



LIN 24/094

Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024

I, Julian Hill, Assistant Minister for Citizenship and Multicultural Affairs, make the following instrument.

Dated 6 December 2024

Julian Hill
Assistant Minister for Citizenship and Multicultural Affairs

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1 Name

This instrument is the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024*.

2 Commencement

This instrument commences on 7 December 2024.

3 Authority

This instrument is made under the *Migration Act 1958* and the *Migration Regulations 1994*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 IMMI 18/039

Migration (IMMI 18/039: Mandatory Skills Assessment—Subclass 482 Visa) Instrument 2018

1 Section 4 (paragraph (a) of note)

Repeal the paragraph.

2 Section 4

Insert:

ANZSCO is specified to mean, for the definition of *ANZSCO* in regulation 1.03 of the Regulations, the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022.

3 Subsection 5(1)

Omit “(Temporary Skill Shortage)”, substitute “(Skills in Demand)”.

4 Subsection 5(2) (table)

Omit “457 Skills Assessment” (wherever occurring), insert “SID Skills Assessment”.

5 Subsection 5(2) (table item 3)

Omit the table item, substitute:

3	cabinetmaker	394112	TRA	(a) SID Skills Assessment; or (b) TSS Skills Assessment.
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6 Subsection 5(2) (table item 23)

Repeal the table item.

7 Subsection 6(1)

Omit “(Temporary Skill Shortage)”, substitute “(Skills in Demand)”.

8 Subsection 6(2) (table item 23)

Repeal the table item.

9 Subsection 7(1)

Omit “(Temporary Skill Shortage)” (first occurring), substitute “Skills in Demand”.

10 Subparagraph 7(1)(a)(i)

Omit “or Subclass 482 (Temporary Skill Shortage) visa”, substitute “, Subclass 482 (Temporary Skill Shortage) visa or Subclass 482 (Skills in Demand) visa”.

11 Subsection 7(2)

Omit “Subclass 482 (Temporary Skill Shortage) visa is an exempt applicant for an occupation mentioned in column 1 of an item of the table (other than item 21 or 23)”, substitute “Subclass 482 (Skills in Demand) visa is an exempt applicant for an occupation mentioned in column 1 of an item of the table (other than item 21)”.

12 Subsection 7(4)

Omit “Subclass 482 (Temporary Skill Shortage) visa is an exempt applicant for an occupation mentioned in item 21 or 23”, substitute “Subclass 482 (Skills in Demand) visa is an exempt applicant for an occupation mentioned in item 21”.

13 After section 7

Insert:

8 Application of amendments made by LIN 24/094

The amendments of this instrument made by Schedule 1 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 that is made on or after the commencement of the amending instrument.

Schedule 2—Amendments of LIN 19/216

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

1 Section 5 (paragraphs (a) and (d) of the note)

Repeal the paragraphs.

2 Section 5

Insert:

Act means the *Migration Act 1958*.

3 Section 5

Insert:

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.

4 Section 5 (paragraph (c) of the definition of *regional medical practitioner applicant*)

Repeal the paragraph, substitute:

- (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.

5 Section 5 (definition of *Subclass 457/482 worker*)

Repeal the definition, substitute:

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

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- (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.

6 After section 12

Insert:

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.

Schedule 3—Amendments of IMMI 18/033

Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018

1 Section 3

Repeal the section, substitute:

3 Authority

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

- (a) paragraph 2.72(15)(b);
- (b) subregulation 2.72(17);
- (c) paragraph 2.72C(15)(b);
- (d) paragraph 2.72C(15)(d);
- (e) paragraph 2.79(1A)(b).

2 Section 4 (paragraph (a) of definition of *Relevant information*)

Repeal the paragraph, substitute:

- (a) information published on the Australian Government’s Jobs and Skills Australia, Occupation and Industry Profiles webpage;

3 Section 5

After “2.72(15)(b)”, insert “, 2.72C(15)(b)”.

4 Section 6

Omit “paragraph 2.72(15)(d)”, substitute “2.72C(15)(d)”.

5 After section 11

Insert:

12 Application of amendments made by LIN 24/094

The amendments of this instrument made by Schedule 3 to the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024* (the **amending instrument**) apply to nomination of a proposed occupation in relation to:

- (a) the holder of subclass 457 (Temporary Work (Skilled)) visa; or
- (b) the holder of subclass 482 (Temporary Skill Shortage) visa; or
- (c) the holder of a subclass 482 (Skills in Demand) visa; or
- (d) an applicant or a proposed applicant (a **nominated person**) for a subclass 482 (Skills in Demand) visa;

made on or after the commencement of the amending instrument.

Schedule 4—Amendments of LIN 19/212

Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019

1 Section 4 (definition of ANZSCO)

Repeal the definition, substitute:

ANZSCO means:

- (a) for paragraphs 6(1)(a), (b), (c) and (f) and a corresponding reference in subsection 6(3)—the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022;
- (b) for paragraphs 6(1)(d), (g) and (h) and a corresponding reference in subsection 6(3):
 - (i) the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013, for an application for a Subclass 482 (Skills in Demand) visa associated with a nomination lodged before 7 December 2024;
 - (ii) the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022, for all other applications;
- (c) for paragraph 6(1)(e) and a corresponding reference in subsection 6(3):
 - (i) the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013, for a nomination relating to the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition stream;
 - (ii) the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022, for a nomination relating to the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition stream;
- (d) for paragraph 6(1)(i) and a corresponding reference in subsection 6(3)—the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013;
- (e) for subsection 6(2) and a corresponding reference in subsection 6(3)—the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013.

2 Subsection 6(1)

Repeal the subsection, substitute:

- (1) For the purposes of subregulation 2.72(13) of the Regulations, an occupation listed in column 1 of an item of the table in subsection (3) (for which an

ANZSCO code is listed in column 2 of the item) is specified for the purposes of the following provisions of the Regulations:

- (a) paragraphs 2.72(11)(c) and 2.72(12)(c);
- (b) subregulation 2.73(13);
- (c) paragraphs 2.73(14)(c) and 2.73(14A)(c);
- (d) paragraph 2.86(2A)(b) and subregulation 2.86(2AA);
- (e) subregulation 5.19(7);
- (f) subclause 186.227(2) of Schedule 2 to the Regulations;
- (g) clauses 482.223 and 482.233 of Schedule 2 to the Regulations;
- (h) paragraph 8607(3)(a) of Schedule 8 to the Regulations;
- (i) paragraph 5.19(5A)(f).

3 Subsection 6(3) (table item 3)

Omit “medical”.

Schedule 5—Amendments of LIN 18/036

Migration (LIN 18/036: Period, manner and evidence of labour market testing) Instrument 2018

1 Section 4

Insert:

ANZSCO means:

- (a) in relation to a nomination of an occupation relating to an application, or proposed application, for a Subclass 482 (Skills in Demand) 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 any other case—the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013.

2 Section 4 (paragraph (c) of the definition of *select position*)

After “Subclass 482 (Temporary Skill Shortage) visa”, insert “, Subclass 482 (Skills in Demand) visa”.

3 Section 4 (subparagraph (e)(i) of the definition of *select position*)

Omit “Medical”.

Schedule 6—Amendments of LIN 19/260

Migration (LIN 19/260: Assessing Authorities for Subclass 494 Visas) Instrument 2019

1 Subsection 6(1) (table item 30)

Repeal the item, substitute:

30	surveyor	GCA
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2 Subsection 6(1) (table item 79)

Repeal the item, substitute:

79	early childhood (pre-primary school) teacher	ACECQA
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3 Section 9 (after table item 28)

Insert:

28AA	GCA	Geospatial Council of Australia
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4 Section 9 (table item 36)

Repeal the table item.

Schedule 7—Amendments of LIN 20/166

Migration (LIN 20/166: Australian Values Statement for Public Interest Criterion 4019) Instrument 2020

1 After section 5

Insert:

5A Application of amendments made by LIN 24/094

The amendments of this instrument made by Schedule 7 to the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024* (the ***amending instrument***) apply in relation to a visa application, made on or after the commencement of the amending instrument, for a subclass of visa mentioned in an item in a table in Schedule 1 to this instrument.

2 Item 18 of Table 1 in Schedule 1

Omit “(Temporary Skill Shortage)”, substitute “(Skills in Demand)”.

EXPLANATORY STATEMENT

Issued by the Assistant Minister for Citizenship and Multicultural Affairs

Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024

The instrument *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024* (departmental reference LIN 24/094) is made under the *Migration Act 1958* (Migration Act) and the *Migration Regulations 1994* (Migration Regulations).

The instrument amends the following principal legislative instruments, to support the implementation of the Subclass 482 (Skills in Demand) visa and related measures on 7 December 2024:

- *Migration (IMMI 18/039: Mandatory Skills Assessment—Subclass 482 Visa) Instrument 2018;*
- *Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019;*
- *Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018;*
- *Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019;*
- *Migration (LIN 18/036: Period, manner and evidence of labour market testing) Instrument 2018;*
- *Migration (LIN 19/260: Assessing Authorities for Subclass 494 Visas) Instrument 2019;*
- *Migration (LIN 20/166: Australian Values Statement for Public Interest Criterion 4019) Instrument 2020.*

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

On 11 December 2023, the Government released its Migration Strategy, which outlined a policy roadmap for reforming Australia’s migration system. One prominent feature of the Migration Strategy was the Government’s commitment to implementing a new “Skills in Demand” visa that would address the nation’s skills needs, and provide skilled migrant workers with increased worker mobility and clear pathways to permanent residence.

The *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Amendment Regulations) implements the Subclass 482 (Skills in Demand) visa to replace the Subclass 482 (Temporary Skill Shortage) visa, and made a series of related amendments to align sponsorship obligations and create pathways to permanent residence. Further information about the Amendment Regulations can be found in the Explanatory Statement for those Regulations.

The main purpose of the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024* is to amend a series of instruments relating to the Government's temporary skilled migration program to ensure that they are consistent with amendments made to the Regulations by the Amendment Regulations. These instruments provide for matters relating to visa eligibility criteria, skills assessments, assessing authorities, the Australian values statement, and the specification of income threshold and annual earnings.

A Statement of Compatibility with Human Rights has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*, particularly in relation to amendments of principal instruments that rely on instrument-making powers where the instruments are disallowable:

- *Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018;*
- *Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019.*

The overall assessment is that the amendments in the amending instrument are compatible with human rights. A copy of the Statement is at [Attachment A](#).

The amendments of the other five instruments rely on instrument-making powers that are covered by the exemption from disallowance provided by table item 20 of regulation 10 of the *Legislation (Exemptions and Other Matters) Regulations 2015*.

The Office of Impact Analysis (OIA) has been consulted in relation to the Amendment Regulations and associated legislative instruments generally, advising that no Impact Analysis is required. The OIA consultation reference number is OBPR23-04044.

The Department of Home Affairs has consulted on the Migration Strategy with business, unions and other stakeholders throughout the Migration Review. Whole of Government consultation occurred, along with consultation involving peak body, state and territory, and industry representatives via the Ministerial Advisory Council on Skilled Migration (MACSM) and Skilled Migration Officials Group (SMOG) groups.

In addition, the Department worked with Jobs and Skills Australia (JSA) who consulted widely on the composition of the Core Skills Occupation List (CSOL) by advertising a draft version for public comment before making recommendations on the final CSOL to the Government for consideration by the Minister for Home Affairs; with the Department of Work and Employer Relations (DEWR) on the approval of assessing authorities for the new Skills in Demand visa; and with the Australian Bureau of statistics (ABS) on the definition of ANZSCO applicable to the Skills in Demand visa.

The instrument commences on 7 December 2024.

The instrument is a legislative instrument for the purposes of the Legislation Act. Further details of the instrument are set out in [Attachment B](#).

The instrument will be repealed by operation of Division 1 of Part 3 of Chapter 3 of the Legislation Act. That Division (under section 48A) automatically repeals a legislative instrument that has the sole purpose of amending or repealing another instrument. As the

instrument will automatically repeal, it does not engage the sunseting framework under Part 4 of the Legislation Act.

The Migration Regulations specify no conditions that need to be satisfied before the power to make the instrument may be exercised.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

This Disallowable Legislative Instrument, *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024* (LIN 24/094) is made under the *Migration Act 1958* (Migration Act) and the *Migration Regulations 1994* (Migration Regulations).

LIN 24/094 amends a series of instruments relating to the Government's temporary skilled migration program to ensure that they are consistent with amendments made to the Migration Regulations by the *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Amendment Regulations). The Amendment Regulations introduced the new Subclass 482 (Skills in Demand) visa and made related amendments to align sponsorship obligations and create pathways to permanent residence.

Amendments of Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018

The annual earnings and the temporary skilled migration income threshold for the nominated occupation in relation to a nomination for a Skilled Employer Sponsored Regional (Provisional) (subclass 494) visa (SESR visa) was previously deemed, under the Migration Regulations, to be that which was set by a legislative instrument for the purpose of the Temporary Skill Shortage (subclass 482) visa (TSS visa) in the short-term stream or medium-term stream. The legislative instrument for that purpose was IMMI 18/033 and the maximum annual earnings for nomination to be applicable were AUD 250,000, while the income threshold was AUD 73,150.

The amendments of the Migration Regulations by the Amendment Regulations provide for the introduction of a new visa to replace the TSS visa (the Skills in Demand (subclass 482) visa (SID visa)), and the removal of the income threshold from 18/033 for the new SID visa, with insertion of this information into the Migration Regulations. As the TSS visa income threshold was originally shared with the SESR, these changes require that the temporary skilled migration income threshold for the nominated occupation in relation to a nomination for a SESR visa be made directly by legislative instrument for the purpose of the SESR visa. Due to the changes made by the Amendment Regulations to the structure of the Migration Regulations, the amended instrument also provides for a new linkage for the annual earnings figures contained within the instrument to the regulations for the SESR.

Schedule 3 of this Disallowable Legislative Instrument amends IMMI 18/033 to specify the minimum annual earnings and the temporary skilled migration income threshold for the nominated occupation in relation to a nomination for a SESR visa directly, and make IMMI 18/033 consistent with the amendments made to the Migration Regulations by the Amendment Regulations (further information about the Amendment Regulations can be found in the Explanatory Statement for those Regulations). The minimum annual earnings and the income threshold for the SESR visa remains the same as was provided for prior to the changes to IMMI 18/033 made by LIN 24/096. This amendment is a technical change.

Schedule 3 of LIN 24/094 also amends the definition of ‘Relevant Information’ in IMMI 18/033 for the purpose of determining the annual market salary rate (AMSR) for the TSS visa, the SID visa which replaced the TSS visa by the Amendment Regulations, and the Temporary Work (Skilled) (subclass 457) visa, where there is not an Australian worker performing equivalent work. ‘Relevant information’ is considered by the Department when an assessment of the claims made within a nomination application is undertaken in relation to whether AMSR requirements have been met. The definition of ‘Relevant information’ contained within 18/033 had become outdated as it referenced an Australian Government website with information on salary at the time 18/033 entered into force but is no longer active. The amendment updates the referenced website to reflect currently available information published by Jobs and Skills Australia (JSA) – the statutory agency established by the government in 2022 to provide advice on Australia’s current and emerging labour market. This amendment is a technical change.

Amendments of Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019

Under migration legislation, foreign workers entering Australia under employer-sponsored skilled visa arrangements are generally required to work for their sponsoring employer. Pursuant to the *Migration Regulations 1994* (the Regulations), LIN 19/212 lists the occupations that are exempt from the requirement in the Regulations for certain skilled visa holders to work directly for their sponsoring employer. Schedule 4 to this Disallowable Instrument amends LIN 19/212.

Schedule 4 to this Disallowable Legislative Instrument extends the exemption arrangements to the new Skills in Demand (subclass 482) visa, which is inserted into the Regulations by the *Migration Amendment (2024 Measures No. 1) Regulations 2024* with effect from 7 December 2024.

Technical changes to the way occupations are classified have also occurred through an update to the definition of the ANZSCO (Australian and New Zealand Standard Classification of Occupations) used for the subclass 186 and 482 visa programs. For regulations 2.72 and 2.73 and subregulation 5.19(5) of the Regulations, the Disallowable Legislative Instrument defines ANZSCO as meaning the version published by the Australian Bureau of Statistics, as in force on 23 November 2022. This means that the subclass 186 and 482 exempt occupations are defined relative to the 2022 version, while the subclass 187 and 494 programs retain reference to the 2013 version. The ANZSCO codes and titles for all exempt occupations in

this Disallowable Legislative Instrument are identical in the 2013 and 2022 versions of ANZSCO.

Schedule 4 to this Disallowable Legislative Instrument also includes a minor change to the occupation title of “General Medical Practitioner” to “General Practitioner” to align with the occupation title outlined in ANZSCO.

The list of exempt occupations is primarily composed of very senior company executives and medical practitioners and specialists. The reason that persons in these occupations are not required to work directly for their sponsor is to accommodate the flexible employment arrangements typically associated with certain occupations such as medical specialists where the normal employer-employee relationships do not necessarily apply. The exemption arrangements in this Disallowable Legislative Instrument permit the visa holder to work for more than one employer and work as an independent contractor. For example, a medical specialist may be engaged by more than one hospital and may have an associated private practice. The exemption arrangements also ensure that the sponsoring employer will not breach the obligation if the visa holder or former visa holder is engaged as an independent contractor rather than as an employee in one of the specified occupations.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms in relation to the amendments made to IMMI 18/033. The amendments made to LIN 19/212 under Schedule 4 of this instrument engages the right to work under Article 6(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

Article 6(1) of the ICESCR provides:

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

The exemption arrangements in this Disallowable Legislative Instrument may promote the right to work for foreign workers in Australia, including applicants for the new Skills in Demand (subclass 482) visa, by promoting flexibility for visa holders in particular occupations by removing the requirement to work directly for their sponsoring employer.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights because to the extent it engages the right to work, it promotes this right.

The Hon Julian Hill MP

Assistant Minister for Citizenship and Multicultural Affairs

Details of the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024*

Section 1 – Name of instrument

This section provides that the title of the instrument is the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024* (LIN 24/094).

Section 2 – Commencement

This section provides the instrument commences on 7 December 2024.

Section 3 – Authority

This section provides that the instrument is made under the *Migration Act 1958* (Migration Act) and the *Migration Regulations 1994* (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 IMMI 18/039

Schedule 1 amends *Migration (IMMI 18/039: Mandatory Skills Assessment—Subclass 482 Visa) Instrument 2018*.

Item [1] – Section 4 (paragraph (a) of note)

This item repeals paragraph (a) of the note in section 4 (the definitions section) referring to ANZSCO. ANZSCO will instead be defined directly in the instrument (see item 2).

Item [2] – Section 4

This item inserts a new definition of **ANZSCO** in section 4 of IMMI 18/039. The meaning of ANZSCO is specified, for the purposes of the principal instrument and in accordance with the definition of **ANZSCO** in regulation 1.03 of the Regulations, to mean the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022. This is the 2022 version of ANZSCO, released on 22 November 2022.

This definition of ANZSCO is intended to apply in this instrument, rather than the definition of ANZSCO in regulation 1.03 of the Migration Regulations.

The Australian Bureau of Statistics publishes the ANZSCO on its website at <https://www.abs.gov.au/statistics/classifications/anzsco-australian-and-new-zealand-standard-classification-occupations>, and maintains access to all versions that have been published from time to time.

Item [3], [7] and [9]-[10]

These items omit references to the Subclass 482 (Temporary Skill Shortage) visa in subsections 5(1), 6(1) and 7(1) and substitutes references to the Subclass 482 (Skills in Demand) visa. This is consistent with amendments made to the Migration Regulations by the *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Amendment Regulations).

Item [4] – Subsection 5(2) (table)

This item omits references to the 457 Skills Assessment and substitutes references to the SID Skills Assessment. This is consistent with the implement of the Subclass 482 (Skills in Demand) visa by the Amendment Regulations.

Item [5] – Item 3 of the table in subsection 5(2)

This item omits item 3 of the table in subsection 5(2) of IMMI 18/039 and substitutes a new item 3. The effect is to update the ANZSCO 6 digit code for cabinetmaker.

Items [6], [8] and [11]-[12]

Items 6 and 8 repeals item 23 from the table in subsections 5(2) and 6(2) of IMMI 18/039. The effect is to remove ‘specialist managers’ from the instrument.

Item 11 is a consequential amendment of subsection 7(2) of IMMI 18/039 to remove the previous reference to item 23 of the table in section 6.

Item 12 is a consequential amendment of subsection 7(4) of IMMI 18/039 to remove the previous reference to item 23 of the table in section 6.

Item [13] – After section 7

This item inserts an application provision (section 8) in IMMI 18/039. Section 8 provides that the amendments of IMMI 18/039 made by Schedule 1 to the *Migration Amendment (Skills in Demand Visa and Related Matters) Instrument 2024* (LIN 24/094) apply in relation to an application for a visa that is made on or after the commencement of LIN 24/094.

Schedule 2 – Amendments of LIN 19/216

Schedule 2 amends *Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019*.

Item [1] – Section 5 (paragraphs (a) and (d) of the note)

This item repeals paragraphs (a) and (d) of the note in section 5 (the definitions section) of *Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019* (LIN 19/216). This repeals the notes referring to definitions of ANZSCO and the Migration Act 1958, which are now being defined in LIN 19/216 (see items 2 and 3).

Item [2] – Section 5

This item inserts a definition of *the Act* in section 5 of LIN 19/216. The term is defined to mean the *Migration Act 1958*.

Item [3] – Section 5

This item inserts a definition of *ANZSCO* (the Australian and New Zealand Standard Classification of Occupations) in section 5 of LIN 19/216. This definition of ANZSCO is intended to apply in LIN 19/216, rather than the definition of *ANZSCO* in regulation 1.03 of the Migration Regulations.

In summary, 2022 version of the Australian and New Zealand Standard Classification of Occupations (ANZSCO) will apply in relation to applications for a Subclass 186 (Employer Nomination Scheme) visa. This is the version released by the Australian Bureau of Statistics (ABS) on 22 November 2022.

Version 1.3 of ANZSCO will apply in relation to applications for a Subclass 187 (Regional Sponsored Migration Scheme) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa. This is the version released by the ABS on 26 June 2013.

The ABS publishes the definition of ANZSCO on its website at <https://www.abs.gov.au/statistics/classifications/anzsco-australian-and-new-zealand-standard-classification-occupations>.

Item [4] – Section 5 (paragraph (c) of the definition of *regional medical practitioner applicant*)

This item repeals and substitutes paragraph (c) of the definition of *regional medical practitioner applicant* in section 5 of LIN 19/216. The intention is to make the definition consistent with amendments to the Migration Regulations made by the *Migration Amendment (2024 Measures No. 1) Regulations 2024* (the Amendment Regulations).

This item amends the definition as follows:

- inserting a reference to applicant having held the new subclass 482 (Skills in Demand) visa during at least 2 years of the previous 3 years;
- inserting a reference to the applicant having held a relevant bridging visa during at least 2 years of the previous 3 years;

- inserting a reference to the worker having held a relevant bridging visa during at least 2 years of the previous 3 years.

Item [5] – Section 5 (definition of *Subclass 457/482 worker*)

This item repeals and substitutes the definition of *subclass 457/482 worker* in section 5 of LIN 19/216. The intention is to make the definition consistent with amendments to the Migration Regulations made by the Amendment Regulations.

This item amends the definition as follows:

- providing that the worker 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 Migration Act (rather than requiring the worker to have been employed by the same employer during that time period);
- inserting a reference to the worker having held the new subclass 482 (Skills in Demand) visa during at least 2 years of the previous 3 years;
- inserting a reference to the worker having held a relevant bridging visa during at least 2 years of the previous 3 years.

Item [6] – After section 12

This item inserts new section 13 in LIN 19/216, which is a new application provision. New section provides that the amendments of LIN 19/216 made by Schedule 2 to LIN 24/094 apply in relation to an application for a visa made on or after the commencement of LIN 24/094, where the associated nomination of an occupation was also made on or after that date.

Schedule 3 – Amendments of IMMI 18/033

Schedule 3 amends *Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018* (IMMI 18/033).

Item [1] – Section 3

This item repeals and substitutes a new section 3 for IMMI 18/033, which sets out the provisions under which the instrument is made. Two new provisions have been added (paragraphs 2.72C(15)(b) and (d)) and one removed (2.72(15)(d)). This reflects amendments made to the Migration Regulations by the Amendment Regulations.

Item [2] – Section 4 (paragraph (a) of definition of *Relevant information*)

This item repeals and substitutes paragraph (a) of the definition of *Relevant information* in section to refer to information published on the Australian Government’s Jobs and Skills Australia, Occupation and Industry Profiles webpage.

This affects the method of determining the annual market salary rate where there is not an Australian worker performing equivalent work (see paragraph 8(c) of IMMI 18/033).

Item [3] – Section 5

This item amends section 5 to specify the minimum annual earnings for the purposes of paragraph 2.72C(15)(b) of the Migration Regulations.

Regulation 2.72C of the Migration Regulations sets out the criteria for approval of a nomination for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa (subclass 494 visa).

Paragraph 2.72C(15)(b) of the Migration Regulations provides for the Minister to specify the minimum annual earnings in relation to nominee in a legislative instrument.

Prior to the commencement of the Amendment Regulations, paragraph 2.72C(15)(b) of the Migration Regulations provided that the relevant legislative instrument was the one made for the purposes of paragraph 2.72(15)(b).

The Amendment Regulations amended paragraph 2.72C(15)(b) of the Migration Regulations to provide that the legislative instrument for paragraph 2.72C(15)(b) would be made directly under paragraph 2.72C(15)(b). The purpose of item 3 is to insert the required new reference to paragraph 2.72C(15)(b) of the Migration Regulations in section 5.

Item [4] – Section 6

This item amends section 6 to omit the reference to paragraph 2.72(15)(d) of the Migration Regulations and substitute a reference to paragraph 2.72C(15)(d).

Section 6 of IMMI 18/033 specifies the temporary skilled migration income threshold amount.

Removing the reference in section 6 to paragraph 2.72(15)(d) of the Migration Regulations reflects the amendment made to that paragraph by the Amendment Regulations, which removed reference to the temporary skilled migration income threshold.

Paragraph 2.72C(15)(d) of the Migration Regulations provides for the temporary skilled migration income threshold to be specified by the Minister in a legislative instrument.

Prior to the commencement of the Amendment Regulations, paragraph 2.72C(15)(d) of the Migration Regulations provided that the relevant legislative instrument was the one made for the purposes of paragraph 2.72(15)(d).

The Amendment Regulations amended paragraph 2.72C(15)(d) of the Migration Regulations to provide that the legislative instrument for paragraph 2.72C(15)(d) would be made directly under paragraph 2.72C(15)(d). The purpose of item 4 is to insert the required new reference to paragraph 2.72C(15)(b) of the Migration Regulations in section 6.

Item [5] – After section 11

This item inserts new section 12 in IMMI 18/033, which is an application provision. Section 12 provides that the amendments made to IMMI 18/033 by Schedule 3 to LIN 24/094 apply in relation to an application for approval of a nomination in relation to:

- the holder of subclass 457 (Temporary Work (Skilled)) visa; or
- the holder of subclass 482 (Temporary Skill Shortage) visa; or
- the holder of a subclass 482 (Skills in Demand) visa; or
- an applicant or a proposed applicant for a subclass 482 (Skills in Demand) visa;

made on or after the commencement of LIN 24/094.

Schedule 4 – Amendments of LIN 19/212

Schedule 4 amends *Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019* (LIN 19/212).

Item [1] – Section 4 (definition of ANZSCO)

This item repeals the definition of *ANZSCO* in section 4 of *Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019* (LIN 19/212) and substitutes a new definition.

For paragraphs 6(1)(a), (b), (c) and (f) (and a corresponding reference in subsection 6(3)) ANZSCO is defined to mean the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022. This is the 2022 version of ANZSCO, released on 22 November 2022.

For paragraphs 6(1)(d), (g), and (h) (and a corresponding reference in subsection 6(3)), ANZSCO is defined to mean:

- for an application for a Subclass 482 (Skills in Demand) visa associated with a nomination lodged before 7 December 2024 – the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013 (this is the version 1.2 of ANZSCO, released on 26 June 2013);
- For all other applications – the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022 (this is the 2022 version of ANZSCO, released on 22 November 2022).

These settings ensure the 2013 version of ANZSCO is applicable to a nomination for the Subclass 482 (Temporary Skill Shortage) visa lodged before 7 December 2024, which is subsequently “linked” to an application for a Subclass 482 (Skills in Demand) visa.

For paragraph 6(1)(e) (and a corresponding reference in subsection 6(3)), ANZSCO is defined to mean:

- for a nomination relating to the Subclass 187 (Regional Sponsored Migration Scheme) visa in the Temporary Residence Transition Stream – the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013 (this is the version 1.2 of ANZSCO, released on 26 June 2013);
- for a nomination relating to the Subclass 186 (Employer Nomination Scheme) visa in the Temporary Residence Transition Stream – the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 23 November 2022 (this is the 2022 version of ANZSCO, released on 22 November 2022).

For paragraph 6(1)(i) and subsection 6(2) (and a corresponding reference in subsection 6(3)), ANZSCO is defined to mean the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics, as in force on 27 June 2013. This is version 1.2 of ANZSCO, released on 26 June 2013.

This definition of ANZSCO is intended to apply in LIN 19/212, rather than the definition of ANZSCO in regulation 1.03 of the Migration Regulations.

The Australian Bureau of Statistics publishes the definition of ANZSCO on its website at <https://www.abs.gov.au/statistics/classifications/anzsco-australian-and-new-zealand-standard-classification-occupations>.

Item [2] – Subsection 6(1)

Item 2 repeals and substitutes a new subsection 6(1). This will specify an updated list of exemption occupation provisions for the purposes of subregulation 2.73(13) of the Migration Regulations.

The effect of item 2 is that the following provisions of the Migration Regulations will be specified for the purposes of subregulation 2.73(13) of the Migration Regulations:

- paragraphs 2.72(11)(c) and 2.72(12)(c);
- subregulation 2.73(13);
- paragraphs 2.73(14)(c) and 2.73(14A)(c);
- paragraph 2.86(2A)(b) and subregulation 2.86(2AA);
- subregulation 5.19(7);
- subclause 186.227(2) of Schedule 2 to the Regulations;
- clauses 482.223 and 482.233 of Schedule 2 to the Regulations;
- paragraph 8607(3)(a) of Schedule 8 to the Regulations;

- paragraph 5.19(5A)(f).

This is intended to reflect the amendments made to the Migration Regulations by the *Migration Amendment (2024 Measures No. 1) Regulations 2024* (Amendment Regulations). Further information about those amendments can be found in the Explanatory Statement for the Amendment Regulations.

Item [3] – Subsection 6(3) (table item 3)

This item amends the table item 3 in subsection 6(3) to omit the word ‘medical’ and thereby change the reference to ‘general medical practitioner’ to ‘general practitioner’.

Schedule 5 – Amendments of LIN 18/036

Schedule 5 amends *Migration (LIN 18/036: Period, manner and evidence of labour market testing) Instrument 2018* (LIN 18/036).

Item [1] – Section 4

This item inserts a definition of ANZSCO in section 4 of *Migration (LIN 18/036: Period, manner and evidence of labour market testing) Instrument 2018* (LIN 18/036).

In summary, the 2022 version of the Australian and New Zealand Standard Classification of Occupations (ANZSCO) will apply in relation to nominations relating to applications or proposed applications for the subclass 482 (Skills in Demand) visa. This is the version released by the Australian Bureau of Statistics (ABS) on 22 November 2022.

Version 1.2 of ANZSCO, released by the ABS on 26 June 2013, will apply in all other cases.

This definition of ANZSCO is intended to apply in LIN 18/036, rather than the definition of ANZSCO in regulation 1.03 of the Migration Regulations.

The Australian Bureau of Statistics publishes the definition of ANZSCO on its website at <https://www.abs.gov.au/statistics/classifications/anzsco-australian-and-new-zealand-standard-classification-occupations>.

Item [2] – Section 4 (paragraph (c) of the definition of *select position*)

This item inserts a reference to the Subclass 482 (Skills in Demand) visa (Subclass 482 visa) in paragraph (c) of the definition of *select position*.

This item is intended to include a reference to the new Subclass 482 visa to make LIN 18/036 consistent with amendments made to the *Migration Regulations 1994* by the *Migration Amendment (2024 Measures No. 1) Regulations 2024*.

Item [3] – Section 4 (subparagraph (e)(i) of the definition of *select position*)

This item omits the word ‘Medical’ from subparagraph (e)(i) of the definition of *select position*. This has the effect of making this a reference to ‘General Practitioner’, rather than ‘General Medical Practitioner’.

Schedule 6 – Amendments of LIN 19/260

Schedule 6 amends *Migration (LIN 19/260: Assessing Authorities for Subclass 494 Visas) Instrument 2019 (LIN 19/260)*.

Item [1] – Subsection 6(1) (table item 30)

This item repeals table item 30 of the Medium and Long-term Strategic Skills List in subsection 6(1) and substitutes a new item 30. This has the effect of updating the assessing authority for surveyor from Surveying and Spatial Sciences Institute Limited (SSSI) to Geospatial Council of Australia (GCA).

Item [2] – Subsection 6(1) (table item 79)

This item repeals table item 79 of the Medium and Long-term Strategic Skills List in subsection 6(1) and substitutes a new item 79. This has the effect of updating the assessing authority for early childhood (pre-primary school) teacher from VETASSESS (Vocational Education and Training Assessment Services) to ACECQA (Australian Children’s Education and Care Quality Authority).

Items [3]-[4]

These items update the list of assessing authorities in section 9 to change the reference to Surveying and Spatial Sciences Institute Limited (SSSI) to Geospatial Council of Australia (GCA).

Schedule 7 – Amendments of LIN 20/166

This schedule amends *Migration (LIN 20/166: Australian Values Statement for Public Interest Criterion 4019) Instrument 2020 (LIN 20/166)*.

Item [1] – After section 5

This item inserts an application provision (section 5A) in LIN 20/166. This provides that the amendments of LIN 20/166 made by Schedule 7 to LIN 24/094 apply to an application for a subclass of visa mentioned in an item in a table in Schedule 1 to LIN 20/166, made on or after the commencement of LIN 24/094.

Item [2] – Item 18 of the table in Schedule 1

This item repeals the reference to Subclass 482 (Temporary Skill Shortage) visa in item 18 of the table in Schedule and substitutes a reference to the Subclass 482 (Skills in Demand) visa.

This updates *Migration (LIN 20/166: Australian Values Statement for Public Interest Criterion 4019) Instrument 2020 (LIN 20/166)* so that it is consistent with the amendments made to the Migration Regulations by the *Migration Amendment (2024 Measures No. 1) Regulations 2024*.