



Migration (LIN 19/050: Specification of Occupations—Subclass 407 Visa) Instrument 2019

I, David Coleman, Minister for Immigration, Citizenship and Multicultural Affairs, make the following instrument.

Dated 5 March 2019

David Coleman
Minister for Immigration, Citizenship and Multicultural Affairs

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<i>Migration (IMMI 18/050: Specification of Occupations—Subclass 407 Visa)</i>	
<i>Instrument 2018</i>	19

Part 1—Introduction

1 Name

- (1) This instrument is the *Migration (LIN 19/050: Specification of Occupations—Subclass 407 Visa) Instrument 2019*.
- (2) This instrument may also be cited as LIN 19/050.

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.	11 March 2019

Note: This table relates only to the provisions of this instrument as originally made.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 2.72B(3)(b) of the *Migration Regulations 1994*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Regulations, including ANZSCO.

In this instrument:

Medium and Long-term Strategic Skills List: see section 7.

nec is short for not elsewhere classified.

Regional Occupation List: see section 8.

Regulations means the *Migration Regulations 1994*.

Short-term Skilled Occupation List: see section 9.

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

6 Specification of occupations

For the purposes of paragraph 2.72B(3)(b) of the Regulations:

- (a) an occupation listed in column 1 of an item of any of the following is specified:
 - (i) the Medium and Long-term Strategic Skills List;
 - (ii) the Regional Occupation List;
 - (iii) the Short-term Skilled Occupation List; and
- (b) the 6-digit code listed in column 2 of that item is the 6-digit ANZSCO code for the occupation; and
- (c) the occupation applies to the holder of, or an applicant or proposed applicant for, (the *nominee*) a Subclass 407 (Training) visa if the tasks of the occupation that are to be performed by the nominee correspond to the tasks set out in the ANZSCO code specified for the occupation.

7 Medium and Long-term Strategic Skills List

The occupations and corresponding ANZSCO codes set out in the following table are the Medium and Long-term Strategic Skills List.

Medium and Long-term Strategic Skills List		
Item	Column 1 Occupation	Column 2 ANZSCO code
1	chief executive or managing director	111111
2	corporate general manager	111211
3	construction project manager	133111
4	engineering manager	133211
5	child care centre manager	134111
6	nursing clinical director	134212
7	primary health organisation manager	134213
8	welfare centre manager	134214
9	faculty head	134411
10	chief information officer	135111
11	arts administrator or manager	139911
12	environmental manager	139912
13	dancer or choreographer	211112
14	music director	211212
15	musician (instrumental)	211213
16	artistic director	212111
17	accountant (general)	221111
18	management accountant	221112

Section 7

Medium and Long-term Strategic Skills List		
Item	Column 1 Occupation	Column 2 ANZSCO code
19	taxation accountant	221113
20	external auditor	221213
21	internal auditor	221214
22	actuary	224111
23	statistician	224113
24	economist	224311
25	land economist	224511
26	valuer	224512
27	management consultant	224711
28	architect	232111
29	landscape architect	232112
30	surveyor	232212
31	cartographer	232213
32	other spatial scientist	232214
33	chemical engineer	233111
34	materials engineer	233112
35	civil engineer	233211
36	geotechnical engineer	233212
37	quantity surveyor	233213
38	structural engineer	233214
39	transport engineer	233215
40	electrical engineer	233311
41	electronics engineer	233411
42	industrial engineer	233511
43	mechanical engineer	233512
44	production or plant engineer	233513
45	mining engineer (excluding petroleum)	233611
46	petroleum engineer	233612
47	aeronautical engineer	233911
48	agricultural engineer	233912
49	biomedical engineer	233913
50	engineering technologist	233914
51	environmental engineer	233915
52	naval architect	233916
53	engineering professionals (nec)	233999
54	agricultural consultant	234111
55	agricultural scientist	234112
56	forester	234113
57	chemist	234211

Section 7

Medium and Long-term Strategic Skills List		
Item	Column 1 Occupation	Column 2 ANZSCO code
58	food technologist	234212
59	environmental consultant	234312
60	environmental research scientist	234313
61	environmental scientists (nec)	234399
62	geophysicist	234412
63	hydrogeologist	234413
64	life scientist (general)	234511
65	biochemist	234513
66	biotechnologist	234514
67	botanist	234515
68	marine biologist	234516
69	microbiologist	234517
70	zoologist	234518
71	life scientists (nec)	234599
72	medical laboratory scientist	234611
73	veterinarian	234711
74	conservator	234911
75	metallurgist	234912
76	meteorologist	234913
77	physicist	234914
78	natural and physical science professionals (nec)	234999
79	early childhood (pre-primary school) teacher	241111
80	secondary school teacher	241411
81	special needs teacher	241511
82	teacher of the hearing impaired	241512
83	teacher of the sight impaired	241513
84	special education teachers (nec)	241599
85	university lecturer (suitable for the position of research associate or research fellow in a university)	242111
86	medical diagnostic radiographer	251211
87	medical radiation therapist	251212
88	nuclear medicine technologist	251213
89	sonographer	251214
90	optometrist	251411
91	orthotist or prosthetist	251912
92	chiropractor	252111
93	osteopath	252112
94	occupational therapist	252411
95	physiotherapist	252511

Part 2 Specification of occupations

Section 7

Medium and Long-term Strategic Skills List		
Item	Column 1 Occupation	Column 2 ANZSCO code
96	podiatrist	252611
97	audiologist	252711
98	speech pathologist	252712
99	general practitioner	253111
100	specialist physician (general medicine)	253311
101	cardiologist	253312
102	clinical haematologist	253313
103	medical oncologist	253314
104	endocrinologist	253315
105	gastroenterologist	253316
106	intensive care specialist	253317
107	neurologist	253318
108	paediatrician	253321
109	renal medicine specialist	253322
110	rheumatologist	253323
111	thoracic medicine specialist	253324
112	specialist physicians (nec)	253399
113	psychiatrist	253411
114	surgeon (general)	253511
115	cardiothoracic surgeon	253512
116	neurosurgeon	253513
117	orthopaedic surgeon	253514
118	otorhinolaryngologist	253515
119	paediatric surgeon	253516
120	plastic and reconstructive surgeon	253517
121	urologist	253518
122	vascular surgeon	253521
123	dermatologist	253911
124	emergency medicine specialist	253912
125	obstetrician and gynaecologist	253913
126	ophthalmologist	253914
127	pathologist	253915
128	diagnostic and interventional radiologist	253917
129	radiation oncologist	253918
130	medical practitioners (nec)	253999
131	midwife	254111
132	nurse practitioner	254411
133	registered nurse (aged care)	254412
134	registered nurse (child and family health)	254413

Section 7

Medium and Long-term Strategic Skills List		
Item	Column 1 Occupation	Column 2 ANZSCO code
135	registered nurse (community health)	254414
136	registered nurse (critical care and emergency)	254415
137	registered nurse (developmental disability)	254416
138	registered nurse (disability and rehabilitation)	254417
139	registered nurse (medical)	254418
140	registered nurse (medical practice)	254421
141	registered nurse (mental health)	254422
142	registered nurse (perioperative)	254423
143	registered nurse (surgical)	254424
144	registered nurse (paediatrics)	254425
145	registered nurses (nec)	254499
146	ICT business analyst	261111
147	systems analyst	261112
148	multimedia specialist	261211
149	analyst programmer	261311
150	developer programmer	261312
151	software engineer	261313
152	software and applications programmers (nec)	261399
153	ICT security specialist	262112
154	computer network and systems engineer	263111
155	telecommunications engineer	263311
156	telecommunications network engineer	263312
157	barrister	271111
158	solicitor	271311
159	clinical psychologist	272311
160	educational psychologist	272312
161	organisational psychologist	272313
162	psychologists (nec)	272399
163	social worker	272511
164	civil engineering draftsperson	312211
165	civil engineering technician	312212
166	electrical engineering draftsperson	312311
167	electrical engineering technician	312312
168	radio communications technician	313211
169	telecommunications field engineer	313212
170	telecommunications network planner	313213
171	telecommunications technical officer or technologist	313214
172	automotive electrician	321111
173	motor mechanic (general)	321211

Section 7

Medium and Long-term Strategic Skills List		
Item	Column 1 Occupation	Column 2 ANZSCO code
174	diesel motor mechanic	321212
175	motorcycle mechanic	321213
176	small engine mechanic	321214
177	sheetmetal trades worker	322211
178	metal fabricator	322311
179	pressure welder	322312
180	welder (first class)	322313
181	fitter (general)	323211
182	fitter and turner	323212
183	fitter-welder	323213
184	metal machinist (first class)	323214
185	locksmith	323313
186	panelbeater	324111
187	bricklayer	331111
188	stonemason	331112
189	carpenter and joiner	331211
190	carpenter	331212
191	joiner	331213
192	painting trades workers	332211
193	glazier	333111
194	fibrous plasterer	333211
195	solid plasterer	333212
196	wall and floor tiler	333411
197	plumber (general)	334111
198	airconditioning and mechanical services plumber	334112
199	drainer	334113
200	gasfitter	334114
201	roof plumber	334115
202	electrician (general)	341111
203	electrician (special class)	341112
204	lift mechanic	341113
205	airconditioning and refrigeration mechanic	342111
206	technical cable joiner	342212
207	electronic equipment trades worker	342313
208	electronic instrument trades worker (general)	342314
209	electronic instrument trades worker (special class)	342315
210	chef	351311
211	horse trainer	361112
212	cabinetmaker	394111

Section 8

Medium and Long-term Strategic Skills List		
Item	Column 1 Occupation	Column 2 ANZSCO code
213	boat builder and repairer	399111
214	shipwright	399112
215	tennis coach	452316
216	footballer	452411

8 Regional Occupation List

The occupations and corresponding ANZSCO codes set out in the following table are the Regional Occupation List.

Regional Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
1	aquaculture farmer	121111
2	cotton grower	121211
3	fruit or nut grower	121213
4	grain, oilseed or pasture grower (Aus)/field crop grower (NZ)	121214
5	mixed crop farmer	121216
6	sugar cane grower	121217
7	crop farmers (nec)	121299
8	beef cattle farmer	121312
9	dairy cattle farmer	121313
10	deer farmer	121314
11	goat farmer	121315
12	horse breeder	121316
13	mixed livestock farmer	121317
14	pig farmer	121318
15	sheep farmer	121322
16	livestock farmers (nec)	121399
17	mixed crop and livestock farmer	121411
18	public relations manager	131114
19	policy and planning manager	132411
20	project builder	133112
21	procurement manager	133612
22	medical administrator	134211
23	regional education manager	134412
24	sports administrator	139915
25	caravan park and camping ground manager	141211
26	post office manager	142115

Part 2 Specification of occupations

Section 8

Regional Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
27	amusement centre manager	149111
28	fitness centre manager	149112
29	sports centre manager	149113
30	cinema or theatre manager	149912
31	financial institution branch manager	149914
32	human resource adviser	223111
33	workplace relations adviser	223113
34	policy analyst	224412
35	liaison officer	224912
36	market research analyst	225112
37	aeroplane pilot	231111
38	flying instructor	231113
39	helicopter pilot	231114
40	ship's master	231213
41	multimedia designer	232413
42	wine maker	234213
43	conservation officer	234311
44	exercise physiologist	234915
45	vocational education teacher	242211
46	environmental health officer	251311
47	dentist	252312
48	anaesthetist	253211
49	intellectual property lawyer	271214
50	translator	272413
51	community arts worker	272611
52	agricultural technician	311111
53	operating theatre technician	311214
54	pathology collector	311216
55	construction estimator	312114
56	surveying or spatial science technician	312116
57	mechanical engineering draftsman	312511
58	safety inspector	312611
59	maintenance planner	312911
60	building and engineering technicians (nec)	312999
61	vehicle painter	324311
62	floor finisher	332111
63	electrical linesworker	342211
64	zookeeper	361114
65	nurseryperson	362411

Section 9

Regional Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
66	gas or petroleum operator	399212
67	dental hygienist	411211
68	dental therapist	411214
69	emergency service worker	441211
70	driving instructor	451211
71	funeral workers (nec)	451399
72	flight attendant	451711
73	first aid trainer	451815
74	jockey	452413
75	clinical coder	599915
76	property manager	612112
77	real estate representative	612115

9 Short-term Skilled Occupation List

The occupations and corresponding ANZSCO codes set out in the following table are the Short-term Skilled Occupation List.

Short-term Skilled Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
1	flower grower	121212
2	grape grower	121215
3	vegetable grower (Aus)/market gardener (NZ)	121221
4	apiarist	121311
5	poultry farmer	121321
6	sales and marketing manager	131112
7	advertising manager	131113
8	corporate services manager	132111
9	finance manager	132211
10	human resource manager	132311
11	research and development manager	132511
12	manufacturer	133411
13	production manager (forestry)	133511
14	production manager (manufacturing)	133512
15	production manager (mining)	133513
16	supply and distribution manager	133611
17	health and welfare services managers (nec)	134299
18	school principal	134311

Part 2 Specification of occupations

Section 9

Short-term Skilled Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
19	education managers (nec)	134499
20	ICT project manager	135112
21	ICT managers (nec)	135199
22	laboratory manager	139913
23	quality assurance manager	139914
24	specialist managers (nec) except: (a) ambassador; or (b) archbishop; or (c) bishop	139999
25	cafe or restaurant manager	141111
26	hotel or motel manager	141311
27	accommodation and hospitality managers (nec)	141999
28	customer service manager	149212
29	conference and event organiser	149311
30	transport company manager	149413
31	facilities manager	149913
32	music professionals (nec)	211299
33	photographer	211311
34	book or script editor	212212
35	director (film, television, radio or stage)	212312
36	film and video editor	212314
37	program director (television or radio)	212315
38	stage manager	212316
39	technical director	212317
40	video producer	212318
41	copywriter	212411
42	newspaper or periodical editor	212412
43	print journalist	212413
44	technical writer	212415
45	television journalist	212416
46	journalists and other writers (nec)	212499
47	company secretary	221211
48	commodities trader	222111
49	finance broker	222112
50	insurance broker	222113
51	financial brokers (nec)	222199
52	financial market dealer	222211
53	stockbroking dealer	222213
54	financial dealers (nec)	222299

Section 9

Short-term Skilled Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
55	financial investment adviser	222311
56	financial investment manager	222312
57	recruitment consultant	223112
58	ICT trainer	223211
59	mathematician	224112
60	gallery or museum curator	224212
61	health information manager	224213
62	records manager	224214
63	librarian	224611
64	organisation and methods analyst	224712
65	patents examiner	224914
66	information and organisation professionals (nec)	224999
67	advertising specialist	225111
68	marketing specialist	225113
69	ICT account manager	225211
70	ICT business development manager	225212
71	ICT sales representative	225213
72	public relations professional	225311
73	technical sales representatives (nec) including education sales representatives	225499
74	fashion designer	232311
75	industrial designer	232312
76	jewellery designer	232313
77	graphic designer	232411
78	illustrator	232412
79	web designer	232414
80	interior designer	232511
81	urban and regional planner	232611
82	geologist	234411
83	primary school teacher	241213
84	middle school teacher (Aus) / intermediate school teacher (NZ)	241311
85	education adviser	249111
86	art teacher (private tuition)	249211
87	dance teacher (private tuition)	249212
88	music teacher (private tuition)	249214
89	private tutors and teachers (nec)	249299
90	teacher of English to speakers of other languages	249311
91	dietitian	251111

Part 2 Specification of occupations

Section 9

Short-term Skilled Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
92	nutritionist	251112
93	occupational health and safety adviser	251312
94	orthoptist	251412
95	hospital pharmacist	251511
96	industrial pharmacist	251512
97	retail pharmacist	251513
98	health promotion officer	251911
99	health diagnostic and promotion professionals (nec)	251999
100	acupuncturist	252211
101	naturopath	252213
102	traditional Chinese medicine practitioner	252214
103	complementary health therapists (nec)	252299
104	dental specialist	252311
105	resident medical officer	253112
106	nurse educator	254211
107	nurse researcher	254212
108	nurse manager	254311
109	web developer	261212
110	software tester	261314
111	database administrator	262111
112	systems administrator	262113
113	network administrator	263112
114	network analyst	263113
115	ICT quality assurance engineer	263211
116	ICT support engineer	263212
117	ICT systems test engineer	263213
118	ICT support and test engineers (nec)	263299
119	judicial and other legal professionals (nec)	271299
120	careers counsellor	272111
121	drug and alcohol counsellor	272112
122	family and marriage counsellor	272113
123	rehabilitation counsellor	272114
124	student counsellor	272115
125	counsellors (nec)	272199
126	minister of religion	272211
127	psychotherapist	272314
128	interpreter	272412
129	social professionals (nec)	272499
130	recreation officer	272612

Section 9

Short-term Skilled Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
131	welfare worker	272613
132	anaesthetic technician	311211
133	cardiac technician	311212
134	medical laboratory technician	311213
135	pharmacy technician	311215
136	medical technicians (nec)	311299
137	meat inspector	311312
138	primary products inspectors (nec)	311399
139	chemistry technician	311411
140	earth science technician	311412
141	life science technician	311413
142	science technicians (nec)	311499
143	architectural draftsperson	312111
144	building inspector	312113
145	architectural, building and surveying technicians (nec)	312199
146	mechanical engineering technician	312512
147	metallurgical or materials technician	312912
148	mine deputy	312913
149	hardware technician	313111
150	ICT customer support officer	313112
151	web administrator	313113
152	ICT support technicians (nec)	313199
153	farrier	322113
154	aircraft maintenance engineer (avionics)	323111
155	aircraft maintenance engineer (mechanical)	323112
156	aircraft maintenance engineer (structures)	323113
157	metal fitters and machinists (nec)	323299
158	precision instrument maker and repairer	323314
159	toolmaker	323412
160	vehicle body builder	324211
161	vehicle trimmer	324212
162	roof tiler	333311
163	business machine mechanic	342311
164	cabler (data and telecommunications)	342411
165	telecommunications linesworker	342413
166	baker	351111
167	pastrycook	351112
168	butcher or smallgoods maker	351211
169	cook	351411

Part 2 Specification of occupations

Section 9

Short-term Skilled Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
170	dog handler or trainer	361111
171	animal attendants and trainers (nec)	361199
172	veterinary nurse	361311
173	florist	362111
174	gardener (general)	362211
175	arborist	362212
176	landscape gardener	362213
177	greenkeeper	362311
178	hairdresser	391111
179	print finisher	392111
180	printing machinist	392311
181	dressmaker or tailor	393213
182	upholsterer	393311
183	furniture finisher	394211
184	wood machinist	394213
185	wood machinists and other wood trades workers (nec)	394299
186	power generation plant operator	399213
187	jeweller	399411
188	camera operator (film, television or video)	399512
189	make up artist	399514
190	sound technician	399516
191	performing arts technicians (nec)	399599
192	signwriter	399611
193	ambulance officer	411111
194	intensive care ambulance paramedic	411112
195	dental technician	411213
196	diversional therapist	411311
197	enrolled nurse	411411
198	massage therapist	411611
199	community worker	411711
200	disabilities services officer	411712
201	family support worker	411713
202	residential care officer	411715
203	youth worker	411716
204	diving instructor (open water)	452311
205	gymnastics coach or instructor	452312
206	horse riding coach or instructor	452313
207	snowsport instructor	452314
208	swimming coach or instructor	452315

Section 9

Short-term Skilled Occupation List		
Item	Column 1 Occupation	Column 2 ANZSCO code
209	other sports coach or instructor	452317
210	sports development officer	452321
211	sportspersons (nec)	452499
212	contract administrator	511111
213	program or project administrator	511112
214	insurance loss adjuster	599612
215	insurance agent	611211
216	retail buyer	639211

Part 3—Application and savings provisions

10 Application of this instrument

This instrument applies in relation to an application for approval of a nomination made on or after the day this instrument commences.

11 Continued application of IMMI 18/050

Despite the repeal of the *Migration (IMMI 18/050: Specification of Occupations—Subclass 407 Visa) Instrument 2018* by this instrument, that instrument, as in force immediately before the day this instrument commences, continues to apply in relation to an application for approval of a nomination made before that day.

Schedule 1—Repeals

Migration (IMMI 18/050: Specification of Occupations—Subclass 407 Visa) Instrument 2018

1 The whole of the instrument

Repeal the instrument.

EXPLANATORY STATEMENT

Migration Regulations 1994

MIGRATION (LIN 19/050: SPECIFICATION OF OCCUPATIONS—SUBCLASS 407 VISA) INSTRUMENT 2019.

(Paragraph 2.72B(3)(b))

1. The instrument is made under paragraph 2.72B(3)(b) to the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals the *Migration (IMMI 18/050: Specification of Occupations – Subclass 407 Visa) Instrument 2018* (the old law) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The instrument operates to specify the skilled occupations applicable to an application, or proposed application, for a Subclass 407 (Training) visa (Subclass 407 visa). The specified occupations are allocated to three different lists being:
 - a. the Medium and Long-term Strategic Skills List (MLTSSL);
 - b. the Short-term Skilled Occupation List (STSOL); and
 - c. the Regional Occupation List (ROL).
4. The purpose of the instrument is to update the occupations included in the skilled occupations lists for the purposes of paragraph 2.72B(3)(b) of the Regulations. Specifically, changes from the old law in the instrument are as follows:
 - a. the following 27 occupations are no longer a part of the STSOL:
 - i. aquaculture farmer (ANZSCO code 121111);
 - ii. cotton grower (ANZSCO code 121211);
 - iii. fruit or nut grower (ANZSCO 121213);

- iv. grain, oilseed or pasture grower (Aus)/field crop grower (NZ) (ANZSCO code 121214);
- v. mixed crop farmer (ANZSCO code 121216);
- vi. sugar cane farmer (ANZSCO code 121217);
- vii. crop farmers (nec) (ANZSCO code 121299);
- viii. beef cattle farmer (ANZSCO code 121312);
- ix. dairy cattle farmer (ANZSCO code 121313);
- x. mixed livestock farmer (ANZSCO code 121317);
- xi. pig farmer (ANZSCO code 121318);
- xii. sheep farmer (ANZSCO code 121322);
- xiii. livestock farmers (nec) (ANZSCO code 121399);
- xiv. mixed crop and livestock farmer (ANZSCO code 121411);
- xv. arts administrator or manager (ANZSCO code 139911);
- xvi. dancer or choreographer (ANZSCO code 211112);
- xvii. music director (ANZSCO code 211212);
- xviii. visual arts and crafts professionals (nec) (ANZSCO code 211499);
- xix. artistic director (ANZSCO code 212111);
- xx. dentist (ANZSCO code 252312);
- xxi. anaesthetist (ANZSCO code 252312);
- xxii. textile, clothing and footwear mechanic (ANZSCO code 323215);
- xxiii. watch and clock maker and repairer (ANZSCO code 323316);
- xxiv. chemical plant operator (ANZSCO code 399211);
- xxv. library technician (ANZSCO code 399312);
- xxvi. tennis coach (ANZSCO code 452316); and
- xxvii. footballer (ANZSCO code 452411).

b. the following six occupations are added to the MLTSSL, and are no longer a part of the STSOL:

- i. arts administrator or manager (ANZSCO code 139911);
- ii. dancer or choreographer (ANZSCO code 211112);
- iii. music director (ANZSCO code 211211);
- iv. artistic director (ANZSCO code 212111);
- v. tennis coach (ANZSCO code 452411); and

- vi. footballer (ANZSCO code 452411).
- c. The following two occupations are added to the ROL:
- i. deer farmer (ANZSCO code 121314); and
 - ii. goat farmer (ANZSCO code 121315).
- d. The following 16 occupations are added to the ROL, and are no longer part of the STSOL:
- i. aquaculture farmer (ANZSCO code 121111);
 - ii. cotton grower (ANZSCO code 121211);
 - iii. fruit or nut grower (ANZSCO code 121213);
 - iv. grain, oilseed or pasture grower (ANZSCO code 121214);
 - v. mixed crop farmer (ANZSCO code 121216);
 - vi. sugar cane grower (ANZSCO code 121217);
 - vii. crop farmers (nec) (ANZSCO code 121299);
 - viii. beef cattle farmer (ANZSCO code 121312);
 - ix. dairy cattle farmer (ANZSCO code 121313);
 - x. mixed livestock farmer (ANZSCO code 121317);
 - xi. pig farmer (ANZSCO code 121318);
 - xii. sheep farmer (ANZSCO code 121322);
 - xiii. livestock farmers (nec) (ANZSCO code 121399);
 - xiv. mixed crop and livestock farmer (ANZSCO code 121411);
 - xv. dentist (ANZSCO code 252312); and
 - xvi. anaesthetist (ANZSCO code 253211).
5. The occupations are allocated after consideration of labour market advice from **the Department of Jobs and Small Business**. The changes to the occupation lists from the old law ensures that entry of skilled foreign workers to Australia remains carefully calibrated to Australia's needs.
6. While occupations on the ROL are not restricted to particular geographic areas for the 407 visa program, for administrative reasons the instrument ensures the ROL applicable to the Subclass 407 visa program continues to be aligned with the ROL applicable to other visa programs.

7. Paragraph 2.72B(3)(b) requires the occupation to be specified with its corresponding 6-digit code. This code is the ANZSCO code, set out in column two of each list. The instrument notes in section 4 that '[a] number of expressions used in this instrument are defined in the Regulations, including ANZSCO.' Regulation 1.03 of the Regulations provides the following definition of ANZSCO: '**ANZSCO** has the meaning specified by the Minister in an instrument in writing for this definition.' The instrument made under regulation 1.03 for the definition of ANZSCO, as in force on the date of commencement of this instrument, is *Migration (LIN 19/051: Specification of Occupations and Assessing Authorities) Instrument 2019* (LIN 19/051). Section 5 of LIN 19/051 provides:

For the purpose of regulation 1.03 of the Regulations, ANZSCO means that Australian and New Zealand Standard Classification of Occupations published by the Australia Bureau of Statistics.

ANZSCO may be accessed on the Australian Bureau of Statistics website (<http://www.abs.gov.au/>).

8. The instrument applies to applications for approval of a nomination made on or after the day the instrument commences.
9. The application provision in section 2 of Schedule 1 to the instrument provides that the old law, as in force immediately before the date of commencement of the instrument, continues to apply in relation to an application for approval of a nomination made before the instrument commences.
10. Consultation was undertaken before the instrument was made with the Department of Jobs and Small Business, which conducted a review of the skilled migration occupation lists. The review included receiving public submissions, meetings with employers and industry peak bodies and inter-departmental committee meetings.
11. The Office of Best Practice Regulation (OBPR) have advised that a Regulatory Impact Statement is not required (OBPR Reference: 23806).

12. Under section 42 of the *Legislation Act 2003*, the instrument is subject to disallowance and therefore a Statement of Compatibility with Human Rights has been provided at Attachment A.
13. The instrument commences on the day after registration on the Federal Register of Legislation.

Attachment A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration (LIN 19/050: Specification of Occupations – Subclass 407 Visa) Instrument 2019

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Migration (LIN 19/050: Specification of Occupations – Subclass 407 Visa) Instrument 2019

The Training (subclass 407) visa ('subclass 407 visa') aims to promote international goodwill by allowing organisations and government agencies to sponsor people to travel to Australia to participate in occupational training activities, including classroom-based professional development activities. It is for people who want to come to Australia on a temporary basis to undertake workplace-based training or professional development. It is not designed to fill labour shortages, and it is not an appropriate visa for people whose sole intention is to work. The 407 visa and related nomination requirements includes integrity measures to ensure that the visa is used only for genuine occupation training which does not adversely impact the Australian labour market.

The *Migration Regulations 1994* ('the Migration Regulations') set out requirements for the grant of a Training (subclass 407) visa ('subclass 407 visa'). One requirement is that the applicant be nominated by an approved sponsor of a program of occupational training. There are three nomination types:

- workplace-based training required for registration;
- structured workplace-based training to enhance skills in an eligible occupation;
- training that promotes capacity building overseas.

Unless the training is for registration or licensing purposes or for capacity building overseas, training visa applicants must be nominated under the 'enhance skills' nomination type, which requires the nominated occupation to be specified on a skilled occupations list. This instrument (LIN 19/050) repeals and replaces the previous instrument (IMMI 18/050) and specifies the eligible occupations and Australian and New Zealand Standard Classification of Occupations (ANZSCO) codes for this purpose.

The ANZSCO code is used by the Department of Home Affairs to ensure, for applicants who wish to come to Australia for occupational training purposes, that the training is related to an eligible occupation, and the training is necessary for the nominee to obtain registration, membership or licensing in Australia or in the home country of the nominee in relation to that occupation. The occupation lists are comprised of the Medium and Long-term Strategic Skills List (MLTSSL), Short-term Skilled Occupation List (STSOL) and Regional Occupation List (ROL). These lists are designed to be dynamic and respond to changing Australian labour market conditions. The Department of Jobs and Small Business (DJSB) regularly reviews eligible occupations for skilled migration, including occupations for the subclass 407 visa, based on data analysis and stakeholder consultation. Occupations on the MLTSSL are those identified by the Australian Government as being in shortage in the Australian labour market in the medium to long-term. Occupations on the STSOL are those identified by the Australian Government as being in shortage in the Australian labour market in the immediate to short-term. The ROL lists additional occupations needed in regional Australia.

This instrument specifies the MLTSSL, STSOL and ROL, which together provide eligible occupations and ANZSCO codes, for the subclass 407 visa. This instrument makes the following changes to the occupation lists:

- An increase of 6 occupations on the MLTSSL from 210 to 216, which results from moving these occupations from the STSOL.
- A decrease in the number of occupations on the STSOL from 243 to 216, a reduction of 27 occupations – 6 that have been moved to the MLTSSL, 16 that have been moved to the ROL and 5 that have been removed completely.
- An increase in the number of occupations on the ROL from 59 to 77 occupations, a gain of 18 occupations – 16 which have been moved from the STSOL and 2 new occupations that have been added.

All of the above changes lead to an overall reduction of eligible occupations for the subclass 407 visa from 512 to 509 occupations (a reduction of 3 occupations).

Human rights implications

The instrument has been assessed against the seven core international human rights treaties.

Article 6 of ICESCR provides that:

1. *The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*
2. *The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.*

Article 2(1) of the ICCPR provides:

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2 of the ICESCR reflects the provision relating to discrimination on article 2(1) of the ICCPR.

Article 26 of the ICCPR provides:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee, to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Specification of lists of occupations for which foreign workers may be nominated for entry and stay in Australia in this Legislative Instrument engage the above rights to non-discrimination, including, for those persons who are already in Australia, as they relate to the right to work and its realisation through technical and vocational guidance and training programmes (Article 6.2 of the ICESCR).

In its General Comment 18, the UN Human Rights Committee stated that:

The Committee observes that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant.

Similarly, in its General Comment on Article 2 of the ICESCR (E/C.12/GC/20), UNCESCR has stated (at 13) that:

Differential treatment based on prohibited grounds will be viewed as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the Covenant rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.

Neither the *International Covenant on Civil and Political Rights* (ICCPR) nor the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) give a right for non-citizens to enter Australia for the purposes of seeking residence or employment. The UN Human Rights Committee, in its General Comment 15 on the position of aliens under the ICCPR, stated that:

The [ICCPR] does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the [ICCPR] even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise. Consent for entry may be given subject to conditions relating, for example, to movement, residence and employment. A State may also impose general conditions upon an alien who is in transit. However, once aliens are allowed to enter the territory of a State party they are entitled to the rights set out in the [ICCPR].

As such, Australia is able to set requirements for the entry of non-citizens into Australia and conditions for their stay, and does so on the basis of reasonable and objective criteria.

Further, Article 4 of ICESCR provides that the State may subject the rights enunciated in the ICESCR: *...only to such limitations as are determined by law only insofar as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in democratic society.*

The movement of occupations between the MLTSSL, STSOL and the ROL does not have human rights implications in relation to the subclass 407 visa as there is no practical difference for the subclass 407 visa whether the occupation is listed on the MLTSSL, STSOL and the ROL. These lists are also used for other visa subclasses where it can affect the duration of the visa and where the person is to work, however this is not the case for the subclass 407.

Therefore the main effect with human rights implications of repealing the previous instrument and replacing it with this one is that five occupations have been removed from the occupation lists completely.

The authority of the Australian Government to grant visas of a particular duration and the authority to place conditions and limitations on non-citizens in respect of those visas, including their work rights, is lawful as a matter of domestic law and has as its objectives ensuring the continued access of Australian citizens and permanent residents to paid employment and the continued integrity of

Australia's migration program. As noted earlier, the skills lists are determined by DJSB on the basis of data analysis and stakeholder consultation. The lists of eligible occupations in this Legislative Instrument are intended to ensure that persons who are already in Australia permanently are given the opportunity to seek work and occupational training opportunities before those seeking to enter Australia to undertake occupational training in Australia in order to enhance their skills. Providing Australians citizens and permanent residents with the first priority for jobs and training opportunities ensures that Australians are provided the opportunity to improve their standard of living and promotes their right to work. Broadly speaking, access to such opportunities promotes social stability. As such, these measures are for the "purpose of promoting the general welfare in a democratic society" and are justified in accordance with Article 4 of ICESCR and do not constitute impermissible discrimination in relation to the right to work.

Any subclass 407 holder who was granted a visa in relation to one of these occupations before it is removed from the occupations lists is entitled to continue working and training in their present location for the duration of their visa. Their right to work (including through training opportunities) for the duration of that visa is not impacted. Changes to the lists of occupations will only affect the person if they choose to apply for a subsequent visa and seek renomination by a different organisation. If the person's occupation has been removed from the occupations list, they may choose to apply for a subclass 407 visa if they wish to nominate for further training opportunities, but only if they can demonstrate they meet the required criteria, that is they must have recent experience in the identified occupation to which the training relates or for any other visa with work rights for which they meet the requirements under the Migration Regulations if they wish to continue working.. In addition, current visa applicants will not be impacted as the new lists will apply only to new nomination applications received after they come into effect.

The use of occupation lists including a regional list is reasonable and proportionate because it allows the Minister, based on advice from DJSB, the flexibility and precision required to carefully tailor the occupation lists to reflect Australia's diverse labour market needs. Where a non-citizen is being nominated for occupational training for the purpose of enhancing their skills, restricting training opportunities to certain occupations is reasonable and proportionate to ensure that the subclass 407 visa contributes to Australia's overall economic success and continues to give Australians first priority for workplace training programs. This does not unduly limit a non-citizen's right to work, including through participation in training programs.

Conclusion

This Legislative Instrument is compatible with human rights because to the extent it may limit human rights, those limitations are reasonable, necessary and proportionate.

The Hon David Coleman MP
Minister for Immigration, Citizenship and Multicultural Affairs