot of up to 200 families with a focus on access to early childhood care and schooling, the right to work for partners/spouses along with access to Medicare, social supports and diaspora networks for participating PALM scheme families. The Department of Foreign Affairs and Trade, along with the Department of Education and Workplace Relations will manage selection of families with a view to ensuring families have a positive experience of living and working in Australia. This includes consideration of the availability and affordability of suitable housing, and providing information and support upon their arrival.

The Amendment Regulations amend the Migration Regulations to provide that, to make a valid application for a Subclass 403 visa in the PALM stream:

- a secondary applicant must be a member of the family unit of a person who is an applicant (primary applicant) for the grant of, or holds, a Subclass 403 visa as a primary applicant in the PALM stream that permits the primary applicant to remain in Australia for a period of at least 1 year, or holds a Subclass 403 in the Pacific Labour Scheme stream (an earlier scheme which has been subsumed into and superseded by the PALM scheme); and
- the application by the secondary applicant is supported, in writing, by a Department responsible for administering the PALM scheme.

The amendments made by the Amendment Regulations further provide a visa application charge (VAC) of AUD\$335 for any PALM stream secondary applicant who is at least 18 years of age and \$80 for any PALM stream secondary applicant who is less than 18. The VAC for the primary applicant remains unchanged at AUD\$335.

The amendments also provide that in order for a secondary applicant to be granted a subclass 403 visa in the PALM stream, the primary applicant who is their family unit member must hold the subclass 403 visa and be a worker participating in the PALM scheme, and the support of the application by the secondary applicant by a responsible Department has not been withdrawn.

Additionally, to reflect the Government's decision that the PALM scheme be managed by the Department of Foreign Affairs and Trade and the Department of Employment and Workplace Relations, the Amendment Regulations remove all references to 'Foreign Affairs' as the sole administrator for the PALM scheme and replace with 'a Department responsible for administering the Pacific Australia Labour Mobility scheme'. This amendment future proofs the legislation from other potential Government changes to administrative arrangements.

Human rights implications

The Amendment Regulations may engage the following rights:

- the right to work and rights at work in Articles 6(1) and 7 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR);
- the rights relating to respect for family in Article 23(1) of the *International Covenant on Civil and Political Rights* (ICCPR) and Article 10(1) of the ICESCR and rights relating to children including in Article 10 of the *Convention on the Rights of the Child* (CRC);
- the right to an adequate standard of living in Article 11(1) of the ICESCR; and
- the rights of equality and non-discrimination in Article 2(2) of the ICESCR and Article 26 of the *International Covenant on Civil and Political Rights* (ICCPR).

Right to work and rights at work

Article 6(1) states:

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

Article 7 states:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

- 1. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
- 2. A decent living for themselves and their families in accordance with the provisions of the present Covenant;*

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

The Amendment Regulations positively engage the right to work and rights at work for secondary Subclass 403 visa holders in the PALM stream. Spouses and de-facto partners, regardless of gender, and other members of the family unit of the primary visa holder that are of working age will, should they choose to work, have access to employment opportunities in Australia without restriction on their Subclass 403 visa and are not limited to working for the employer of the primary visa holder. Those who choose to work are entitled to the same rights and protections, including pay and work conditions, as Australian citizens and permanent residents.

Work rights and the rights at work for primary PALM visa holders will not be affected by the Amendment Regulations.

Respect for family and rights relating to children

Article 23 (1) of the ICCPR states that:

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 10(1) of the ICESCR states that:

The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children.

Article 10(1) of the CRC provides that applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner.

The amendments made by the Amendment Regulations seek to remove negative social impacts of long period of family separation for PALM scheme workers in Australia and preserve the integrity of family units by allowing PALM scheme workers on long term placements (1-4 years) to bring their immediate family to Australia. The amendments therefore support the rights in Article 23 of the ICCPR and 10 of the ICESCR of PALM scheme workers and their families who are participating in the Pilot and also support various rights relating to children, including the rights relating to family reunification of children and their parents in Article 10 of the CRC.

Right to an adequate standard of living

Article 11(1) of the ICESCR states that:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

The Amendment Regulations do not directly engage this right. However, in order to apply for subclass 403 visa as a secondary applicant, written support from a Department responsible for the administering the PALM scheme must be provided. In considering whether to support the visa application, a relevant administering Department will consider a range of factors that are considered likely to lead to a positive experience for families in Australia including access to schooling, housing, medical care, public transport and community support networks. To support workers and their families to participate in the Pilot, the approved employer is bound by requirements to support workers to access suitable accommodation for their families.

In addition, the Australian Government will provide PALM scheme workers and their families participating in the Pilot access to a range of services including family assistance benefits, namely the Family Tax Benefit and the Child Care Subsidy, and Medicare.

Together these measures are intended to ensure that families granted Subclass 403 visas in the PALM stream as part of the Pilot are well supported as they adapt to life in Australia, which supports their right to an adequate standard of living.

Rights of equality and non-discrimination

Article 2(2) of the ICESCR states:

The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race,

colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 26 of the ICCPR states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

In its General Comment 18, the UN Human Rights Committee stated that:

The Committee observes that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the [ICCPR].

Similarly, in its General Comment on Article 2 of the ICESCR, the UN Committee on Economic, Social and Cultural Rights has stated that:

Differential treatment based on prohibited grounds will be viewed as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the [ICESCR] rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.

Neither the ICCPR nor the ICESCR gives a right for non-citizens to enter Australia for the purposes of seeking residence or employment. The UN Human Rights Committee, in its General Comment 15 on the position of aliens under the ICCPR, stated that:

The [ICCPR] does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the [ICCPR] even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise.

Consent for entry may be given subject to conditions relating, for example, to movement, residence and employment. A State may also impose general conditions upon an alien who is in transit. However, once aliens are allowed to enter the territory of a State party they are entitled to the rights set out in the [ICCPR].

As such, Australia is able to set requirements for the entry of non-citizens into Australia and conditions for their stay, and does so on the basis of reasonable and objective criteria.

The amendments made by the Amendment Regulations are intended as a beneficial measure for PALM scheme workers and their families who are participating in the Pilot.

The requirements for the grant of a secondary Subclass 403 visa in the PALM stream, including requirements for the primary visa holder to be a participant in the PALM scheme with a visa stay period of over a year, and have written support from a Department

responsible for administering the scheme, are intended to ensure that PALM scheme workers and their families who are participating in the Pilot are well supported to settle and adapt to life in Australia. These requirements are, therefore, reasonable and proportionate to the aims of the Pilot including to address the negative social impacts of long periods of family separation for PALM scheme workers in Australia and ensure that availability and suitability of essential services for participating families.

Further, while the families of PALM scheme workers outside of the initial cohort of participants selected for the Pilot will not be able to meet the new criteria for secondary applicants for a Subclass 403 visa in the PALM stream, the PALM scheme workers may be able to reunite with their family through other existing avenues. Although the amendments made by the Amendment Regulations do not detract from those existing avenues, to the extent that not extending the benefits of this measure to other PALM scheme workers and their families may limit the rights of equality and non-discrimination of persons not selected for the Pilot, the targeted approach is necessary, reasonable and proportionate and aimed at the legitimate objectives of ensuring a positive stay experience in Australia for participating PALM scheme families through the provision of appropriate Australian Government and other services to those families, and maintaining access to services such as education, employment, housing and health and social services for existing members of the Australian community.

Conclusion

The Disallowable Legislative Instrument is compatible with human rights because it promotes the protection of human rights of participating PALM scheme workers and their families and, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate to legitimate aims.

The Hon Andrew Giles MP

Minister for Immigration, Citizenship, and Multicultural Affairs

Details of the *Migration Amendment (Pacific Australia Labour Mobility) Regulations 2024*

Section 1 - Name

This section provides that the name of the instrument is the *Migration Amendment (Pacific Australia Labour Mobility Scheme) Regulations 2024*.

Section 2 - Commencement

This section provides for the commencement of the instrument.

Sections 1 to 4 and anything in the instrument that is not elsewhere covered by the table in this section commences on the day after the instrument is registered.

Schedule 1 commences on 25 March 2024.

Section 3 - Authority

This section provides that the instrument is made under the *Migration Act 1958* (the Migration Act).

Section 4 - Schedules

This section provides for how the amendments in the Regulations operate.

Schedule 1 – Amendments

Migration Regulations 1994

Item [1] – Subparagraph 1234(2)(a)(ia) of Schedule 1

This item inserts a new table into subparagraph 1234(2)(a)(ia) in item 1234 (Temporary Work (International Relations)(Class GD)) of Schedule 1 to the Migration Regulations. This provides that the first instalment of the visa application charge (VAC) for an applicant seeking to meet the primary criteria for a Subclass 403 visa in the Pacific Australia Labour Scheme (PALM) stream is \$335; the VAC for an applicant aged 18 years or older seeking to meet secondary criteria is \$335 and the VAC for an applicant aged under 18 years of age is \$80. This subparagraph currently only states the relevant VAC for a primary applicant, at \$335. The VAC for the primary applicant is not changing. These amendments insert the amount to be charged for any secondary applicants.

Item [2] – After paragraph 1234(3)(b) of Schedule 1

This item inserts a new paragraph (cc) which requires that, where a person is applying on the basis of being a member of the family unit of a primary applicant for (or holder of) a visa in the PALM stream, or the holder of a visa in the Pacific Labour Scheme (PLS) stream, the application has the support in writing of a Department responsible for administering the

PALM scheme. In practice, the relevant ‘support in writing’ will be a reference number, necessary to complete the application form and provided to the applicants by a Department administering the scheme. Without the reference number, an applicant would not be able to complete the application form and lodge the visa application.

Item [3] – Paragraph 1234(3)(d) of Schedule 1 (note)

This item amends the note after subitem 1234(3)(d) in item 1234 of Schedule 1 to the Migration Regulations, by omitting the reference to the PALM stream. As a result, the note confirms that only applicants in the Domestic Worker (Diplomatic or Consular) stream cannot include family members in their applications. All other streams allow for inclusion of members of the family unit in a visa application.

Item [4] – Subitem 1234(3E) of Schedule 1

This item amends the phrasing surrounding the references to ‘Foreign Affairs’ and substitute the phrase ‘*Pacific Australia Labour Mobility scheme administered by Foreign Affairs*’ to ‘*scheme known as the Pacific Australia Labour Mobility scheme.*’ This is to recognise that the scheme is currently administered by both the Department of Foreign Affairs and Trade (DFAT) and the Department of Employment and Workplace Relations (DEWR).

Item [5] – Clause 403.111 of Schedule 2 (note)

This item removes the reference to ‘Foreign Affairs’ which is consequential to the amendments outlined in items [2], [4] and [6]. ‘Foreign Affairs’ was only referred to in the context of the PALM scheme and such is no longer required in the Note at Schedule 2.

Item [6] – Clause 403.291 of Schedule

Similarly to Item [4] above, this item amends the phrasing surrounding the references to ‘Foreign Affairs’ and substitute this with the phrase ‘*Pacific Australia Labour Mobility scheme administered by Foreign Affairs*’ to ‘*scheme known as the Pacific Australia Labour Mobility scheme.*’ The reference to ‘Foreign Affairs’ occurs three times within clause 403.291 and the revised wording recognises that the scheme is currently administered by both DFAT and DEWR.

Item [7] – At the end of clause 403.311 of Schedule 2

This item expands on the existing clause which specifies that secondary applicants must be a member of the family unit of a primary visa holder in a particular stream of the subclass 403 visa. It adds in a reference to a PALM stream visa that permits the primary applicant to remain in Australia for a period of at least 1 year (a long-term PALM worker), or a visa in the Pacific Labour Scheme stream.

Item [8] – After clause 403.312 of Schedule 2

This item inserts a new clause 403.312A into Schedule 2 in relation to secondary applicants applying on the basis of being a member of the family unit of a long-term PALM worker or PLS worker.

New subclause 403.312A(2) requires that the primary visa holder is still participating in the PALM scheme at the time of decision.

New subclause 403.321A(3) requires that the support for the application provided by the relevant Department administering the PALM scheme (as required by item [2] above being a requirement for lodgement of a valid application) has not been withdrawn at the time of decision.

Item [9] – After paragraph 403.316(3)(b) of Schedule 2

Similar to item [7] this item inserts references to the primary applicant holding a long-term PALM stream visa, or a PLS stream visa and require secondary applicants to meet the health requirements contained in public interest criterion 4005.

Item [10] – After subparagraph 403.316(4)(a)(ii) of Schedule 2

This item makes a similar amendment to items [7] and [9] and insert references to the primary applicant holding a long-term PALM stream visa, or a PLS stream visa and require secondary applicants to have signed the values statement as required by public interest criterion 4019.

Item [11] – Subclause 403.411(2C) of Schedule 2

This subclause relates to where a visa applicant may be located (whether inside or outside Australia) at the time the visa is granted. This item omit the phrase ‘who satisfies the primary criteria’ which results in the clause applying to both primary and secondary applicants. This means that applicants, including secondary applicants, applying for their first visa in the PALM stream must be outside Australia at time of visa grant. Applicants, including secondary applicants, seeking a second or subsequent visa in the PALM stream may be in or outside Australia, but not in immigration clearance, at the time of visa grant.

Item [12] – Subparagraph 8611(1)(a)(ii) of Schedule 8

As outlined in items [2], [4] and [5], this item omits the reference to ‘Foreign Affairs’ and substitutes it with ‘a Department responsible for administering the Pacific Australia Labour Mobility scheme.’ This is to maintain consistency with regards to how an administering agency is referred to throughout the legislation.

Item [13] – In the appropriate position in Schedule 13

This item inserts a new Part 128 – Amendments made by the *Migration Amendment (Pacific Australia Labour Mobility Scheme) Regulations 2024* in Schedule 13 (Transitional Arrangements) to the Migration Regulations. New Part 128 has one item 12801 which provides for how the amendments made are to operate.

The effect of the transitional provision is that the amendments to Schedules 1 and 2 to the Migration Regulations apply to an application for a visa made on or after commencement of the Regulations.

The amendments to Schedule 8 of the Migration Regulations apply in relation to a visa granted on or after the commencement of the Regulations. These only make amendments to recognise that the PALM scheme is administered by both DFAT and DEWR. There is no substantive change.