

## **EXPLANATORY STATEMENT**

*Migration Regulations 1994*

*Migration Act 1958*

### **EVIDENCE OF FUNCTIONAL ENGLISH LANGUAGE PROFICIENCY 2015**

(Regulation 5.17)

1. This Instrument is made under regulation 5.17 of the *Migration Regulations 1994* (the Regulations).
2. It revokes Instrument IMMI 14/055 (F2014L01551) signed on 23 November 2014.
3. The purpose of the Instrument is to:
  - (a) specify what qualifications or experience an applicant must have to meet the definition of functional English; and
  - (b) include the Cambridge English: Advanced (CAE) test; and
  - (c) specify that applicants who are citizens of and who hold a valid passport issued by the United Kingdom, the United States of America, Canada, or the Republic of Ireland has been determined to have functional English language proficiency.
4. The Instrument operates to specify the qualifications or experience necessary for the purposes of providing evidence of English language proficiency. This includes specifying educational experience and results obtained as a consequence of sitting specific English language tests including the International English Language Testing System (IELTS) Test, the Test of English as a Foreign Language internet-based test (TOEFL iBT), the Pearson Test of English Academic (PTE Academic) and the Cambridge English: Advanced (CAE) test.
5. The Instrument is of a minor or machinery nature and does not substantially alter existing arrangements. Consultation was conducted with relevant internal and external stakeholders from the skilled migration officers group, the international education sector and other Commonwealth government agencies in addition to

consultations as part of the broader consultation relating to the expansion of alternative English language tests across other visa programmes.

6. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 16643).
7. Under section 44 of the *Legislative Instruments Act 2003* the Instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
8. The Instrument, IMMI 15/004, commences on 1 January 2015.