

EXPLANATORY STATEMENT

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

Migration Regulations 1994

Migration (Arrangements for visa applications) Amendment Instrument (LIN 22/059) 2022

- 1 The instrument, Departmental reference LIN 22/059, is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument amends *Migration (IMMI 18/076: Arrangements for Other Family Visa Applications and New Zealand (Family Relationship) Visa Applications) Instrument 2018* (F2018L00772) (IMMI 18/076) and *Migration (IMMI 18/089: Arrangements for Other Visas) Instrument 2018* (F2018L00940) (IMMI 18/089) 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. This means that subregulation 2.07(5) of the Regulations also include a power to amend or repeal an instrument made under that provision.
- 3 The instrument commences on 10 June 2022, and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 Items 1111 and 1214BA of Schedule 1 to the Regulations prescribe the requirements that an applicant for a Confirmatory (Residence) (Class AK) visa (Class AK visa) or a New Zealand Citizen (Family Relationship) (Temporary) (Class UP) visa (Class UP visa) must meet to make a valid visa application, respectively. These requirements include that the application for a Class AK visa or a Class UP visa must be made using the approved form, at the place and in the manner specified in a legislative instrument made under subregulation 2.07(5) of the Regulations.
- 5 The purpose of the instrument is to amend IMMI 18/076 and IMMI 18/089 to update the approved form, place and manner (the arrangements) for making an application for a Class AK visa or a Class UP visa.
- 6 The instrument removes options for applicants to make an application for a Class AK visa or a Class UP visa by courier service delivery to the office of the Department of Home Affairs (the Department) located at 26 Lee Street in Sydney, New South Wales. As the Department will cease to have an office at 26 Lee Street, there will no longer be a designated area or person to receive visa applications delivered by courier service to that address. The instrument does not make changes to the arrangements for making applications for other classes of visa specified in IMMI 18/076 and IMMI 18/089.

Consultation

- 7 The Office of Best Practice Regulation (OBPR) was 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 OBPR22-02211.

- 8 Further external consultation in the development of the instrument was not necessary as the change was of a minor or machinery nature and does not substantially alter the existing arrangements prescribed by the amended instruments, IMMI 18/076 and IMMI 18/089.

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 10 June 2022.
- 11 Section 3 provides that the instrument amends IMMI 18/076 and IMMI 18/089.
- 12 Items 1 of Schedule 1 and Schedule 2 to the instrument amend the tables in Schedule 3 to IMMI 18/076 and in Schedule 1 to IMMI 18/089, respectively. These amendments remove options of making an application for a Class UP visa or a Class AK visa by courier service delivery to the Department's office located at 26 Lee Street in Sydney.

Parliamentary scrutiny etc.

- 13 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because it is an instrument made under subregulation 2.07(5) of 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*.
- 14 The instrument is appropriate to be exempt from disallowance as it concerns matters of an administrative nature. Updating legislative instruments that specify administrative matters allows for consistent internal management of the migration policy framework in accordance with Departmental resources and arrangements.
- 15 The instrument was made by a delegate of the Minister, in accordance with subregulation 2.07(5) of the Regulations.

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