

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration and Multicultural Affairs

Migration Regulations 1994

Migration Legislation Amendment (Specified Work and Areas for Subclass 417 and 462 Visas) Instrument 2025

- 1 The instrument, departmental reference LIN 25/048, is made under regulations 1.15FAA and 1.15FA of the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument amends *Migration (Specified work and areas for subclass 417 visas) Instrument (LIN 22/012) 2022* (LIN 22/012) and *Migration (Specified work areas for subclass 462 visas) Instrument (LIN 22/013) 2022* (LIN 22/013) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). 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 on 5 April 2025. It is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 The purpose of the instrument is to amend the areas of Australia specified in LIN 22/012 and LIN 22/013 for the definitions of *specified Subclass 417 work* and *specified Subclass 462 work* in regulation 1.03 of the Migration Regulations.
- 5 The instrument amends LIN 22/012 and LIN 22/013 by expanding the areas of Australia where recovery work can be undertaken for the purposes of satisfying ‘specified work’ requirements for a Working Holiday (Subclass 417) visa or Work and Holiday (Subclass 462) visa. The instrument operates to specify areas affected by bushfire as specified in item 1 of Schedule 1 to LIN 22/012 and LIN 22/013, and areas affected by flood, cyclone or other severe weather as specified in item 5 of Schedule 1 to LIN 22/012 and LIN 22/013.

Background

- 6 Applicants applying for a second or third Working Holiday (Subclass 417) visa or a second or third Work and Holiday (Subclass 462) visa must satisfy the respective criteria under subsections 417.211(5) or 417.211(6) or subsections 462.218(1) or 462.219(1) of Schedule 2 to the Migration Regulations. This includes demonstrating the applicant has carried out a period or periods of *specified Subclass 417 work* or *specified Subclass 462 work*, as defined in regulation 1.03 of the Migration Regulations:
 - *specified Subclass 417 work* is defined to mean work carried out in one or more areas of Australia and was of one or more kinds specified for the purposes of the definition by the Minister under regulation 1.15FAA;
 - similarly, *specified Subclass 462 work* means work carried out in one or more areas of Australia and was of one or more kinds specified for the purposes of the definition by the Minister under regulation 1.15FA.

- 7 Regulations 1.15FAA and 1.15FA enable the Minister to specify, by legislative instrument, areas of Australia and kinds of work for the purposes of the definitions of *specified Subclass 417 work* and *specified Subclass 462 work* in regulation 1.03.
- 8 The instrument enables Subclass 417 and Subclass 462 visa applicants who have undertaken a kind of work in the corresponding area(s) specified in the instrument to count this work towards eligibility for a second or third visa.
- 9 The inclusion of specified areas in LIN 22/102 and LIN 22/013 recognises the important contribution that Working Holiday (Temporary) (Class TZ) and Work and Holiday (Temporary) (Class US) visa holders make to these affected areas, recognising this recovery work for the purpose of meeting the ‘specified work’ requirements for a second or third visa under the WHM program.

Consultation

- 10 These changes are routine in nature, updating the list of areas impacted by recent natural disasters. The list of affected areas was informed by data managed by the National Emergency Management Agency. Consistent with established practice, information in relation to the changes will be made available to affected visa holders and visa applicants on the Department of Home Affairs' website.

Details of the instrument

- 11 Details of the instrument are set out in the **Attachment**.

Parliamentary scrutiny etc.

- 12 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because it is an instrument made under Part 1 of the Migration Regulations, and is exempt from disallowance under subitem 20(b) of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 13 As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights in accordance with section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is not required.
- 14 The instrument is made by a delegate of the Minister in accordance with regulations 1.15FAA and 1.15FA of the Migration Regulations.

Details of the *Migration Legislation Amendment (Specified Work and Areas for Subclass 417 and 462 Visas) Instrument 2025*

Section 1 Name

This section provides that the name of the instrument is the *Migration Legislation Amendment (Specified Work and Areas for Subclass 417 and 462 Visas) Instrument 2025* (the instrument).

Section 2 Commencement

This section provides that the instrument commences on 5 April 2025.

Section 3 Authority

This section provides that the instrument is made under regulations 1.15FAA and 1.15FA of the *Migration Regulations 1994* (the 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 22/012

Item [1] inserts new section 10 (Application of amendments made by LIN 25/048). This is an application provision, and provides that the amendments made by this instrument apply in relation to an application for a Working Holiday (Temporary) (Class TZ) visa made, but not finally determined, before the commencement of this instrument; or an application made on or after the commencement of this instrument.

Item [2] repeals and substitutes item 1 of Schedule 1 to LIN 22/012. This expands the bushfire affected areas of Australia for the purposes of the definition in section 4 of *bushfire affected area* and section 7 (Bushfire recovery work), respectively.

Item [3] repeals and substitutes item 5 of Schedule 1 to LIN 22/012. This expands the areas of Australia affected by flood, cyclone or other severe weather for the purpose of section 8A (Recovery work – flood, cyclone or other severe weather).

Schedule 2 Amendments of LIN 22/013

Item [1] inserts new section 11 (Application of amendments made by LIN 25/048). This is an application provision, and provides that the amendments made by this instrument apply in relation to an application for a Work and Holiday (Temporary) (Class US) visa made, but not finally determined, before the commencement of this instrument; or an application made on or after the commencement of this instrument.

Item [2] repeals and substitutes item 1 of Schedule 1 to LIN 22/013. This expands the bushfire affected areas of Australia for the purposes of the definition in section 4 of *bushfire affected area* and section 8 (Bushfire recovery work), respectively.

Item [3] repeals and substitutes item 5 of Schedule 1 to LIN 22/013. This expands the areas of Australia affected by flood, cyclone or other severe weather for the purpose of section 9A (Recovery work – flood, cyclone or other severe weather).