



Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019

made under paragraphs 186.221(b), 186.231(b), 186.234(3), 187.221(b), 187.222(b) and subclauses 494.223(2), 494.224(7), and 494.225(2) of Schedule 2 to the

Migration Regulations 1994

Compilation No. 4

Compilation date: 7 December 2024

Includes amendments: *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024 (F2024L01621)*

Prepared by the Department of Home Affairs

About this compilation

This compilation

This is a compilation of the *Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019* that shows the text of the law as amended and in force on 7 December 2024 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1 Preliminary

1 Name

- (1) This instrument is the *Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019*.
- (2) This instrument may be cited as LIN 19/216.

3 Authority

This instrument is made under the following provisions of the *Migration Regulations 1994*:

- (a) paragraph 186.221(b) of Schedule 2;
- (b) paragraph 186.231(b) of Schedule 2;
- (c) subclause 186.234(3) of Schedule 2;
- (d) paragraph 187.221(b) of Schedule 2;
- (e) paragraph 187.222(b) of Schedule 2;
- (f) subclause 494.223(2) of Schedule 2;
- (g) subclause 494.224(7) of Schedule 2;
- (h) subclause 494.225(2) of Schedule 2.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Regulations, including the following:

- (b) designated local area;
- (c) earnings.

In this instrument:

Act means the *Migration Act 1958*.

ANZSCO means:

- (a) in relation to an application for a Subclass 186 (Employer Nomination Scheme) visa—the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022;
- (b) in relation to an application for a Subclass 187 (Regional Sponsored Migration Scheme) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa—the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013.

academic applicant, in relation to an application for a visa, means a person in relation to whom all of the following paragraphs apply:

- (a) the nomination to which the visa application relates was made by an Australian university;
- (b) the nominated position to which the visa application relates is for an academic classified as Level A, B, C, D or E;
- (c) the nominated occupation to which the visa application relates, and its corresponding 6 digit code, correspond to an occupation and its corresponding 6 digit ANZSCO code specified in an item of the following table.

Exempt occupations

Item	Column 1 Occupation	Column 2 6-digit ANZSCO code
1	faculty head	134411
2	university lecturer	242111

high income threshold has the meaning given by section 333 of the *Fair Work Act 2009*.

legacy 457 worker, for a Subclass 186 (Employer Nomination Scheme) visa application, means a person who:

- (a) held a Subclass 457 (Temporary Work (Skilled)) visa on or after 18 April 2017;
- (b) was in Australia for at least 12 months between 1 February 2020 and 14 December 2021; and
- (c) applied for the Subclass 186 (Employer Nomination Scheme) visa on or before 30 June 2024.

medical practitioner means an occupation that:

- (a) is listed in ANZSCO; and
- (b) has ANZSCO occupation minor group code 253 (medical practitioners).

nominated occupation, in relation to an application for a visa, means:

- (a) if the visa application is for a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa—the occupation that relates to the position to which the visa application relates; or
- (b) if the visa application is for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa—the occupation nominated by the nomination to which the visa application relates.

nominated position, in relation to an application for a visa, means:

- (a) if the visa application is for a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa—the position to which the visa application relates; or
- (b) if the visa application is for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa—the position that relates to the nominated occupation that relates to the visa application.

nomination, in relation to an application for a visa, means:

- (a) if the visa application is for a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa—an application under regulation 5.19 of the Regulations for approval of the nomination of the position to which the visa application relates; or;
- (b) if the visa application is for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa—the nomination under paragraph 140GB(1)(b) of the Act identified in the visa application.

regional medical practitioner applicant, in relation to an application for a visa, means a person in relation to whom all of the following paragraphs apply:

- (a) the nominated position to which the visa application relates is located in a designated regional area;
- (b) during the 3 years ending immediately before the day the visa application was made the person spent at least 2 years (whether made up of a continuous period or 2 or more non-consecutive periods) employed, as a medical practitioner, at a place or places that, at the time, were located in a designated regional area;
- (c) during the 3 years immediately before the day the visa application was made, the person held one or more of the following visas for a total period of at least 2 years:
 - (i) a Subclass 457 (Temporary Work (Skilled)) visa;
 - (ii) a Subclass 482 (Temporary Skill Shortage) visa;
 - (iii) a Subclass 482 (Skills in Demand) visa; or
 - (iv) if the last substantive visa held by the applicant was a visa mentioned in paragraph (i), (ii) or (iii)—a bridging visa granted on the basis that the person was an applicant for a visa mentioned in paragraph (i), (ii) or (iii), a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa.

Regulations means the *Migration Regulations 1994*.

science applicant, in relation to an application for a visa, means a person in relation to whom all of the following paragraphs apply:

- (a) the person is any of the following relating to science:
 - (i) researcher;
 - (ii) scientist;
 - (iii) technical specialist;

- (b) the nomination to which the visa application relates was made by a science organisation;
- (c) the ANZSCO skill level of the nominated occupation to which the visa application relates is level one or two.

science organisation means:

- (a) a science agency of the Commonwealth or of a State or Territory; or
- (b) an Australian university.

Subclass 444/461 worker, in relation to an application for a visa, means a person in relation to whom both of the following paragraphs apply:

- (a) during the 3 years ending immediately before the day the visa application was made, the person spent at least 2 years (whether made up of a continuous period or 2 or more non-consecutive periods) working:
 - (i) for the employer who made the nomination to which the visa application relates; and
 - (ii) in the nominated occupation to which the visa application relates;
- (b) at almost all times during those 3 years, the person held:
 - (i) a Subclass 444 (Special Category) visa; or
 - (ii) a Subclass 461 (New Zealand Citizen Family Relationship (Temporary)) visa.

Subclass 457/482 worker, in relation to an application for a visa, means a person in relation to whom all of the following paragraphs apply:

- (a) during the 3 years ending immediately before the day the visa application was made, the person was employed for a total period of at least 2 years in one or more positions related to a nomination approved under section 140GB of the Act; and
- (b) for each of those 2 years, the person's earnings for the year were equal to or greater than the high income threshold (as applying at the end of the year); and
- (c) during the 3 years immediately before the day the visa application was made, the person held one or more of the following for a total period of at least 2 years:
 - (i) a Subclass 457 (Temporary Work (Skilled)) visa;
 - (ii) a Subclass 482 (Temporary Skill Shortage) visa;
 - (iii) a Subclass 482 (Skills in Demand) visa; or
 - (iv) if the last substantive visa held by the applicant was a visa mentioned in paragraph (i), (ii) or (iii)—a bridging visa granted on the basis that the person was an applicant for a visa mentioned in paragraph (i), (ii) or (iii), a Subclass 186 (Employer Nomination Scheme) visa or a Subclass 187 (Regional Sponsored Migration Scheme) visa.

transitional 457 worker under 50, in relation to an application for a visa (the new visa), means a person who:

- (a) on 18 April 2017:

- (i) a Subclass 457 (Temporary Work (Skilled)) visa; or
 - (ii) was an applicant for a Subclass 457 (Temporary Work (Skilled)) visa that was subsequently granted; and
- (b) on the day the application for the new visa was made, had not turned 50.

working: a person is not **working** for an employer at a time if the person is on unpaid leave at that time.

Part 2 Exemptions from skill, age and English language requirements

6 Subclass 186 visas

Temporary Residence Transition stream—exemption from age requirement

- (1) For the purposes of paragraph 186.221(b) of Schedule 2 to the Regulations, the following classes of persons are specified.
 - (a) academic applicants;
 - (aa) legacy 457 workers;
 - (b) regional medical practitioner applicants;
 - (c) science applicants;
 - (d) Subclass 457/482 workers;
 - (e) transitional 457 workers under 50.

Direct Entry stream—exemption from age and skills requirements

- (2) For the purposes of paragraph 186.231(b) and subclause 186.234(3) of Schedule 2 to the Regulations, the following classes of persons are specified:
 - (a) academic applicants;
 - (b) science applicants;
 - (c) Subclass 444/461 workers

7 Subclass 187 visas—Temporary Residence Transition stream

Exemption from age requirement

- (1) For the purposes of paragraph 187.221(b) of Schedule 2 to the Regulations, the following classes of persons are specified:
 - (a) academic applicants;
 - (b) regional medical practitioner applicants;
 - (c) science applicants;
 - (d) Subclass 457/482 workers;
 - (e) transitional 457 workers under 50.

Exemption from English language requirement

- (2) For the purposes of paragraph 187.222(b) of Schedule 2 to the Regulations, a class of persons is specified in relation to an application for a Subclass 187 (Regional Sponsored Migration Scheme) visa if, on the day the visa application was made, the persons had completed at least 5 years of full time study in a secondary or higher education institution where all tuition was delivered in English.

8 Subclass 494 visas—Employer Sponsored stream

Exemption from age requirement

- (1) For the purposes of subclause 494.223(2) of Schedule 2 to the Regulations, applicants are not required to have been under 45 for the purposes of Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas in the Employer Sponsored stream in any of the following circumstances:
 - (a) the applicants are academic applicants;
 - (b) the applicants are regional medical practitioner applicants;
 - (c) the applicants are science applicants;
 - (d) the applicants are Subclass 444/461 workers;
 - (e) the applicants are Subclass 457/482 workers.

Exemption from skills and employment history requirements

- (2) For the purposes of subclause 494.224(7) of Schedule 2 to the Regulations, the requirements of subclauses 494.224(2) to (5) of that Schedule are not required to have been met for the purposes of Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas in the Employer Sponsored stream in either of the following circumstances:
 - (a) the applicants are academic applicants;
 - (b) the applicants are Subclass 444/461 workers.
- (3) For the purposes of subclause 494.225(2) of Schedule 2 to the Regulations, applicants are not required to have been employed as mentioned in paragraph 494.225(1)(a) of that Schedule for the purposes of Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visas in the Employer Sponsored stream in either of the following circumstances:
 - (a) the applicants are academic applicants;
 - (b) the applicants are Subclass 444/461 workers.

Part 3 Application and transitional provisions

9 Application of this instrument

This instrument applies in relation to an application for a visa made on or after 16 November 2019.

10 Transitional provision—designated regional areas

For the purposes of this instrument, an area that was located in regional Australia (within the meaning of subregulation 5.19(16) of the Regulations) at a time occurring before 16 November 2019 is taken to have been located in a designated regional area at that time.

11 Operation of Schedule 1 to the *Migration (Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Amendment Instrument (LIN 20/189) 2020*

The amendments of this instrument made by items 3 and 4 of Schedule 1 to the *Migration (Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Amendment Instrument (LIN 20/189) 2020* apply in relation to applications made on or after the commencement of those items.

12 Amendments made by LIN 23/078

- (1) The amendments of this instrument made by items 1, 2, 3, 4, 6, 10, 11 and 12 of Schedule 1 to the *Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023* apply in relation to applications made on or after the commencement of that Schedule.
- (2) The amendments of this instrument made by items 5, 7, 8 and 9 of Schedule 1 to the *Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023* apply in relation to the following applications:
 - (a) made, but not yet finally determined, upon commencement of that Schedule;
 - (b) made on or after the commencement of that Schedule.

13 Application of amendments made by LIN 24/094

The amendments of this instrument made by Schedule 2 to the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024 (the amending instrument)* apply in relation to an application for a visa made on or after the commencement of the amending instrument, where the associated nomination of an occupation was also made on or after that date.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnotes

Endnote 2—Abbreviation key

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ad = added or inserted	orig = original
am = amended	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
amdt = amendment	pres = present
c = clause(s)	prev = previous
C[x] = Compilation No. x	(prev...) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	reloc = relocated
disallowed = disallowed by Parliament	renum = renumbered
Div = Division(s)	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislation	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
o = order(s)	<u>underlining</u> = whole or part not commenced or to be commenced
Ord = Ordinance	

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
<i>Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019</i>	31 October 2019 (F2019L01404)	16 November 2019	section 9, section 10
<i>Migration (Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Amendment Instrument (LIN 20/189) 2020</i>	23 November 2020 (F2020L01447)	24 November 2020	section 11
<i>Migration (Age exemption for subclass 186 (Employer Nomination Scheme) visa) Amendment Instrument (LIN 22/047) 2022</i>	4 April 2022 (F2022L00515)	1 July 2022	-
<i>Migration Legislation Amendment (Expanding Access to Temporary Residence Transition Stream) Instrument (LIN 23/078) 2023</i>	21 November 2023 (F2023L01531)	25 November 2023	section 12
<i>Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024</i>	6 December 2024 (F2024L01621)	Sch 2: 7 December 2024 (s 2)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 2	rep LA s 48D
s 4	rep LA s 48C
s 5	am. F2020L01447 am. F2022L00515 am. F2023L01531 am. F2024L01621
s 5A	ad. F2020L01447 rep. F2023L01531
s 6	am. F2020L01447 am. F2022L00515 am. F2023L01531
s 7	am. F2020L01447 am. F2023L01531
Part 3 heading	rs. F2020L01447
s 11	ad. F2020L01447
s 12	ad. F2023L01531
s 13	ad. F2024L01621
Schedule 1	rep LA s 48C
