

## **EXPLANATORY STATEMENT**

Issued by authority of the Minister for Immigration and Citizenship

*Migration Regulations 1994*

### ***Migration (Specification of Required Medical Assessment) Instrument 2025***

The instrument, departmental reference LIN 25/049, is made under paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 to the *Migration Regulations 1994* (the Regulations).

The instrument repeals the *Migration Regulations 1994 - Specification of Required Medical Assessment - IMMI 15/144* in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*. 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 29 November 2025. It is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

#### ***Migration (Specification of Required Medical Assessment) Instrument 2025 (LIN 25/049)***

This instrument is made under paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 to the Regulations. These provisions provide that unless a Medical Officer of the Commonwealth decides otherwise, if an applicant is in a class of persons specified by the Minister in an instrument in writing, they must undertake any medical assessment specified in the instrument and must be assessed by the person specified in the instrument.

The purpose of the instrument is to specify the mandatory immigration medical assessment health requirements that certain visa applicants must undertake in order to satisfy Public Interest Criteria (PIC) 4005 and 4007 by reference to their country or jurisdiction of citizenship or residence and their intended period of stay and intended activities, and who they must be assessed by.

#### ***Consultation***

The instrument provides for health assessment requirements consistent with the medical assessment process that certain visa applicants are required to undertake for the purposes of public interest criterion 4005 or 4007. The Department anticipates minimal impact on visa applicants. Consistent with standard practice, the Department's website has been updated to reflect the changes in this instrument for visa applicants.

External consultation was not considered necessary as the amendments reflect the tuberculosis data from World Health Organisation that the Department adopts for visa purposes. This information is available publicly and the matters provided for in the instrument are therefore considered largely machinery in nature.

#### ***Parliamentary scrutiny etc.***

The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because it is an instrument made under Schedule 4 to the Regulations which is exempt from disallowance under paragraph (b)

of item 20 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 is made by the Chief Medical Officer of the Department, a delegate of the Minister, in accordance with paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 to the Regulations.

## **Details of the instrument**

### **Section 1 Name**

This section provides that the name of the instrument is the *Migration (Specification of Required Medical Assessment) Instrument 2025*.

### **Section 2 Commencement**

This section provides that the instrument commences on 29 November 2025.

### **Section 3 Authority**

This section provides that the instrument is made under paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 to the *Migration Regulations 1994* (the Regulations).

### **Section 4 Definitions**

This section provides for the definitions in this instrument.

- ***high hepatitis B risk jurisdiction*** means a country or jurisdiction not mentioned in Schedule 5 to this instrument.
- ***panel physician*** means a doctor or radiologist who:
  - is outside Australia; and
  - provides medical assessment services for visa applicants for purposes under the *Migration Act 1958* and the Regulations; and
  - provides those services on the basis that the doctor or radiologist either:
    - has entered into and continues to be a party to an arrangement with the Department to provide the services as part of the Australian Panel Physician Network; or
    - is employed or otherwise engaged to provide the services by a clinic, organisation or other entity (however described) that has entered into and continues to be a party to an arrangement with the Department to provide the services as part of the Australian Panel Physician Network.
- ***provisional visa*** means a temporary visa of a subclass mentioned in Schedule 4 to this instrument.
- ***Regulations*** means the *Migration Regulations 1994*.

### **Section 5 Schedules**

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 Specified classes of person required to undertake medical assessment**

Section 6 provides for the specification of persons required to undertake a medical assessment.

This section of the instrument provides that for the purposes of paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 to the Regulations, the following classes of person are specified:

- a person who:
  - is a citizen of a country or jurisdiction; or
  - has spent 3 or more consecutive months during the last 5 years in one or more countries or jurisdictions;
  - where the country or jurisdiction is listed in Column 1 of the table in Schedule 1 to the instrument;
- a person who:
  - is a citizen of a country or jurisdiction; or
  - has spent 3 or more consecutive months during the last 5 years in one or more countries or jurisdictions;where the country or jurisdiction is not listed in Column 1 of the table in Schedule 1 to the instrument;
- a person who is covered by paragraphs 6(a) and (b).

Paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 to the Regulations provide that unless a Medical Officer of the Commonwealth decides otherwise, if an applicant is in a class of persons specified by the Minister in an instrument in writing, they must undertake any medical assessment specified in the instrument and must be assessed by the person specified in the instrument.

The effect of section 6 of the instrument is that for the purposes of paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4, a person is specified to be in a class of persons where:

- that person is a citizen of a country or jurisdiction or that person has spent 3 or more consecutive months during the last 5 years in one or more countries or jurisdictions where the country or jurisdiction is listed in Column 1 of the table in Schedule 1 to the instrument (paragraph 6(a));
- that person is a citizen of a country or jurisdiction or that person has spent 3 or more consecutive months during the last 5 years in one or more countries or jurisdictions where the country or jurisdiction is *not* listed in Column 1 of the table in Schedule 1 to the instrument (paragraph 6(b));
- a person who is *both* in the class of person covered by paragraph 6(a) and 6(b) of the instrument (paragraph 6(c)).

## **Section 7 Specified medical assessments**

Section 7 provides for the specified medical assessments.

This section of the instruments provides that for subparagraph 4005(1)(aa)(i) and 4007(1)(aa)(i) of Schedule 4 to the Regulations, the following medical assessments are specified:

- for a person in a class of person specified in paragraph 6(a)—the medical assessments specified in Columns 2, 3, 4 and 5 of the table in Schedule 1 to the instrument;
- for a person in a class of person specified in paragraph 6(b)—the medical assessments specified in:
  - Columns 2, 3 and 4 of the table in Schedule 2 to the instrument; and
  - Schedule 3 to the instrument;
- for a person specified in paragraph 6(c)—the medical assessments specified in:

- Columns 2, 3 and 4 of the table in Schedule 2 to the instrument; and
- Schedule 3 to the instrument.

Subparagraphs 4005(1)(aa)(i) and 4007(1)(aa)(i) of Schedule 4 to the Regulations provides that if the applicant is in a class of persons specified by the Minister in an instrument in writing for subparagraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 that applicant must undertake any medical assessment specified in that instrument.

The effect of section 7 of the instrument is that for the purposes of subparagraphs 4005(1)(aa)(i) and 4007(1)(aa)(i) of Schedule 4 a person, who is specified to be in one of the class of person specified in paragraph 6(a), 6(b) or 6(c) of the instrument, that applicant must undertake the following specified medical assessments:

- a person who is in a class of person specified in paragraph 6(a) of the instrument, must undertake the medical assessments specified in Columns 2 to 5 of the table in Schedule 1 to the instrument
- a person who is in the class of person specified in paragraph 6(b) of the instrument, must undertake the medical assessments specified in Columns 2 to 4 of the table in Schedule 2 to the instrument and Schedule 3 (paragraph 7(b));
- a person specified in paragraph 6(c) of the instrument, must undertake the medical assessments specified in Columns 2 to 4 of the table in Schedule 2 to the instrument and Schedule 3 (paragraph 7(c)).

## **Section 8 Specified persons to conduct medical assessments**

Section 8 provides for the specified persons to conduct medical assessments.

This section provides that for subparagraphs 4005(1)(aa)(ii) and 4007(1)(aa)(ii) of Schedule 4 to the Regulations:

- for a medical assessment conducted in Australia—Bupa Australia Health Pty Ltd (trading as Bupa Medical Visa Services) is specified;
- for a medical assessment conducted outside Australia for visa purposes—panel physicians are specified.

The note under paragraph 8(b) of the instrument provides that paragraphs 4005(1)(aa) and 4007(1)(aa) of Schedule 4 to the Regulations both relevantly provide that if an applicant is in a class of persons specified by the Minister in a written instrument for that paragraph, they must be assessed by the person specified in the instrument unless a Medical Officer of the Commonwealth decides otherwise.

The effect of section 8 of the instrument is that the medical assessment specified in section 7 of the instrument must be conducted by one of the following specified persons:

- for medical assessments conducted within Australia; Bupa Australia Health Pty Ltd (trading as Bupa Medical Visa Services) (paragraph 8(a));
- for medical assessments conducted outside Australia for visa purposes; panel physicians (paragraph 8(b)).

## **Schedule 1 Medical assessments required for specified class of persons**

The table in Schedule 1 to the instrument provides for the relevant specified classes of persons for the purposes section 6 and/ or for the relevant specified medical assessments for the purposes of section 7 of the instrument.

## **Schedule 2     Medical assessments required for persons not covered by Schedule 1**

The table in Schedule 2 to the instrument provides for the relevant specified medical assessments for the purposes of section 7 of the instrument, for the relevant class of person specified in section 6.

## **Schedule 3     Additional medical assessments for paragraphs 4005(1)(aa) and 4007(1)(aa)**

The table in Schedule 3 to the instrument provides for the relevant additional medical assessments for the purposes of the relevant provisions of section 7 of the instrument.

Section 8 of the instrument provides for the specified persons who can conduct the relevant specified medical assessments as detailed in Schedules 1 to 3 to the instrument.

## **Schedule 4     List of provisional visas**

The table in Schedule 4 to the instrument provides for the relevant temporary visa for the purposes of the definition of *provisional visa* in section 4 of the instrument.

## **Schedule 5     Low hepatitis B risk countries and jurisdictions**

The table in Schedule 5 to the instrument provides for the relevant country or jurisdiction not mentioned for the purposes of the definition are *high hepatitis B risk jurisdiction* in section 4 to the instrument.

## **Schedule 6     Repeals**

Item 1 of Schedule 6 to the instrument repeals the *Migration Regulations 1994 - Specification of Required Medical Assessment - IMMI 15/144* in its entirety.