

EXPLANATORY STATEMENT

Issued by the Minister for Immigration and Citizenship

Migration Act 1958

Migration Regulations 1994

Migration (Specification of Class of Persons) Instrument 2025

The *Migration Act 1958* (the Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

The instrument repeals and replaces the *Migration Regulations 1994 - Specification of Classes of Persons 2015* (IMMI 15/026) 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 1 October 2025. It is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

Purpose

Migration (Specification of Class of Persons) Instrument 2025 (LIN 25/091)

This instrument is made under paragraphs 050.613A(1)(b) and 051.611A(1)(c) of Schedule 2 to the *Migration Regulations 1994* (the Regulations). These provisions form part of Subclass 050 (Bridging (General)) visa (Subclass 050 visa) and Subclass 051 (Bridging (Protection Visa Applicant)) visa (Subclass 051 visa), also collectively referred to as Bridging visa E (BVE).

Paragraph 050.613A(1)(b) of Schedule 2 provides that in the case of a Subclass 050 visa (other than a visa to which clause 050.613, 050.616A or 050.616B applies) granted to an applicant who applies for a protection visa and who is not in a class of persons specified by the Minister by an instrument in writing for the purposes of this provision, visa condition 8101 applies, unless condition 8116 is imposed.

Paragraph 051.611A(1)(c) of Schedule 2 provides that in the case of a Subclass 051 visa granted to an applicant (whether or not that applicant is an applicant to which any other clause in that Division applies) who:

- applies for a protection visa; and
- has been in Australia for a period of 45 days or more, or for periods totalling 45 days or more, (not including any day for part of which the visa applicant was not in Australia) in the 12 months immediately before the date of that visa application; and

- is not within a class of persons specified in a legislative instrument made by the Minister for the purposes of this provision visa condition 8101 applies, unless condition 8116 is imposed.

Condition 8101 provides that a visa holder cannot engage in work within Australia. Condition 8116 provides that a visa holder cannot engage in work in Australia other than by engaging in an activity specified in a legislative instrument made by the Minister for the purpose of this condition.

The purpose of the instrument is to specify a class of persons who may be granted permission to work while holding a BVE visa. For the purposes of paragraphs 050.613A(1)(b) and 051.611A(1)(c), it specifies, as the applicable class of persons, any person who has been granted a Subclass 050 visa or a Subclass 051 visa under section 195A of the Act.

Section 195A of the Act allows the Minister, if it is in the public interest to do so, to grant a visa of a particular class to a person who is in immigration detention under section 189 of the Act, whether or not the person has applied for the visa. This power is non-compellable and can only be exercised by the Minister personally.

Consultation

The instrument is a remake of the sunseting legislative instrument IMMI 15/026. Consistent with the Attorney-General's Department's *Guide to Managing Sunseting of Legislative Instruments*, the Department has undertaken consideration and internal review of the matters specified by IMMI 15/026, and determined the instrument to be fit for purpose and appropriate to remake to maintain existing policy settings. As the purpose of LIN 25/091 is to maintain the same specified class of persons as in IMMI 15/026 beyond the 1 October 2025 sunseting date, no additional consultation was considered necessary or appropriate. LIN 25/091 does not substantially alter existing arrangements.

Parliamentary scrutiny etc.

This instrument is exempt from disallowance under section 42 of the Legislation Act. This is because this instrument is made under Schedule 2 of the Regulations, which is prescribed in sub-item 20(b) of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

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

This instrument was made by the Minister for Immigration and Citizenship in accordance with paragraphs 050.613A(1)(b) and 051.611A(1)(c) of Schedule 2 to the Regulations.

Details of the *Migration (Specification of Class of Persons) Instrument 2025*

Part 1 – Preliminary

Section 1 – Name

This section provides that the name of the instrument is the *Migration (Specification of Class of Persons) Instrument 2025*.

Section 2 – Commencement

This section provides that the instrument commences on 1 October 2025.

Section 3 – Authority

This section provides that the instrument is made under paragraphs 050.613A(1)(b) and 051.611A(1)(c) of Schedule 2 to the *Migration Regulations 1994*.

Section 4 – Definitions

This section of the instrument provides for the definitions in the instrument.

- *Act* means the Migration Act 1958.
- *Regulations* means the *Migration Regulations 1994*.
- *Subclass 050 visa* means the Subclass 050 (Bridging (General)) visa.
- *Subclass 051 visa* means the Subclass 051 (Bridging (Protection Visa Applicant)) visa.

Section 5 – Schedules

This section 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, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2 – Specified class of persons

Section 6 – Bridging E (Class WE) visa—specified class of persons for certain purposes

This section of the instrument provides that for the purposes of paragraphs 050.613A(1)(b) and 051.611A(1)(c) of Schedule 2 to the Regulations, the specified class of persons is any person who has been granted a Subclass 050 visa or a Subclass 051 visa under section 195A of the Act.

The effect of section 6 is that under paragraphs 050.613A(1)(b) and 051.611A(1)(c) of Schedule 2 to the Regulations, the specified class of persons in this instrument may be granted permission to work in Australia, and visa conditions 8101 and 8116 will not be imposed on the visa granted to that applicant.

Schedule 1 – Repeals

Item 1 of Schedule 1 of the instrument repeals the *Migration Regulations 1994 - Specification of Classes of Persons 2015* (IMMI 15/026) in its entirety.

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