

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration, Citizenship, Migrant Affairs and
Multicultural Affairs

Migration Regulations 1994

Migration (Fees for assessment of qualifications and experience) Instrument (LIN 21/023) 2021

- 1 The instrument, Departmental reference LIN 21/023, is made under subregulation 5.40(1) of the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument repeals *Migration (LIN 19/034: Fees for Assessment of Qualifications and Experience) Instrument 2019* (the repealed instrument) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.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, subject to any conditions that apply to the initial instrument-making power.
- 3 The instrument commences on the later of 1 September 2021 and the day after registration on the Federal Register of Legislation.

Purpose

- 4 Trades Recognition Australia (TRA) provides a skills assessment service for people with trade skills gained overseas or in Australia for the purpose of various working visa applications. Regulation 5.40 of the Migration Regulations provides for the Minister to specify the fee payable to a non-corporate Commonwealth entity for performing such services. As the TRA is a business area within the Department of Education, Skills and Employment, which is a non-corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013*, the fees for applications to TRA can be specified under regulation 5.40.
- 5 The purpose of the instrument is to specify under subregulation 5.40(1) of the Migration Regulations:
 - the fees payable to TRA for an application of assessment of a person's occupational qualifications or experience (or both) and educational qualifications (under paragraphs (a) and (b)); and
 - the fees payable for an application for internal review of an assessment (paragraph (c)).
- 6 The instrument also removes specification of fees in relation to applications for the Trades Recognition Service (TRS) and Skilled Worker Program (SWP) that are no longer in operation. The TRS was a service within the TRA that closed on 1 December 2020, and the SWP was replaced by the Migration Skills Assessment in July 2011.

Consultation

- 7 Consultation was undertaken with TRA before the instrument was made. This instrument only removes references to services that are no longer available and does not change the rate of fee payable for applications to the TRA. As these amendments are only of a minor or machinery nature, no broader consultation was required in the making of this instrument.

- 8 The Office of Best Practice Regulation (OBPR) was also consulted and considered that the instrument dealt with matters of a minor or machinery nature and no regulatory impact statement was required. The OBPR reference number is 43402.

Details of the instrument

- 9 Section 1 sets out the name of the instrument.
- 10 Section 2 provides for the commencement of the instrument on the later of 1 September 2021 and the day after registration on the Federal Register of Legislation.
- 11 Section 3 specifies the fees payable to TRA for an assessment of a person's qualifications for paragraphs 5.40(1)(a) and (b) of the Migration Regulations. Paragraph 5.40(1)(a) of the Regulations relates to the fee payable for an application for assessment of a person's occupational qualifications or experience. Paragraph 5.40(1)(b) of the Regulations relates to the fees payable for an application for assessment of a person's educational qualifications.
- 12 Section 4 specifies the fees payable to TRA for an internal review of an assessment of a person's qualifications for paragraph 5.40(1)(c) of the Migration Regulations.
- 13 Subsection 5(1) repeals *Migration (LIN 19/034: Fees for Assessment of Qualifications and Experience) Instrument 2019*.
- 14 Subsection 5(2) provides that, for the avoidance of doubt, the fee that was specified for the purpose of subsection 5.40(1) of the Migration Regulations for an application made prior to the commencement of this instrument is the fee payable under the repealed instrument at the time of the application. This includes applications made to the TRA before 1 December 2020 in relation to the TRS.

Parliamentary scrutiny etc.

- 15 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because it is an instrument made under Part 5 of the Migration Regulations, which is prescribed in paragraph (b) of item 20 of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015* as being exempt from disallowance.
- 16 The instrument was made by Alex Hawke, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, in accordance with subregulation 5.40(1) of the Migration Regulations.

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