

## **EXPLANATORY STATEMENT**

Issued by authority of the Assistant Minister for Citizenship and Multicultural Affairs

*Migration Regulations 1994*

### ***Migration Amendment (Caveats) Specification 2024***

The instrument *Migration Amendment (Caveats) Specification 2024* (LIN 24/108) is made under the *Migration Regulations 1994* (the Migration Regulations).

The instrument amends:

- the *Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2024* (LIN 24/093); and
- the *Migration (Specification of Occupations—Subclass 482 Visa) Instrument 2024* (LIN 24/089);

in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection of the Acts Interpretation Act 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.

Section 2 of the instrument provides for its commencement. Sections 1 to 4 commence on 7 December 2024 (at the start of the day). The amendments in Schedules 1 and 2 commence immediately after the commencement of LIN 24/093 and LIN 24/089 respectively.

### ***Purpose***

The purpose of the instrument is to amend LIN 24/093 and LIN 24/089 to establish an additional caveat in the relevant section of each instrument, to apply in relation to the occupation “Hospitality, Retail and Service Managers nec” (ANZSCO code 149999). Where an occupation appears on the Core Skills Occupation List (CSOL), it will be subject to applicable circumstances (caveats) that are detailed in LIN 24/093 or LIN 24/089 (as the case may be) as identified against the occupation appearing on the CSOL and its corresponding applicable circumstance. The effect of the amendments made by LIN 24/108 is to make clear that where a position is a brothel keeper, that position is not covered by the occupation “Hospitality, Retail and Service Managers nec”.

The Office of Impact Analysis (OIA) has been consulted in relation to the CSOL and related reforms generally. The OIA consultation reference number is OIA24-08631. 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 Senior Migration Officers Group (SMOG).

## **Details of the instrument**

Section 1 sets out the name of the instrument.

Section 2 provides for the commencement of the instrument.

Section 3 provides that the instrument is made under the *Migration Regulations 1994*.

Section 4 provides that the instruments specified in a Schedule to the instrument are amended or repealed as set out in the applicable items in the Schedule concerned.

### **Schedule 1—Amendments of LIN 24/093**

Schedule 1 to the instrument amends the *Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2024*.

Item 1 inserts reference to new caveat item 16 in item 47 of the table under subsection 7(1). This has the effect of applying the caveat, inserted by item 2, in relation to the position “brothel keeper” in relation to the occupation “Hospitality, Retail and Service Managers nec”.

Item 2 adds the new caveat “The position is a brothel keeper” at the end of the table under section 8 of the instrument.

The effect of these amendments is to make clear that if a position is a “brothel keeper”, it is not covered by the occupation “Hospitality, Retail and Service Managers nec” for the purposes of LIN 24/093 and the related provisions of the Migration Regulations.

### **Schedule 2—Amendments of LIN 24/089**

Schedule 2 to the instrument amends the *Migration (Specification of Occupations—Subclass 482 Visa) Instrument 2024*.

Item 1 inserts reference to new caveat item 16 in item 47 of the table under subsection 6(3). This has the effect of applying the caveat, inserted by item 2, in relation to the position “brothel keeper” in relation to the occupation “Hospitality, Retail and Service Managers nec”.

Item 2 adds the new caveat “The position is a brothel keeper” at the end of the table under subsection 7(2) of the instrument.

The effect of these amendments is to make clear that if a position is a “brothel keeper”, it is not covered by the occupation “Hospitality, Retail and Service Managers nec” for the purposes of LIN 24/089 and the related provisions of the Migration Regulations.

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

The instrument is exempt from disallowance under section 42 of the Legislation Act to the extent that it is made under subregulation 5.19(11) and paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations. This is because the powers to make a legislative instrument under these

provisions are covered by the exemption provided for in table item 20(b) of section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (LEOMR). To the extent that the instrument amends LIN 24/089, the instrument is disallowable as it relies on the power under subregulation 2.72(9) of the Migration Regulations, which is not covered by an exemption provided for in the LEOMR.

The instrument was made by the Assistant Minister for Citizenship and Multicultural Affairs in accordance the Migration Regulations.

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