EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration and Citizenship

Migration Regulations 1994

Migration (Health Criteria—Specified Countries) Instrument 2026

The instrument, departmental reference LIN 26/090, is made under subparagraph 2.25A(1)(b) of the *Migration Regulations 1994* (the Regulations).

Subregulation 2.25A(1) of the Regulations provides that in determining whether an applicant satisfies the criteria for the grant of a visa, the Minister must seek the opinion of a Medical Officer of the Commonwealth (MOC) on whether a visa applicant or another person meets the requirements of paragraphs 4005(1)(a), 4005(1)(b), 4005(1)(c), 4007(1)(a), 4007(1)(b) or 4007(1)(c) of Schedule 4 to the Regulations unless subparagraph 2.25A(1)(a) or 2.25A(1)(b) applies.

Subparagraph 2.25A(1)(a) of the Regulations provides that the opinion of a MOC is not required if an application is for a temporary visa and there is no information known to Immigration (either through the application or otherwise) to the effect that the person may not meet any of those requirements. Subparagraph 2.25A(1)(b) of the Regulations provides that the opinion of a MOC is not required if the application is for a permanent visa that is made from a country (whether Australia or a foreign country) specified in a legislative instrument made by the Minister for the purposes of that paragraph and there is no information known to Immigration (either through the application or otherwise) to the effect that the person may not meet any of those requirements.

The instrument repeals the *Migration (Health Criteria—Specified Countries) (LIN 23/071) Specification 2023* (LIN 23/071).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that a power to make a legislative instrument includes a power to amend or repeal an 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 it is registered on the Federal Register of Legislation. It is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

The purpose of LIN 26/090 is to correctly reflect the names of States that were previously specified in the repealed LIN 23/071. These countries have undergone a formal name change, and LIN 26/090 provides a list of these country names as recognised by Australia. There is no change in policy setting and LIN 26/090 does not add or remove countries that were previously specified in the repealed LIN 23/071.

Consultation

The instrument is of a minor or machinery nature. Accordingly, external consultation was not considered necessary or appropriate to undertake.

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The legislative amendment is a low-risk remedy to correct formal country names, constitutional descriptors, and diacritical marks to reflect internationally recognised name changes.

Parliamentary Scrutiny etc.

The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Part 2 of the Migration Regulations are prescribed as being exempt from disallowance under paragraph 44(2)(b) of the Legislation Act. This exemption is provided by table item 20(b) in regulation 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 Regulations do not specify any conditions that must be satisfied before the power to make the instrument may be exercised.

The instrument was made by a delegate of the Minister, in accordance with subparagraph 2.25A(1)(b) of the Regulations.

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Details of the *Migration (Health Criteria—Specified Countries) Instrument 2026*

Section 1 Name

This section provides that the name of the instrument is the *Migration (Health Criteria—Specified Countries) Instrument 2026*.

Section 2 Commencement

This section provides that the instrument commences on the day after it is registered.

Section 3 Authority

This section provides that the instrument is made under subparagraph 2.25A(1)(b) of the *Migration Regulations 1994*.

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.

Section 5 Definitions

This section provides for the definitions in the instrument.

Under this section:

- ***foreign country*** has the same meaning as the definition in section 2B of the *Acts Interpretation Act 1901*.
- ***Regulations*** means the *Migration Regulations 1994*.

Section 6 Specified countries

This section provides that for the purposes of subparagraph 2.25A(1)(b) of the Regulations, a specified country (whether Australia or a foreign country) is a country listed in column 1 of the table in Schedule 1 to the instrument.

Section 7 Application of this instrument

This section provides that the instrument applies to an application for a visa:

- made on or after the commencement of this instrument; or
- made but not finally determined before the commencement of this instrument.

This section clarifies when this instrument applies. In doing so, the policy intention is to ensure that individuals, who make an application for a visa that has not been finally determined before the commencement of this instrument, are not disadvantaged by these amendments which are minor in nature.

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Schedule 1 Specified countries

Schedule 1 provides for the specified countries for the purposes of section 6 of this instrument.

Schedule 2 Repeals

Item 1 of Schedule 1 repeals the *Migration (Health Criteria—Specified Countries) (LIN 23/071) Specification 2023* in its entirety.

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