

## EXPLANATORY STATEMENT

Issued by authority of the Immigration, Citizenship and Multicultural Affairs

*Migration Regulations 1994*

### ***Migration (Refund of Second Instalment of Visa Application Charge) Instrument (LIN 23/022) 2023***

- 1 The instrument, Departmental reference LIN 23/022, is made under paragraph 2.12H(2)(f) of the *Migration Regulations 1994* (the Regulations).
- 2 The prior instrument made under this provision (Refund of Second Instalment of Visa Application Charge (IMMI 12/033) F2012L01306) was repealed by sunseting on 2 October 2022.
- 3 To cover the period from 1 October 2022, the instrument is to be taken to have commenced on 2 October 2022.
- 4 This is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 5 Subregulation 2.12H(1) of the Regulations provides that the Minister must refund the amount paid by way of the second instalment of the visa application charge (VAC) in relation to an application for a visa if any of the circumstances mentioned in subregulation 2.12H(2) exists and the Minister has received a written request for a refund.
- 6 The circumstance set out by paragraph 2.12H(2)(f) is that the amount was paid under a provision of Schedule 1 to the Regulations specified in an instrument in writing and, within the period of 12 months starting on the applicant's visa commencement day (within the meaning of the *Immigration (Education) Act 1971*), certain events specified in paragraph 2.12H(2)(f) occur.
- 7 The instrument specifies provisions of Schedule 1 to the Regulations for this purpose. The instrument will ensure ongoing access to VAC refunds for applicants who made applications for the visas listed in the Schedule to the instrument and to whom an event mentioned in paragraph 2.12H(2)(f) applies.

#### ***Consultation***

- 8 The Office of Impact Analysis (OIA) (previously known as Office of Best Practice Regulation (OBPR)) was consulted and considered that the instrument dealt with matters of a minor nature. As such, impact analysis (IA) (previously known as Regulation Impact Statement) is not required (OBPR reference number: OBPR23-04217).

#### ***Parliamentary scrutiny etc.***

- 9 The instrument is non-disallowable per subitem 20(b) of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, which provides that a legislative instrument made under Part 2 of the Regulations is not disallowable. A Statement of Compatibility with Human Rights is therefore also not required.

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