

EXPLANATORY STATEMENT

Issued by the Assistant Minister for Citizenship and Multicultural Affairs

Migration Amendment (Relevant Assessing Authorities and Other Matters) Instrument 2024

The instrument *Migration Amendment (Relevant Assessing Authorities and Other Matters) Instrument 2024* (departmental reference LIN 24/083) is made under the *Migration Regulations 1994* (Migration Regulations).

The instrument amends the following principal legislative instruments:

- *Migration (Specification of Occupations—Subclass 482 Visa) Instrument 2024 (LIN 24/089)*;
- *Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2024 (LIN 24/93)*;
- *Migration (LIN 19/219: Occupations for Subclass 494 Visas) Instrument 2019 (LIN 19/219)*;
- *Migration (IMMI 18/039: Mandatory Skills Assessment—Subclass 482 Visa) Instrument 2018 (IMMI 18/039)*;
- *Migration (LIN 19/260: Assessing Authorities for Subclass 494 Visas) Instrument 2019 (LIN 19/260)*;
- *Migration (LIN 19/050: Specification of Occupations—Subclass 407 Visa) Instrument 2019 (LIN 19/050)*;
- *Migration (LIN 19/051: Specification of Occupations and Assessing Authorities) Instrument 2019 (LIN 19/051)*.

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.

For LIN 24/089 and LIN 24/093, the instrument removes caveat 14 from a range of occupations specified in the instrument. Caveat 14 applies to an occupation if the position is not provided for under an International Trade Obligation.

For LIN 24/093, IMMI 18/039, LIN 19/260 and LIN 19/051, the instrument makes amendments to support the implementation of the *Migration Amendment (Skills Assessing Authorities) Regulations 2024* (Skills Assessing Authorities Regulations).

The Skills Assessing Authorities Regulations amended the Migration Regulations to clarify the Skills Assessment Minister's powers regarding the approval and revocation of the approval of an assessing authority. The Skills Assessing Authorities Regulations provide the Skills Assessment Minister with an express power to approve a person or body as the assessing authority for any occupation, and one or more countries.

Subregulation 2.26B(1) of the Migration Regulations as amended by the Skills Assessing Authorities Regulations provides the Immigration Minister may specify a person or a body as the relevant assessing for an occupation and one or more countries, but only if the Skills Assessment Minister has approved that person or body as the assessing authority for that occupation and one or more countries under subregulation 2.26B(1B) of the Migration Regulations.

When a person applies for a skilled migration visa, they may be required to demonstrate that a relevant assessing authority has assessed their skills as being suitable for the relevant occupation.

The instrument amends LIN 24/093, IMMI 18/039, LIN 19/260 and LIN 19/051 for the purposes of subregulation 2.26B(1) of the Migration Regulations to specify the relevant assessing authorities for occupations specified in the Medium and Long-term Strategic Skills List, the Short-term Skilled Occupation List and the Regional Occupation List.

For LIN 19/219 and LIN 19/050, the instrument also makes minor amendments to clarify that an occupation does not apply to a nominee in certain circumstances.

A Statement of Compatibility with Human Rights has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011* in relation to amendments of principal instruments that rely on instrument-making powers where the instruments are disallowable. These instruments are:

- *Migration (Specification of Occupations—Subclass 482 Visa) Instrument 2024 (LIN 24/089);*
- *Migration (LIN 19/219: Occupations for Subclass 494 Visas) Instrument 2019 (LIN 19/219);*
- *Migration (LIN 19/050: Specification of Occupations—Subclass 407 Visa) Instrument 2019 (LIN 19/050).*

The overall assessment is that the amendments in the amending instrument are compatible with human rights. A copy of the Statement is at [Attachment A](#).

The amendments of the remaining instruments rely on instrument-making powers that are covered by the exemption from disallowance provided by table item 20 of regulation 10 of the *Legislation (Exemptions and Other Matters) Regulations 2015*.

The Office of Impact Analysis (OIA) has been consulted in relation to the amendments, advising that no Impact Analysis is required. The OIA reference number for the amendments relating to the Skills Assessing Authorities Regulations is OIA24-07984. The OIA consultation reference number for the remaining amendments is OBPR23-0404.

In relation to the amendments made to support the implementation of the Skills Assessing Authorities Regulations, the Department consulted other Commonwealth agencies in the course of developing the Skills Assessing Authorities Regulations, including the Department of Employment and Workplace Relations (DEWR) and the Attorney-General's Department.

In relation to the remaining amendments, as they were minor and machinery in nature, no consultation was considered necessary in the circumstances.

The instrument commences immediately after the commencement of the Skills Assessing Authorities Regulations. The Skills Assessing Authorities Regulations commence on 14 December 2024.

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

The instrument will be repealed by operation of Division 1 of Part 3 of Chapter 3 of the *Legislation Act 2003* (Legislation Act). 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 sunset 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.

Statement of Compatibility with Human Rights

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

Migration Amendment (Relevant Assessing Authorities and Other Matters) Instrument 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 *Migration Regulations 1994* (‘Migration Regulations’) set out requirements for the grant of a Skills in Demand (subclass 482) visa (SID visa), which replaced the Temporary Skill Shortage (subclass 482) visa (TSS visa).

The SID visa has three streams comprising:

- Specialist Skills stream;
- Core Skills stream; and
- Labour Agreement stream.

In the assessment of nominations under the Migration Regulations, a requirement of the SID visa (under both the Specialist Skills and Core Skills streams) is that the applicant be nominated by their employer in an occupation that appears on the ANZSCO code as relevant to the criteria for the stream applied for.

Also, under subregulation 5.19(11) in Part 5 and paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations, the Minister may specify the occupations in relation to applications for, and nominations of for, Employer Nomination Scheme (subclass 186) visa (ENS visas).

Under subregulation 2.72C(11) of the Migration Regulations, the Minister may specify occupations for the purpose of the Skilled Employer Sponsored Regional Provisional (subclass 494) visas (SESRP visa).

Under paragraph 2.72B(3)(b) of the Migration Regulations 1994, the Minister may specify occupational training in relation to the Training (subclass 407) visas (Training visa).

Under sub item 1137(4C) of Schedule 1 the Minister may specify occupations for the purpose of Skilled Independent visas.

The *Migration Amendment (Relevant Assessing Authorities and Other Matters) Instrument 2024* applies inapplicability conditions (‘caveats’) to certain occupations that are specified for the purposes of the abovementioned skilled visas. The caveats exclude certain specialisations in specified occupations for the purposes of nominations for these skilled visas, to ensure that applicants are nominated for genuinely skilled positions.

This Disallowable Legislative Instrument also removes caveat 14 from ten occupations on the Core Skills Occupation List (CSOL). Caveat 14 was introduced on 7 December 2024 by the *Migration (Specification of Occupations—Subclass 482 Visa) Instrument 2024* and *Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2024* and limits an occupation to that as provided for under an International Trade Obligation (ITO). Removing caveat 14 from ten occupations on CSOL means that while those occupations exist on the CSOL as a result of International Trade Obligations (ITO), visa applications relying on those occupations are not restricted to nationals from countries in relation to which those ITOs exist. This makes certain that applicants of all nationalities can apply under these occupations. Since caveat 14 was introduced on 7 December it has not been applied to the 10 occupations which this Disallowable Legislative Instrument removes caveat 14 from. Caveat 14 will continue to apply to three occupations thereby restricting those occupations to nationals from countries with which Australia has an ITO which provides for those occupations. Caveat 14 continues to apply to those three occupations because their inclusion on the CSOL was not supported by labour market analysis or stakeholder feedback undertaken by Jobs and Skills Australia, or are a Skill Level 4 occupation which would not otherwise be included.

This Disallowable Legislative Instrument also applies changes to align with the *Migration Amendment (Skills Assessing Authorities) Regulations 2024*, which clarify the Skills Assessment Minister’s powers regarding the approval of an assessing authority. The amendment ensures the instruments are made under the relevant power at regulation 2.26B.

Specifically, this Disallowable Legislative Instrument makes the following changes:

- applying an inapplicability condition (‘caveat’) to the occupation of Hospitality, Retail and Service Managers nec (not elsewhere classified) to exclude specification of brothel keepers from SESRP visas;
- applying an inapplicability condition to the occupation of Dancer or Choreographer to exclude exotic dancers;
 1. This applies to the SESRP visa, Training visa and Skilled Independent visas.
- removing caveat 14 from select occupations on the CSOL.; and,
- making administrative changes to the powers in which the instruments are made to clarify the Skills Assessment Minister’s powers to specify an assessing authority.

The effect of these amendments is to make clear that the occupation “Hospitality, Retail and Service Managers nec” for the purposes of satisfying the criteria for the SESRP visa does not include brothel keeper positions, for the purposes of satisfying the criteria for the nomination for a SESRP visa.

Similarly, the occupation of “Dancer or Choreographer” does not include exotic dancer positions for the purposes of satisfying the criteria for the Subclass SESRP visa, Training visa and Skilled Independent visas.

It also makes clear that for the occupations to which caveat 14 no longer applies are not restricted to nationals of the relevant countries where that occupation is provided for in an ITO.

Human rights implications

This Disallowable Legislative Instrument engages the following rights:

- the right to work under Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), including as read with Article 2(2) of the ICESCR; and
- the rights of equality and non-discrimination under Article 26 of the *International Covenant on Civil and Political Rights* (ICCPR) and Article 2(2) ICESCR.

Non-discrimination and the right to work

Article 6(1) of the ICESCR provides:

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 26 of the ICCPR provides:

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.

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.

The main effect of this Disallowable Legislative Instrument is the application of caveats to all skilled visas where the relevant occupation is specified.

Specification of lists of occupations (and relevant caveats) for which foreign workers may be nominated for entry and stay in Australia in this Disallowable Legislative Instrument engage the above rights to non-discrimination, including, for those persons who are already in Australia, as they relate to the right to work.

In its General Comment 18, the UN Human Rights Committee (UNHRC) 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 (UNCESCR) has stated (at 13) 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 Covenant 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 give a right for non-citizens to enter Australia for the purposes of seeking residence or employment. The UNHRC, 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. It is open to the Government to change visa settings for new applicants to meet its policy priorities for a well-managed migration program, consistently with its international obligations, that are intended to benefit the Australian community as a whole.

The aim of the skilled visa programs is to maximise the benefits of skilled entrants to the Australian economy. This includes channelling skilled migrants into the occupations that have been identified to be in the long-term strategic interest of the Australian economy, and restricting skilled migrants to occupations that are currently in shortage. Australia sets the requirements for the entry and conditions of stay for skilled migrants on the basis of reasonable and objective criteria, included where formulated by JSA through labour market analysis and public consultation.

Further, Article 4 of ICESCR provides that the State may subject the rights enunciated in the ICESCR:

...only to such limitations as are determined by law only insofar as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in democratic society.

It is reasonable and necessary that the Minister may amend the list of skilled occupations for the purposes of nominations and visa applications because it allows the Minister the flexibility and precision required to carefully tailor it to reflect Australia's labour market needs. The ability to tailor occupations lists to Australia's labour market needs helps to meet the legitimate objective of strengthening Australia's economy through ensuring the integrity of Australia's migration programme.

The Disallowable Legislative Instrument specifies caveats for the occupation "Hospitality, Retail and Service Managers nec" and "Dancer or Choreographer" by excluding brothel keepers and exotic dancers respectively. By restricting the scope of the specialisations for these occupations, Australia is acting within its right 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.

Conclusion

The Disallowable Legislative Instrument is compatible with human rights because, to the extent it may limit human rights, those limitations are reasonable, necessary and proportionate.

The Hon Julian Hill MP
Assistant Minister for Citizenship and Multicultural Affairs

Details of the *Migration Amendment (Relevant Assessing Authorities and Other Matters) Instrument 2024*

Section 1 – Name of instrument

This section provides that the title of the instrument is the *Migration Amendment (Relevant Assessing Authorities and Other Matters) Instrument 2024* (departmental reference LIN 24/083).

Section 2 – Commencement

This section provides the instrument commences immediately after the commencement of the *Migration Amendment (Skills Assessing Authorities) Regulations 2024* (the Skills Assessing Authorities Regulations).

Section 3 – Authority

This section provides that the instrument is made under 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 of LIN 24/089

Schedule 1 amends *Migration (Specification of Occupations—Subclass 482 Visa) Instrument 2024* (LIN 24/089).

Items [1]-[7]

These items remove applicable circumstance (caveat) 14 from the specified items of column 3 of the Core Skills Occupation List (CSOL) in LIN 24/089. Caveat 14 is that the position is not provided for under an International Trade Obligation (ITO).

The effect of these items is that this caveat will no longer apply to the following items and occupations in the CSOL for LIN 24/089:

- 1: Chief Executive or Managing Director
- 2: Corporate General Manager
- 10: Sales and Marketing Manager
- 11: Advertising Manager

- 12: Corporate Services Manager
- 13: Finance Manager
- 14: Human Resource Manager
- 22: Supply and Distribution Manager
- 30: Chief Information Officer
- 386: Chef.

Caveat 14 will continue to apply to the following items and occupations in the CSOL for LIN 24/089:

- 168: Private Tutors and Teachers nec
- 182: Traditional Chinese Medicine Practitioner
- 445: Other Sports Coach or Instructor.

This clarifies that only these three occupations are restricted to nationals of countries that have entered into an ITO with Australia where that occupation is provided for. This is because their inclusion on the CSOL was not supported by labour market analysis or stakeholder feedback undertaken by Jobs and Skills Australia, or are a Skill Level 4 occupation which would not otherwise be included.

Schedule 2 – Amendments of LIN 24/093

Schedule 2 amends *Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2024* (LIN 24/093).

Item [1] – Section 1

This item repeals and substitutes section 1 of LIN 24/093. This renames LIN 24/093 to the *Migration (Specification of Occupations and Relevant Assessing Authorities—Subclass 186 Visa) Instrument 2024*.

The addition of the word ‘relevant’ to the title is consistent with the amendments made to regulation 2.26B of the Migration Regulations by the *Migration Amendment (Skills Assessing Authorities) Regulations 2024* (Skills Assessing Authorities Regulations).

Item [2] – Paragraph 3(b)

This item repeals and substitutes paragraph 3(b) of LIN 24/093. The previous reference to paragraph 186.234(2)(a) of Schedule 2 is replaced with a reference to subparagraph 2.26B(1) of the Migration Regulations.

This item reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations, which removed the instrument making power in paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations and instead provided for the power to be in subregulation 2.26B(1).

Items [3]-[4], [6], [10], [12]

These items repeal and substitute various references to ‘assessing authority’ in LIN 24/093 with a reference to ‘relevant assessing authority’.

The addition of the word ‘relevant’ to the various parts of LIN 24/093 is consistent with the amendments made to the Migration Regulations by the *Migration Amendment (Skills Assessing Authorities) Regulations 2024* (Skills Assessing Authorities Regulations).

Item [5] – Subsection 6(3)

This item repeals and substitutes subsection 6(3) of LIN 24/093.

New subsection 6(3) specifies relevant assessing authorities for LIN 24/093 for the purposes of subsection 2.26B(1) of the Migration Regulations.

This item reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations, which removed the instrument making power in paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations and instead provided for the power to be in subregulation 2.26B(1).

Item [7]-[8]

These items remove applicable circumstance (caveat) 14 from the specified items of column 3 of the Core Skills Occupation List (CSOL) in LIN 24/093. Caveat 14 is that the position is not provided for under an International Trade Obligation.

The effect of these items is that this caveat will no longer apply to the following items and occupations in the CSOL for LIN 24/093:

- 1: Chief Executive or Managing Director
- 2: Corporate General Manager
- 10: Sales and Marketing Manager
- 11: Advertising Manager
- 12: Corporate Services Manager
- 13: Finance Manager
- 14: Human Resource Manager
- 22: Supply and Distribution Manager
- 30: Chief Information Officer
- 386: Chef.

Caveat 14 will continue to apply to the following items and occupations in the CSOL for LIN 24/093:

- 168: Private Tutors and Teachers nec
- 182: Traditional Chinese Medicine Practitioner
- 445: Other Sports Coach or Instructor.

This clarifies that only these three occupations are restricted to nationals of countries that have entered into an ITO with Australia where that occupation is provided for. This is because their inclusion on the CSOL was not supported by labour market analysis or stakeholder feedback undertaken by Jobs and Skills Australia, or are a Skill Level 4 occupation which would not otherwise be included.

Item [9] – Subsection 7(2)

This item repeals and substitutes subsection 7(2) of LIN 24/093.

This item specifies for the purpose of subregulation 2.26B(1) of the Migration Regulations that the relevant assessing authority:

- for a physicist (other than a medical physicist) is VETASSESS; and
- for medical physicist is ACPSEM.

Item [11] – Section 9

This item amends section 9 of LIN 24/093 to omit the words “For the purposes of column 3 of the Core Skills Occupation List” and substitute “In this instrument”.

The purpose of this item is to clarify that the relevant assessing authority expressions set out in section 9 apply across the whole of LIN 24/093, including to the relevant assessing authorities referred to in subsection 7(2).

Schedule 3 – Amendments of LIN 19/219

Schedule 3 amends *Migration (LIN 19/219: Occupations for Subclass 494 Visas) Instrument 2019* (LIN 19/219).

Item [1] – Paragraph 5(1)(c)

This item repeals and substitutes paragraph 5(1)(c) of LIN 19/219.

The purpose of this item is to provide that paragraph 5(1)(c) is subject to the caveats set out in new subsections 6(2) and 7(2). This means that if such a caveat applies, the relevant occupation will not apply to the nominee.

Item [2] – Section 6

This item amends section 6 of LIN 19/219 so that the current section 6 becomes subsection 6(1).

Item [3] – At the end of section 6

This item adds new subsection (2) to section 6 of LIN 19/219.

The effect of new subsection 6(2) is to provide that, for the purposes of subregulation 2.72C(11) of the Migration Regulations, the occupation of ‘dancer or choreographer’ (item 13 of the table in subsection 6(1)) does not apply to the nominee if the position in which the nominee is to work is an exotic dancer.

Item [4] – Section 7

This item amends section 7 of LIN 19/219 so that the current section 6 becomes subsection 7(1).

Item [5] – At the end of section 7

This item adds new subsection (2) to section 7 of LIN 19/219.

The effect of new subsection 7(2) is to provide that, for the purposes of subregulation 2.72C(11) of the Migration Regulations, the occupation of ‘hospitality, retail and service managers’ (item 79 of the table in subsection 7(2)) does not apply to the nominee if the position in which the nominee is to work is a brothel keeper.

Schedule 4 – Amendments of IMMI 18/039

Schedule 4 amends *Migration (IMMI 18/039: Mandatory Skills Assessment—Subclass 482 Visa) Instrument 2018* (IMMI 18/039).

Item [1] – Section 3

This item amends section 3 of IMMI 18/039 to add a reference to subregulation 2.26B(1) of the Migration Regulations as a provision under which IMMI 18/039 is made.

This item reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations, which removed the assessing authority instrument making power from subparagraph 1240(3)(g)(iv) of Schedule 1 to the Migration Regulations and instead provided for the power to be in subregulation 2.26B(1).

Item [2] – Subsection 5(2)

This item amends section 4 of IMMI 18/039 to clarify that ‘VETASSESS’ means ‘Vocational Education and Training Assessment Services’.

Item [3] – Subsection 5(2)

This item amends subsection 5(2) of IMMI 18/039 to update the provisions under which the subsection is made. These provisions are amended as being subregulation 2.26B(1) of and subparagraphs 1240(3)(g)(ii), (iii) and (iv) of Schedule 1 to the Migration Regulations.

The new reference to subregulation 2.26B(1) of the Migration Regulations reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations. This removed the assessing authority instrument making power from subparagraph 1240(3)(g)(iv) of Schedule 1 to the Migration Regulations and instead provided for the power to be in subregulation 2.26B(1).

Item [4] – After paragraph 5(2)(a)

This item inserts new paragraph (aa) in subsection 5(2) of IMMI 18/039.

The purpose of this item is to clarify for subparagraph 1240(3)(g)(iii) of Schedule 1 to the Migration Regulations that the class of persons is specified to be the persons mentioned in subsection 5(1).

Item [5] – Paragraph 5(2)(b)

This item repeals and substitutes paragraph 5(2)(b) of IMMI 18/039.

New paragraph 5(2)(b) specifies the relevant assessing authorities for IMMI 18/039 for the purposes of subregulation 2.26B(1) of the Migration Regulations.

This item reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations. This removed the assessing authority instrument making power from subparagraph 1240(3)(g)(iv) of Schedule 1 to the Migration Regulations and instead provided for the power to be in subregulation 2.26B(1).

Item [6] – Subsection 5(2) (table)

This item amends the table in subsection 5(2) of IMMI 18/039 to replace the reference to ‘assessing authority’ with a reference to ‘relevant assessing authority’.

This item reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations.

Schedule 5 – Amendments of LIN 19/260

Schedule 5 amends *Migration (LIN 19/260: Assessing Authorities for Subclass 494 Visas) Instrument 2019* (LIN 19/260).

Item [1] – Section 3

This item amends section 3 of LIN 19/260 to replace the reference to subclause 494.224(6) of Schedule 2 to the Migration Regulations with a reference to subregulation 2.26B(1) of the Migration Regulations as the provision under which LIN 19/260 is made.

This item reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations, which removed the assessing authority instrument making power from subclause 494.224(6) of Schedule 2 to the Migration Regulations and instead provided for the power to be in subregulation 2.26B(1).

Item [2] – Section 5

This item repeals and substitutes section 5 of LIN 19/260.

New section 5 specifies relevant assessing authorities for LIN 19/260 for the purposes of subsection 2.26B(1) of the Migration Regulations.

This item reflects the amendments made to the Migration Regulations by the Skills Assessing Authorities Regulations. This removed the assessing authority instrument making power from subclause 494.224(6) of Schedule 2 to the Migration Regulations and instead provided for the power to be in subregulation 2.26B(1).

Schedule 6 – Amendments of LIN 19/050

Schedule 6 amends *Migration (LIN 19/050: Specification of Occupations—Subclass 407 Visa) Instrument 2019* (LIN 19/050).

Item [1] – Paragraph 6(c)

This item repeals and substitutes paragraph 6(c) of LIN 19/050.

The purpose of this item is to provide that paragraph 6(c) is subject to the caveat set out in new subsection 7(2). This means that if such a caveat applies, the relevant occupation will not apply to the nominee.

Item [2] – Section 7

This item amends section 7 of LIN 19/050 so that the current section 7 becomes subsection 7(1).

Item [3] – At the end of section 7

This item adds new subsection (2) to section 7 of LIN 19/050.

The effect of new subsection (2) is to provide that, for the purposes of paragraph 2.72B(3)(b) of the Migration Regulations, the occupation of ‘dancer or choreographer’ (item 13 of the table in subsection 7(1)) does not apply to the nominee if the position in which the nominee is to work is an exotic dancer.

Schedule 7 – Amendments of LIN 19/051

Schedule 7 amends *Migration (LIN 19/051: Specification of Occupations and Assessing Authorities) Instrument 2019* (LIN 19/051).

Item [1] – Section 1

This item repeals and substitutes section 1 of LIN 19/051. This has the effect of renaming the instrument to *Migration (LIN 19/051: Specification of Occupations and Relevant Assessing Authorities) Instrument 2019*.

The addition of the word ‘relevant’ to the title is consistent with the amendments made to regulation 2.26B of the Migration Regulations by the *Migration Amendment (Skills Assessing Authorities) Regulations 2024* (Skills Assessing Authorities Regulations).

Item [2] – Paragraph 3(a)

This item repeals paragraph 3(a), which removes regulation 1.03 of the Migration Regulations as an authority under which LIN 19/051 is made.

Former section 5 of LIN 19/051 had previously defined ANZSCO for the purposes of regulation 1.03 of the Regulations. *Migration (ANZSCO Definition) Specification 2024* (LIN 24/105) repealed section 5 of LIN 19/051 and implemented a new definition, meaning that regulation 1.03 of the Migration Regulations is no longer a provision under which LIN 19/051 is made.

Item [3] – Part 2 (heading)

This item amends the heading in Part 2 of LIN 19/051 to make it consistent with the amendments made to regulation 2.26B of the Migration Regulations by the Skills Assessing Authorities Regulations. The amendment updates the Part 2 heading from “assessing authorities” to “relevant assessing authorities”.

Item [4] – Section 7 (heading)

This item amends the section 7 heading to omit the words “relevant assessing authorities”. This amendment is consistent with amendments made to regulation 2.26B of the Migration Regulations by the Skills Assessing Authorities Regulations. This amendment ensures that section 7 of LIN 19/051 continues to specify the classes of persons to which the relevant occupation lists for those persons. The relevant assessing authority for each occupation will now be specified in section 10AA of the instrument (see below).

Item [5] – Subsection 7(7)

This item repeals current subsection 7(7) (including repealing the subheading “Specification of assessing authorities”) and substitutes a new subsection 7(7).

Current subsection 7(7) is being repealed as the relevant assessing authorities are now being specified in new subsection 10AA (see below).

New subsection 7(7) implements a caveat to provide that an occupation in the Medium and Long term Strategic Skills List in subsection 8(1) does not apply if a circumstance mentioned in subsection 8(2) applies to a person mentioned in subsection 7(1).

Item [6] – Section 8

This item repeals and substitutes section 8 of LIN 19/051.

Current section 8 of LIN 19/051 sets out the occupations on the Medium and Long-term Strategic Skills List in column 1 of the table in subsection 8(1). It also specifies the relevant assessing authority for each of those occupations in column 3.

New subsection 8(1) retains the list of occupations for the Medium and Long-term Strategic Skills List in column 1, but removes column 3. This is consistent with the amendment made by item 11, which inserts a new section 10AA specifying the relevant assessing authority for all occupations on the relevant occupation lists.

New subsection 8(2) applies a caveat to item 9 (dancer or choreographer) of the table in subsection 8(1). The effect, in conjunction with new subsection 7(7), is that this occupation does not apply if the position in which the person is to work is an exotic dancer.

Item [7] – Section 9

This item repeals and substitutes section 9 of LIN 19/051.

Current section 9 of LIN 19/051 sets out the occupations on the Short-term Skilled Occupation List in column 1 of the table in subsection 9(1). It also specifies the relevant assessing authority for each of those occupations in column 3.

New section 9 retains the list of occupations for the Short-term Skilled Occupation List in column 1, but removes column 3. This is consistent with the amendment to insert new section 10AA specifying the relevant assessing authority for all occupations on the relevant occupation lists.

Item [8] – Section 10

This item repeals and substitutes section 10 of LIN 19/051.

Current section 10 of LIN 19/051 sets out the occupations on the Regional Occupation List in column 1 of the table in subsection 10(1). It also specifies the relevant assessing authority for each of those occupations in column 3.

New section 10 retains the list of occupations for the Regional Occupation List in column 1, but removes column 3. This is consistent with the amendment to insert new section 10AA specifying the relevant assessing authority for all occupations on the relevant occupation lists.

Items [9]-[11]

These items amend the headings in LIN 19/051 for:

- section 10A
- the table heading of section 10A; and
- the heading to column 2 of the table of section 10A.

These amendments make the provisions consistent with the amendments made to regulation 2.26B of the Migration Regulations by the Skills Assessing Authorities Regulations. The amendments update the references to “assessing authorities” in the headings to instead refer to “relevant assessing authorities”.

Item [12] – After section 10A

This item inserts new section 10AA, which includes a table, after section 10A of LIN 19/051.

New subsection 10AA(1) specifies that, for the purposes of subregulation 2.26B(1) of the Migration Regulations, a person or body listed in column 3 of an item in the table is the relevant assessing authority for the relevant occupation and all countries.

The table in subsection 10AA(1) lists an occupation in column 1 of an item in the table. The relevant assessing authority for a particular occupation and all countries is the person or body listed in column 3 of the item in the table associated with that occupation.

New subsection 10AA(2) specifies the relevant assessing authorities for certain occupations for the purposes of subregulation 2.26B(1) of the Migration Regulations.

Items [13]-[14]

These items amend the heading and table heading in section 11 of LIN 19/051 to make it consistent with the amendments made to regulation 2.26B of the Migration Regulations by the Skills Assessing Authorities Regulations. These amendments update the heading from “assessing authorities” to “relevant assessing authorities”.

Items [15]-[16]

These items amend the list of assessing authorities in the table in section 11 of LIN 19/051.

Item 15 inserts new table item 27AA to include the Geospatial Council of Australia (GCA) as an assessing authority.

Item 16 repeals table item 34, which contained GCA’s previous name of Surveying and Spatial Sciences Institute Limited (SSSI).

Item [17] – Application of LIN 24/083

This item inserts new section 16 in LIN 19/051. This is an application provision to provide that the amendments to *Migration (LIN 19/051: Specification of Occupations and Assessing Authorities) Instrument 2019* (LIN 19/051) made by Schedule 7 of the *Migration Amendment (Relevant Assessing Authorities and Other Matters) Instrument 2024* (LIN 24/083) apply in relation to an application made in response to an invitation given by the Minister on or after the commencement of that Schedule.