

EXPLANATORY STATEMENT

Issued by a delegate of the Minister under the *Migration Regulations 1994*

Migration Amendment (Skills in Demand and Nil VAC) Instrument 2024

The instrument *Migration Amendment (Skills in Demand and Nil VAC) Instrument 2024* is made under subregulation 2.07(5) of the *Migration Regulations 1994* (Migration Regulations).

The instrument amends or repeals the following principal legislative instruments to support the implementation of the Subclass 482 (Skills in Demand) visa and related measures on 7 December 2024:

- *Migration (IMMI 18/018: Visa Applications—Temporary Skill Shortage (Class GK)) Instrument 2018* (IMMI 18/018); and
- *Migration (Class of persons for Temporary Skill Shortage (Class GK) visa nil VAC Instrument (LIN 21/006) 2021* (LIN 21/006).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides 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.

On 11 December 2023, the Government released its Migration Strategy, which outlined a policy roadmap for reforming Australia’s migration system. One prominent feature of the Migration Strategy was the Government’s commitment to implementing a new “Skills in Demand” visa that would address the nation’s skills needs, and provide skilled migrant workers with increased worker mobility and clear pathways to permanent residence.

The *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Amendment Regulations) implements the Subclass 482 (Skills in Demand) visa to replace the Subclass 482 (Temporary Skill Shortage) visa, and made a series of related amendments to align sponsorship obligations and create pathways to permanent residence. Further information about the Amendment Regulations can be found in the Explanatory Statement for those Regulations.

The main purpose of the *Migration (Skills in Demand and nil VAC) Amendment (LIN 24/097) Instrument 2024* is to amend or repeal two instruments relating to the Government’s temporary skilled migration program to ensure that they are consistent with amendments made to the Regulations by the Amendment Regulations. These instruments provide for matters relating to manner and form of visa applications and nil visa application charges in certain circumstances.

This instrument is covered by the exemption from disallowance provided by table item 20 of regulation 10 of the *Legislation (Exemptions and Other Matters) Regulations 2015*. A statement of compatibility with human rights is therefore not required.

The Office of Impact Analysis (OIA) has been consulted in relation to the Amendment Regulations and associated legislative instruments generally, advising that no Impact Analysis is required. The OIA consultation reference number is OBPR23-04044.

The Department of Home Affairs has consulted on the Migration Strategy with business, unions and other stakeholders throughout the Migration Review. Whole of Government consultation occurred, along with consultation involving peak body, state and territory, and industry representatives via the Ministerial Advisory Council on Skilled Migration (MACSM) and Skilled Migration Officials Group (SMOG) groups.

The instrument commences on the later of:

- 7 December 2024; and
- the day after it is registered on the Federal Register of Legislation.

Further details of the instrument are set out in Attachment A.

The instrument will be repealed by operation of Division 1 of Part 3 of Chapter 3 of the *Legislation Act 2003* (Legislation Act). Specifically, that Division (under section 48A) automatically repeals a legislative instrument that has the sole purpose of amending or repealing another instrument. As the instrument will automatically repeal, it does not engage the sunseting framework under Part 4 of the Legislation Act.

The Migration Regulations specify no conditions that need to be satisfied before the power to make the instrument may be exercised.

The instrument is a legislative instrument for the purposes of the Legislation Act. The instrument was made in accordance with the Migration Regulations by a delegate of the Minister.

Details of the *Migration Amendment (Skills in Demand and Nil VAC) Instrument 2024*

Section 1 – Name of instrument

This section provides that the title of the instrument is the *Migration Amendment (Skills in Demand and Nil VAC) Instrument 2024* (departmental reference LIN 24/097).

Section 2 – Commencement

This section provides the instrument commences on the later of:

- (a) 7 December 2024;
- (b) the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the instrument is made under subregulation 2.07(5) of the *Migration Regulations 1994* (Migration Regulations).

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Schedule 1 amends Migration (IMMI 18/018: Visa Applications—Temporary Skill Shortage (Class GK)) Instrument 2018 (IMMI 18/018).

Item [1] – Section 1

This item repeals and substitutes section 1 of IMMI 18/018. This has the effect of renaming the instrument to the *Migration (IMMI 18/018: Visa Applications – Skills in Demand (Class GK)) Instrument 2018*. This removes the reference to “Temporary Skill Shortage” and substitutes “Skills in Demand” in the title.

This change to the name of IMMI 18/018 ensures consistency with the amendments made to the Migration Regulations by the *Migration Amendment (2024 Measures No. 1) Regulations 2024* (Amendment Regulations). The Amendment Regulations renamed the Temporary Skill Shortage (Class GK) visa under Item 1240 of Schedule 1 to the Migration Regulations to the Skills in Demand (Class GK) visa.

Item [2] – Section 5

This item amends section 5 of IMMI 18/018 by omitting each reference to “(Temporary Skill Shortage)” and substituting “(Skills in Demand)”.

This is a consequential amendment arising from the amendments made to the Migration Regulations by the Amendment Regulations, which changed the Subclass 482 (Skills in Demand) visa to the Subclass 482 (Temporary Skill Shortage) visa.

Item [3] – Subparagraph 6(3)(b)(ii)

This item makes a minor change to subparagraph 6(3)(b)(ii) of IMMI 18/018 to correct a typographical error in IMMI 18/018. It substitutes the reference to “toe482.Manual.Lodgement@homeaffairs.gov.au”, with “to e482.Manual.Lodgement@homeaffairs.gov.au”.

Item [4] – After section 6

This item inserts new section 7 in IMMI 18/018, which is an application provision.

Section 7 provides that the amendments made to IMMI 18/018 by Schedule 1 to the *Migration Amendment (Skills in Demand and Nil VAC) Instrument 2024* (LIN 24/097) apply in relation to an application for a visa made on or after the commencement of the *Migration Amendment (2024 Measures No. 1) Regulations 2024*.

Schedule 2 – Repeals

Schedule 2 repeals *Migration (Class of persons for Temporary Skill Shortage (Class GK) visa nil VAC Instrument (LIN 21/006) 2021* (LIN 21/006).

Item [1] – The whole of the instrument

This item repeals the whole of the *Migration (Class of persons for Temporary Skill Shortage (Class GK) visa nil VAC Instrument (LIN 21/006) 2021* (LIN 21/006).

LIN 21/006 had applied a nil visa application charge (VAC) for a period of time for certain applicants for the Temporary Skill Shortage (Class GK) visa. These measures related to the COVID-19 Pandemic.

The effect of this item is to repeal the whole of LIN 21/006. This reflects that the specified timeframes in that instrument have expired.