

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration and Multicultural Affairs

Migration Act 1958

*Migration (Arrangements for Visitor (Class FA) visa applications) Amendment (LIN 24/084)
Instrument 2024*

The instrument, departmental reference LIN 24/084, is made under subregulation 2.07(5) of the *Migration Regulations 1994* (the Migration Regulations) for the purposes of subitem 1236(6A) of Schedule 1 to the Regulations.

The instrument amends *Migration (Arrangements for Visitor (Class FA) visa applications) Instrument (LIN 21/056) 2021* (LIN 21/056) 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.

The instrument commences on 7 December 2024. It is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

Purpose

The purpose of the instrument is to amend the requirements for making an application for a Visitor (Class FA) visa (Class FA visa). The Subclass 600 (Visitor) visa (subclass 600 visa) is the only subclass for the Class FA visa and has five streams. This instrument amends the requirements for an application for a subclass 600 visa in the Frequent Traveller stream (FTS). The subclass 600 visa in the Frequent Traveller stream may be granted for up to 10 years and the holder may stay for up to 3 months each time they enter Australia.

Item 1236 of Schedule 1 to the Regulations prescribes the requirements that an applicant for a Class FA visa must meet to make a valid application. Subitem 1236(6A) of Schedule 1 prescribes the requirements for applicants in the Frequent Traveller stream, which include:

- where they must be located when applying; and
- the kind of passport they must hold.

The instrument removes the requirement that an applicant must be a holder of a passport issued by the People's Republic of China (PRC) who is located in the PRC when they make the application.

The instrument also expands the Frequent Traveller stream to applicants from the following countries: Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, The People's Republic of China, The Philippines, Singapore, Thailand, Timor-Leste, and Viet Nam.

Consultation

Consultation was conducted as part of developing the proposal for long validity visas for eligible Association of Southeast Asian Nations (ASEAN) member countries and Timor-Leste. This proposal aligns with the Government's Migration Strategy, which committed to making it easier for Southeast Asian businesses and eminent people to travel to Australia, and was guided by extensive consultation

with business, government and the not-for-profit sector across Australia and the Southeast Asia region.

The Office of Impact Analysis (OIA) considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OIA reference number is OIA24-07860.

Details of the instrument

Section 1 provides that the name of the instrument is the *Migration (Arrangements for Visitor (Class FA) visa applications) Amendment (LIN 24/084) Instrument 2024* (LIN 24/084).

Section 2 provides that the instrument commences on 7 December 2024.

Section 3 provides that the instrument is made under subregulation 2.07(5) of the *Migration Regulations 1994* (Migration Regulations) for the purposes of subitem 1236(6A) of Schedule 1 to the Regulations.

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

Schedule 1 – amendment of LIN 21/056

Schedule 1 to LIN 24/084 amends *Migration (Arrangements for Visitor (Class FA) visa applications) Instrument (LIN 21/056) 2021* (LIN 21/056).

Item [1] – definition of Regulations

Item 1 of Schedule 1 to LIN 24/084 inserts a definition of **Regulations** in section 3 of LIN 21/056. Regulations is defined to mean *Migration Regulations 1994*.

Item [2] – removal of requirement for applicants to be in the PRC and expansion of stream nationalities

Item 2 of Schedule 1 to LIN 24/084 repeals subsections 9(2) and (3) of LIN 21/056.

Item 2 of the table in subitem 1236(6A) of Schedule 1 to the Migration Regulations provides that an applicant for a subclass 600 visa in the Frequent Traveller stream (FTS) must, when making the application, either be outside Australia or be in a place specified in a legislative instrument.

Repealed subsection 9(2) of LIN 21/056 specified that applicants for the FTS would be required to be in the People's Republic of China (PRC) when making the application. Repealed subsection 9(3) provided that applicants must hold a passport issued by the People's Republic of China (PRC) indicating the applicant is a national of the PRC. Item 2 of Schedule 1 removes these requirements. The effect is that applicants for the FTS from any country prescribed in new subsection 9(2) of LIN 21/056 (as amended by LIN 24/084) only need to be outside Australia when they make the application. There is no longer a requirement to be in a particular foreign country, as no country is specified by legislative instrument for the purposes of item 2 of the table in subitem 1236(6A).

Item 3 of the table in subitem 1236(6A) of Schedule 1 to the Migration Regulations provides that applicants for the FTS must hold a valid passport of a kind specified in a legislative instrument.

New subsection 9(2) of LIN 21/056 specifies that applicants for the FTS must hold a valid passport of any one (or more) of the following countries, indicating the applicant is a national of that country:

- Brunei Darussalam
- Cambodia
- Indonesia
- Lao People's Democratic Republic
- Malaysia
- The People's Republic of China
- The Philippines
- Singapore
- Thailand
- Timor-Leste
- Viet Nam.

Parliamentary scrutiny

The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because a legislative instrument made under Part 2 of, or Schedule 1 to, the Migration Regulations is exempt from disallowance under paragraph (b) of item 20 of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.

The instrument was made by the Minister for Immigration and Multicultural Affairs, in accordance with subregulation 2.07(5) of the Migration Regulations.

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