



Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Amendment Instrument (LIN 21/009) 2021

I, Alex Hawke, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, make the following instrument.

Dated 16 March 2021

Alex Hawke

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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1 Name

This instrument is the *Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Amendment Instrument (LIN 21/009) 2021*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	24 March 2021

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under paragraph 186.234(2)(a) of Schedule 2 to the *Migration Regulations 1994*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Migration (LIN 19/049: Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2019

1 Subsection 7(1) (table item 1, column 3)

Omit “AIM”, substitute “IML”.

2 Subsection 7(1) (table item 2, column 3)

Omit “AIM”, substitute “IML”.

3 Subsection 7(1) (table item 4, column 3, paragraph (b))

Omit “AIM”, substitute “IML”.

4 Subsection 7(1) (table item 5, column 3)

Omit “TRA”, substitute “ACECQA”.

5 Subsection 7(1) (table item 96, column 3)

Omit “ANZPAC”, substitute “PodBA”.

6 Section 9 (after table item 2)

Insert:

2A	ACECQA	Australian Children’s Education and Care Quality Authority
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7 Section 9 (table item 7)

Repeal the item.

8 Section 9 (table item 8, column 2)

Omit “Australian Institute of Medical Scientists”, substitute “Australian Institute of Medical and Clinical Scientists”.

9 Section 9 (table item 13)

Repeal the item.

10 Section 9 (after table item 27)

Insert:

27A	IML	Institute of Managers and Leaders Limited
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11 Section 9 (after table item 31)

Insert:

31A	PodBA	Podiatry Board of Australia
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12 At the end of Part 3

Add:

13 Amendments made by LIN 21/009

- (1) The amendments of this instrument made by Schedule 1 to the *Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Amendment Instrument (LIN 21/009) 2021* (the **amending instrument**) apply in relation to an application for a Subclass 186 (Employer Nomination Scheme) visa in the Direct Entry stream if the application is made on or after the day the amending instrument commences, whether the assessment for the purposes of paragraph 186.234(2)(a) of Schedule 2 to the Regulations occurs before, on or after that day.
- (2) For the purposes of paragraph 186.234(2)(a) of Schedule 2 to the Regulations, an assessing authority listed in column 2 of an item of the following table is also specified as an assessing authority for the occupation listed in column 1 of the item in relation to an application covered by subsection (1) if the assessment for the purposes of that paragraph occurred before the day the amending instrument commences.

Assessing authorities		
Item	Column 1 Occupation	Column 2 Assessing authority
1	chief executive or managing director	Australian Institute of Management
2	corporate general manager	Australian Institute of Management
3	engineering manager	Australian Institute of Management
4	child care centre manager	Trades Recognition Australia
5	medical laboratory scientist	Australian Institute of Medical Scientists
6	podiatrist	Australian and New Zealand Podiatry Accreditation Council Limited

EXPLANATORY STATEMENT

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

Migration Act 1958

Migration Regulations 1994

Migration (Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Amendment Instrument (LIN 21/009) 2021

- 1 The instrument, Departmental reference LIN 21/009, is made under paragraph 186.234(2)(a) of Schedule 2 to *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument amends *Migration (LIN 19/049: Specification of Occupations and Assessing Authorities—Subclass 186 Visa) Instrument 2019* (F2019L00275) (LIN 19/049) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection provides that where an Act confers a power to make a legislative instrument, the power includes a power to amend or repeal that instrument, subject to any conditions that apply to the initial instrument-making power.
- 3 Paragraph 13(1)(a) of the *Legislation Act 2003* (the Legislation Act) provides that subsection 33(3) of the Acts Interpretation Act applies to an instrument-making power in the Migration Regulations as if the Migration Regulations were an Act. This means that paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations also includes a power to amend or repeal an instrument made under that provision.
- 4 The instrument commences on the day after it is registered on the Federal Register of Legislation, and is a legislative instrument for the Legislation Act.

Purpose

- 5 The purpose of the instrument is to update the specified assessing authorities in relation to the following occupations: **chief executive or managing director, corporate general manager, engineering manager, childcare centre manager and podiatrist.**
- 6 The instrument specifies matters relating to applications for a **Subclass 186 (Employer Nomination Scheme) visa in the Direct Entry Stream** (a Subclass 186 visa). Under subclause 186.234(1) of Schedule 2 to the Migration Regulations, at the time of application for a Subclass 186 visa, an applicant must:
 - have been assessed by a specified assessing authority, that assessment must not be for a Subclass 485 (Temporary Graduate) visa and must not be more than 3 years old at the time of application, and the applicant has been employed in the occupation for at least 3 years (see subclause 186.234(2) of Schedule 2 to the Migration Regulations), or
 - have been assessed by an assessing authority as having skills suitable for their occupation, with the assessing authority for each occupation specified by legislative instrument (with additional

requirements also listed in subclause 186.234(2) of Schedule 2 to the Migration Regulations), or

- be in a class of persons specified by the Minister in a legislative instrument (see subclause 186.234(3)).

- 7 The purpose of the instrument is to update the specified assessing authorities for the occupations included in LIN 19/049, for paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations. The instrument updates the names of assessing authorities that have changed, and implements changes to assessing authorities for particular occupations.

Consultation

- 8 The Department of Education, Skills and Employment was consulted on, and agrees to, the amendments being made to LIN 19/049 by the instrument. No public consultation was undertaken, as the instrument is minor and machinery in nature.
- 9 The Office of Best Practice Regulation (OBPR) was also consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OBPR reference number is 43403.

Details of the instrument

- 10 Section 1 sets out the name of the instrument.
- 11 Section 2 provides for the commencement of the instrument on the day after it is registered on the Federal Register of Legislation.
- 12 Section 3 sets out that the instrument is made under paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations.
- 13 Section 4 provides that LIN 19/049 is amended as set out in Schedule 1 to the instrument. Details on the amendments in Schedule 1 are set out in **Attachment A**.

Parliamentary scrutiny etc.

- 14 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Schedule 2 to the Migration Regulations are exempt under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 15 The instrument was made by Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, under paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations.

Details of Schedule 1 to the *Migration (Specification of Occupations and Accessing Authorities—Subclass 186 Visa) Amendment Instrument (LIN 21/009) 2021*

Items 1–5 Amendments to section 7

Subsection 6(4) of LIN 19/049 provides that the assessing authority listed in column 3 of the ‘Medium and Long-term Strategic Skills List’ (the MLTSS list) is specified for the purpose of the occupation listed in column 1 of the list for paragraph 186.234(2)(a) of the Migration Regulations. Subsection 7(1) of LIN 19/049 sets out the MLTSS list.

Items 1-3 amend the MLTSS list in subsection 7(1) of LIN 19/049 to reflect that the Australian Institute of Management (AIM) has changed its name to be the Institute of Managers and Leaders Limited (IML) (see also item 10), and that IML is the assessing authority for the occupations of chief executive or managing director (item 1), corporate general manager (item 2) and engineering manager (item 3).

Item 4 amends the MLTSS list to reflect that the Australian Children’s Education and Care Quality Authority (ACECQA), and not Trades Recognition Australia (TRA), is the assessing authority for the occupation of childcare centre manager. (Note that ACECQA is added as an additional assessing authority by item 6.)

Item 5 amends the MLTSS list to reflect that the Podiatry Board of Australia (PodBA), and not the Australia and New Zealand Podiatry Accreditation Council Limited (ANZPAC), is the assessing authority for the occupation of podiatrist. (Note that PodBA is added as an additional assessing authority by item 11.)

Items 6–11 Amendments to section 9

The assessing authorities in the MLTSS list in subsection 7(1) of LIN 19/049 are referred to in abbreviated form. The table in section 9 of LIN 19/049 provides the long form of each expression. Items 6-11 amend this table to accompany the amendments to the MLTSS list made by items 1-5.

Item 6 inserts reference to ACECQA at new table item 2A, which is now the assessing authority for the occupation of childcare centre manager under item 4. Item 7 repeals table item 7, as AIM (previously mentioned in table item 7) has changed name to be IML. IML is inserted at table item 27A by item 10.

Item 8 omits Australian Institute of Medical Scientists from table item 8, and replaces it with that authority’s new name, the Australian Institute of Medical and Clinical Scientists. This authority continues to have the abbreviation, AIMS, and remains the assessing authority for the occupation of medical laboratory scientist.

Item 9 repeals table item 13, as ANZPAC (previously mentioned in table item 13) is no longer an assessing authority specified in subsection 7(1) of LIN 19/049. Item 11 inserts PodBA at new table item 31A, which is the assessing authority for the occupation of podiatrists under item 5 (and not ANZPAC).

Item 12 New section 13

Item 12 inserts new section 13 in LIN 19/049, to clarify how the amendments made by the instrument apply to LIN 19/049.

New subsection 13(1) of LIN 19/049 provides that the amendments made by the instrument apply to an application for a Subclass 186 visa if the application is made on or after the day the instrument commences,

whether the assessment by an assessing authority for paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations occurred before, on or after the instrument commences.

For clarity, an assessment conducted by an assessing authority that was not specified in LIN 19/049 before the instrument commences, ACECQA and PodBA, are not captured by this section. This section does however, capture assessing authorities whose names have changed, as reflected in the instrument, and assessing authorities that continue to operate with the same name as before the instrument commenced.

New subsection 13(2) provides that assessments conducted before the instrument commenced by a former assessing authority, for paragraph 186.234(2)(a) of Schedule 2 to the Migration Regulations, continue to be specified as an assessment by an assessing authority for an application made on or after the instrument commences. Assessments conducted by a former assessing authority will only be accepted as an assessment from a specified assessing authority for a period of up to 3 years after it is made, or until the assessment expires, whichever comes first. An assessment by an assessing authority mentioned in an item in column 2 of the following table is specified for the occupation mentioned in column 1 for that item if the assessment occurred before the instrument commenced.

Assessing authorities		
	Column 1	Column 2
Item	Occupation	Assessing authority
1	chief executive or managing director	Australian Institute of Management
2	corporate general manager	Australian Institute of Management
3	engineering manager	Australian Institute of Management
4	childcare centre manager	Trades Recognition Australia
5	medical laboratory scientist	Australian Institute of Medical Scientists
6	podiatrist	Australian and New Zealand Podiatry Accreditation Council Limited