

## EXPLANATORY STATEMENT

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

*Migration Regulations 1994*

### ***Migration (Fees for assessment of qualifications and experience) Instrument (LIN 23/002) 2023***

- 1 The instrument, departmental reference LIN 23/002, is made under subregulation 5.40(1) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument repeals *Migration (Fees for assessment of qualifications and experience) Instrument (LIN 21/023) 2021* 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.
- 3 The instrument commences the day after it is registered and is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

### ***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 visa applications for which a person requires assessment of their occupational or educational qualifications or experience.
  - Subregulation 5.40(1) of the Regulations provides for the Minister to specify in an instrument in writing the fee payable to a non-corporate Commonwealth entity for performing the service of providing such an assessment or an internal review of an assessment.
- 5 TRA is a cost recovered service delivery unit within the Department of Employment and Workplace Relations, which is a non-corporate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013*. As a result, the fee for an application to TRA can be specified under subregulation 5.40(1) of the Regulations. The Australian Government's Cost Recovery Guidelines under the Australian Government Charging Framework (the Framework) provide an outline of how government entities design, implement and review regulatory charging activities.
  - The overall charging policy under the Framework is that, where appropriate, non-government recipients of regulatory activities should be charged some or all of the efficient costs.
  - To reflect the Framework and its policy, this instrument implements new fee amounts for some assessments and internal reviews of assessments for cost recovery purposes, as well as to recover the efficient full costs of specific activities.
- 6 Therefore, the purpose of the instrument is to specify under subregulation 5.40(1) of the Regulations:
  - the fees payable to TRA for an application to TRA for assessment of a person's occupational qualifications, experience, or both, and educational qualifications under paragraphs 5.40(1)(a) and (b) of the Regulations; and

- the fees payable to TRA for an application for the internal review of an assessment under paragraph 5.40(1)(c) of the Regulations.

### ***Consultation***

- 7 In determining changes, TRA undertook a comprehensive review of the program's cost drivers, including public consultation on the Cost Recovery Implementation Statement between 5 August and 12 August 2022 which did not have a material impact on the policy.
  - Four responses were received during the consultation process – two from TRA contracted Registered Training Organisations seeking clarity on service deed payments, and two suggesting minor future transparency and review arrangements to ensure direct and indirect costs charged to the sector are minimised.
- 8 The Office of Impact Analysis (OIA) (previously known as Office of Best Practice Regulation (OBPR)) was consulted and considered that the instrument is unlikely to have a more than minor regulatory impact. As such, an impact analysis is not required (OBPR reference number OBPR22-03786).

### ***Details of the instrument***

- 9 Details of the instrument are set out in **Attachment A**.

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

- 10 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 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*.
- 11 The instrument was made by the Minister for Immigration, Citizenship and Multicultural Affairs in accordance with subregulation 5.40(1) of the Regulations.

**Details of the *Migration (Fees for assessment of qualifications and experience) Instrument (LIN 23/002) 2023***

**Section 1      Name**

This section provides that the name of the instrument is the *Migration (Fees for assessment of qualifications and experience) Instrument (LIN 23/002) 2023* (the instrument).

**Section 2      Commencement**

This section provides that the instrument commences on the day after registration of the instrument on the Federal Register of Legislation.

**Section 3      Repeal**

Section 3 provides that *Migration (Fees for assessment of qualifications and experience) Instrument (LIN 21/023) 2021* is repealed. This is because it is being replaced by operative provisions of this instrument.

**Section 4      Savings and transitional provisions**

Subsection 4(1) provides that a person who:

- applied for a Job Ready Program Employment Assessment on or before the date 3 months prior to the commencement date of this instrument; and
- has submitted their application and paid for a Job Ready Program Workplace Assessment on or before 30 September 2023;

is permitted to pay the lower fee for a Job Ready Workplace Assessment specified in LIN 21/023.

Subsection 4(2) further provides that the fee for an application for an assessment or for internal review of an assessment made before the commencement of this instrument is the amount specified for the relevant assessment or internal review in LIN 21/023.

**Section 5      Fees for Trades Recognition Australia assessment**

This section specifies the fees payable to TRA for assessment of a person's qualifications for paragraphs 5.40(1)(a) and (b) of the Regulations. The instrument amends the fees payable under the following items:

- Item 1 (Migration Skills Assessment) – increase to \$795 from \$720;
- Item 2 (Points Advice (based on a satisfactory Migration Skills Assessment Outcome)) – increase to \$450 from \$410;
- Item 3 (Job Ready Program Provisional Skills Assessment) – decrease to \$130 from \$200;
- Item 4 (Job Ready Program Employment Assessment) – increase to \$490 from \$450;
- Item 5 (Job Ready Program Workplace Assessment) – increase to \$2,845 from \$2,540;

- Item 6 (Job Ready Program Final Assessment) – increase to \$75 from \$65; and
- Item 7 (TSS Skills Assessment Program Documentary Evidence Assessment) – decrease to \$1,120 from \$1,280.
- Item 15 (Offshore Skills Assessment Program Documentary Evidence Assessment) – decrease to \$1,120 from \$1,280.

## **Section 6        Fees for internal review of assessment**

This section 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 Regulations. The instrument amends fees payable under the following items:

- Item 1 (Migration Skills Assessment) – decrease to \$610 from \$645;
- Item 2 (Migration Points Advice) – increase to \$375 from \$350; and
- Item 3 (Job Ready Program Provisional Skills Assessment) – decrease to \$130 from \$200.

Unless otherwise indicated in this document, it is Copyright of the Commonwealth of Australia and the following applies:

Copyright Commonwealth of Australia.

This material does not purport to be the official or authorised version. Reproduction and use of this material is subject to a [Creative Commons Attribution-NonCommercial-ShareAlike 3.0 Australia License](#).

You should make independent inquiries and obtain appropriate advice before relying on the information in any important matter.

This document has been distributed by LexisNexis Australia. All queries regarding the content should be directed to the author of this document.