

EXPLANATORY STATEMENT

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

Migration Regulations 1994

Migration (Specification of Organisations) Instrument 2025

The instrument, departmental reference LIN 25/015, is made under paragraph (b) of the definition of ***independent expert*** in regulation 1.21 of the *Migration Regulations 1994* (the Migration Regulations).

This instrument repeals and replaces the *Migration Regulations 1994 - Specification of Organisations - IMMI 13/023* (IMMI 13/023). The repeal of IMMI 13/023 is done 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.

The instrument commences on the day after registration on the Federal Register of Legislation. It is a legislative instrument for the purpose of the *Legislation Act 2003* (the Legislation Act).

Background

The *Migration Regulations 1994 - Specification of Organisations - IMMI 13/023* (IMMI 13/023) commenced on 3 April 2013. That instrument was made under former regulation 1.17 and regulation 1.21 of the Migration Regulations.

The definition of ***independent expert*** in regulation 1.21 of the Migration Regulations provides that the term means a person who:

- is suitably qualified to make independent assessments of non-judicially determined claims of family violence (paragraph (a) of that definition); and
- is employed by, or contracted to provide services to, an organisation that is specified, in a legislative instrument made by the Minister for this definition, for the purpose of making independent assessments of non-judicially determined claims of family violence (paragraph (b) of that definition).

IMMI 13/023 operated to specify that the former Department of Human Services (DHS) and LSC Psychology were organisations for the purposes of the definition of ***independent expert*** in regulation 1.21 of the Migration Regulations. The reference to the Department of Human Services is now redundant, noting that in line with the explanatory statement to IMMI 13/023, that Department had been included in the 2013 instrument as an independent expert for claims of family violence referred prior to its commencement on 3 April 2013, with LSC Psychology specified for claims referred on or after that date.

Purpose

The *Migration (Specification of Organisations) Instrument 2025* (the instrument) is made under paragraph (b) of the definition of ***independent expert*** in regulation 1.21 of the Migration Regulations.

The purpose of the instrument is to specify the organisation LSC Psychology for the purposes of the definition of *independent expert* in regulation 1.21 of the Migration Regulations. The instrument maintains the status of LSC Psychology as an organisation specified for this purpose, as it was under IMMI 13/023. The effect of this specification is that a person who is employed by, or contracted to provide services to, LSC Psychology, for the purpose of making independent assessments of non-judicially determined claims of family violence, is an independent expert for the purposes of the special provisions relating to family violence in Division 1.5 of the Migration Regulations. This means that LSC Psychology can lawfully undertake independent expert assessments for claims referred on or after the commencement of this instrument.

Consultation

No consultation was undertaken for this instrument. This instrument is made substantially in the same form as IMMI 13/023. This instrument continues to specify that LSC Psychology is an organisation for the purposes of the definition of *independent expert* in regulation 1.21 of the Migration Regulations in relation to non-judicially determined claims of family violence.

Additionally, the repeal of IMMI 13/023 (item 1 of Schedule 1 to the instrument) gives effect to the end of the agreement between the Department of Home Affairs and the Department of Human Services. The new instrument LIN 25/015 reflects this by specifying only LSC Psychology, and discontinuing the reference to the Department of Human Services as a specified organisation.

The Office of Impact Analysis (OIA) has advised that an Impact Analysis is not required. The OIA Reference is OIA25-09317.

Details of the instrument

Section 1 sets out the name of the instrument.

Section 2 provides for the commencement of the instrument on the day after it is registered on the Federal Register of Legislation.

Section 3 provides for the instrument being made under paragraph (b) of the definition of *independent expert* in regulation 1.21 of the *Migration Regulations 1994* (the Migration Regulations).

Section 4 sets out definitions of terms used in this instrument. This section of the instrument provides for the term Regulations to mean the *Migration Regulations 1994*.

Section 5 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in each Schedule of this instrument and any other item in a Schedule to this instrument has effect according to its terms.

Section 6 provides that LSC Psychology is specified as an organisation, for the purpose of making independent assessments of non-judicially determined claims of family violence, in accordance with the definition of independent expert in regulation 1.21 of the Migration Regulations.

Item 1 of Schedule 1 provides that the *Migration Regulations 1994 – Specification of Organisations – IMMI 13/023* is repealed.

Parliamentary scrutiny etc.

The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because the instrument is made under Part 1 of the Migration Regulations, which is prescribed in sub-item 20(b) of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.

The instrument was made by the Assistant Minister for Citizenship, Customs and Multicultural Affairs in accordance with paragraph (b) of the definition of ***independent expert*** in regulation 1.21 of the Migration Regulations.