



Migration Amendment (Extension of Subclass 485 (Temporary Graduate) Visa and Increase in Subclass 500 (Student) Visa Work Hours) Regulations 2023

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 19 June 2023

David Hurley
Governor-General

By His Excellency's Command

Clare O'Neil
Minister for Home Affairs

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules	1
Schedule 1—Amendments		2
Part 1—Amendments relating to Subclass 485 (Temporary Graduate) Visas		2
<i>Migration Regulations 1994</i>		2
Part 2—Amendments relating to Subclass 500 (Student) Visas		8
<i>Migration Regulations 1994</i>		8
Part 3—Application of amendments		9
<i>Migration Regulations 1994</i>		9

1 Name

This instrument is the *Migration Amendment (Extension of Subclass 485 (Temporary Graduate) Visa and Increase in Subclass 500 (Student) Visa Work Hours) Regulations 2023*.

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	1 July 2023.	1 July 2023

Note: This table relates only to the provisions of this instrument as originally made.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 the *Migration Act 1958*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Amendments relating to Subclass 485 (Temporary Graduate) Visas

Migration Regulations 1994

1 Subparagraph 1229(2)(a)(i) of Schedule 1

Repeal the subparagraph (not including the table), substitute:

- (ia) for an applicant:
 - (A) who is covered by subitem (2A); or
 - (B) whose application is combined, or sought to be combined, with an application made by that person;
- the amount is nil; and
- (i) for an applicant:
 - (A) who is covered by subitem (2B); or
 - (B) whose application is combined, or sought to be combined, with an application made by that person;

2 After subitem 1229(2) of Schedule 1

Insert:

- (2A) An applicant is covered by this subitem if:
 - (a) the applicant holds a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream or in the Replacement stream and is applying for a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream; and
 - (b) the applicant holds a qualification specified, or of a kind specified, by the Minister in a legislative instrument made for the purposes of this paragraph; and
 - (c) the applicant is not seeking to satisfy the primary criteria set out in clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2; and
 - (d) the applicant has not previously been granted a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream:
 - (i) on the basis of an application to which subparagraph (2)(a)(ia) applied; or
 - (ii) permitting the holder to travel to, enter and remain in Australia for an additional period specified by the Minister under clause 485.513 of Schedule 2 on the basis that the applicant held a qualification mentioned in paragraph (b); and
 - (e) the applicant does not hold a Hong Kong passport or a British National (Overseas) passport.
- (2B) An applicant is covered by this subitem if:
 - (a) the applicant holds a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream or in the Replacement stream and is applying for a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream; and
 - (b) the applicant is not covered by subitem (2A).

3 Paragraph 1229(3)(la) of Schedule 1

Omit “second”, substitute “subsequent”.

4 Subparagraphs 1229(4)(a)(v) and (vi) of Schedule 1

Omit “second”, substitute “subsequent”.

5 After paragraph 1229(4)(a) of Schedule 1

Insert:

- (aa) if the visa applied for were granted, the total number of Subclass 485 (Temporary Graduate) visas held by the applicant, including that visa:
 - (i) must not be more than 4; and
 - (ii) must not include more than one of each of the following:
 - (A) a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream granted on the basis of an application to which subparagraph (2)(a)(ia) applied;
 - (B) a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream granted on the basis of meeting the requirements in clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2;
 - (C) a Subclass 485 (Temporary Graduate) visa in the Replacement stream;

6 Paragraph 1229(4)(b) of Schedule 1

Repeal the paragraph, substitute:

- (b) unless the applicant is covered by subitem (2A)—the applicant seeking to satisfy the primary criteria for the grant of the visa must be less than 50.

7 Before subparagraph 485.211(c)(i) of Schedule 2

Insert:

- (ia) nominated the Post-Study Work stream in the application and whose application is an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or

8 Paragraph 485.211(d) of Schedule 2

Omit “2”, substitute “3”.

9 Subclause 485.212(2) of Schedule 2

Repeal the subclause, substitute:

- (2) Subclause (1) does not apply to an applicant:
 - (a) whose application is an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or
 - (b) who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235; or
 - (c) who nominated the Replacement stream in the application.

Note: An applicant who meets the requirements of clause 485.236 or 485.237 is covered by paragraph (a).

10 Subclause 485.213(2) of Schedule 2

Repeal the subclause, substitute:

- (2) Subclause (1) does not apply to an applicant:
 - (a) whose application is an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or
 - (b) who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235.

Note: An applicant who meets the requirements of clause 485.236 or 485.237 is covered by paragraph (a).

11 Subclause 485.231(1A) of Schedule 2

Repeal the subclause, substitute:

- (1A) This clause does not apply to an applicant:
 - (a) whose application is an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or
 - (b) who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235.

Note: An applicant who meets the requirements of clause 485.236 or 485.237 is covered by paragraph (a).

12 Subclause 485.232(1) of Schedule 2

Repeal the subclause, substitute:

- (1) This clause applies to an applicant for a visa (the *second visa*):
 - (a) who held a Subclass 485 (Temporary Graduate) visa (the *first visa*) in the Post-Study Work stream when the application for the second visa was made; and
 - (b) who was granted the first visa on the basis of study undertaken in a regional centre or other regional area at an educational institution located in the regional centre or other regional area; and
 - (c) who declared in the application for the second visa that the applicant, and any member (the *family member*) of the applicant's family unit who made a combined application with the applicant, intend:
 - (i) to live only in a regional centre or other regional area; and
 - (ii) if the applicant or the family member also intends to work or study—to work or study only in a regional centre or other regional area; and
 - (d) to whom clause 485.236 does not apply.

13 Paragraph 485.233(1)(c) of Schedule 2

Omit "clause 485.232 does", substitute "clauses 485.232 and 485.237 do".

14 Subclause 485.234(1) of Schedule 2

Repeal the subclause, substitute:

- (1) This clause applies to an applicant for a visa (the *subsequent visa*):
 - (a) who previously held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis of study undertaken

- in a regional centre or other regional area at an educational institution located in the regional centre or other regional area; and
- (b) who held, at the time the application for the subsequent visa was made:
 - (i) a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream granted on the basis of an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or
 - (ii) a Subclass 485 (Temporary Graduate) visa in the Replacement stream; and
- (c) who declared in the application for the subsequent visa that the applicant, and any member (the *family member*) of the applicant's family unit who made a combined application with the applicant, intend:
 - (i) to live only in a regional centre or other regional area; and
 - (ii) if the applicant or the family member also intends to work or study—to work or study only in a regional centre or other regional area; and
- (d) to whom clause 485.236 does not apply.

15 Subclauses 485.234(2) and (3) of Schedule 2

Omit “the third visa” (wherever occurring), substitute “the subsequent visa”.

16 Subclause 485.235(1) of Schedule 2

Repeal the subclause, substitute:

- (1) This clause applies to an applicant for a visa (the *subsequent visa*):
 - (a) who previously held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis of study undertaken in a designated regional area at an educational institution located in the designated regional area; and
 - (b) who held, at the time the application for the subsequent visa was made:
 - (i) a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream granted on the basis of an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; or
 - (ii) a Subclass 485 (Temporary Graduate) visa in the Replacement stream; and
 - (c) to whom clauses 485.234 and 485.237 do not apply.

17 Subclauses 485.235(2) to (4) of Schedule 2

Omit “the third visa” (wherever occurring), substitute “the subsequent visa”.

18 At the end of Subdivision 485.23 of Schedule 2

Add:

485.236

- (1) This clause applies to an applicant for a visa (the *subsequent visa*):
 - (a) whose application is an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; and
 - (b) who held, when the application was made, a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis of meeting the requirements in clause 485.232 or 485.234.

- (2) The applicant must have:
 - (a) lived only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the subsequent visa; and
 - (b) if the applicant also worked or studied—worked or studied only in a regional centre or other regional area for a period of at least 2 years immediately before applying for the subsequent visa.
- (3) At the time of the decision on the application for the subsequent visa:
 - (a) the applicant lives only in a regional centre or other regional area; and
 - (b) if the applicant also works or studies at that time—the applicant works or studies only in a regional centre or other regional area.
- (4) The applicant declared in the application for the subsequent visa that the applicant, and any member (the **family member**) of the applicant's family unit who made a combined application with the applicant, intend:
 - (a) to live only in a regional centre or other regional area; and
 - (b) if the applicant or the family member also works or studies (or proposes to work or study)—to work or study only in a regional centre or other regional area.

485.237

- (1) This clause applies to an applicant for a visa (the **subsequent visa**):
 - (a) whose application is an application to which subparagraph 1229(2)(a)(ia) of Schedule 1 applied; and
 - (b) who held, when the application was made, a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream that was granted on the basis of meeting the requirements in clause 485.233 or 485.235.
- (2) The applicant must have:
 - (a) lived only in a designated regional area for a period of at least 2 years immediately before applying for the subsequent visa; and
 - (b) if the applicant also worked or studied—worked or studied only in a designated regional area for a period of at least 2 years immediately before applying for the subsequent visa.
- (3) At the time of the decision on the application for the subsequent visa:
 - (a) the applicant lives only in a designated regional area; and
 - (b) if the applicant also works or studies at that time—the applicant works or studies only in a designated regional area.
- (4) The applicant declared in the application for the subsequent visa that the applicant, and any member (the **family member**) of the applicant's family unit who made a combined application with the applicant, intend:
 - (a) to live only in a designated regional area; and
 - (b) if the applicant or the family member also works or studies (or proposes to work or study)—to work or study only in a designated regional area.

19 Clauses 485.511 to 485.512B of Schedule 2

Repeal the clauses.

20 Clause 485.513 of Schedule 2

Omit “If clauses 485.511, 485.512, 485.512A and 485.512B do not apply, temporary”, substitute “Temporary”.

21 Clause 485.514 of Schedule 2

Repeal the clause.

22 Subclause 485.613(1) of Schedule 2

Omit “second”, substitute “subsequent”.

23 Subclause 485.613(1) of Schedule 2

Omit “or 485.235”, substitute “, 485.235, 485.236 or 485.237”.

24 Subclause 8610(1) of Schedule 8

Omit “or 485.234”, substitute “, 485.234 or 485.236”.

25 Subclause 8610(3) of Schedule 8

Omit “or 485.235”, substitute “, 485.235 or 485.237”.

Part 2—Amendments relating to Subclass 500 (Student) Visas

Migration Regulations 1994

26 After subclause 8104(3) of Schedule 8

Insert:

- (3A) If the visa held is a Subclass 500 (Student) visa, or a bridging visa granted on the basis of a valid application for a Subclass 500 (Student) visa, this clause applies as if the reference in subclauses (1), (2C) and (3) to 40 hours were instead a reference to 48 hours.

27 After subclause 8105(2) of Schedule 8

Insert:

- (2A) If the visa held is a Subclass 500 (Student) visa, or a bridging visa granted on the basis of a valid application for a Subclass 500 (Student) visa, this clause applies as if the reference in subclause (1) to 40 hours were instead a reference to 48 hours.

Part 3—Application of amendments

Migration Regulations 1994

28 In the appropriate position in Schedule 13

Insert:

Part 117—Amendments made by the Migration Amendment (Extension of Subclass 485 (Temporary Graduate) Visa and Increase in Subclass 500 (Student) Visa Work Hours) Regulations 2023

11701 Operation of amendments

- (1) The amendments made by Part 1 of Schedule 1 to the *Migration Amendment (Extension of Subclass 485 (Temporary Graduate) Visa and Increase in Subclass 500 (Student) Visa Work Hours) Regulations 2023* apply in relation to an application for a visa made on or after the commencement of that Part.
- (2) The amendments made by Part 2 of Schedule 1 to the *Migration Amendment (Extension of Subclass 485 (Temporary Graduate) Visa and Increase in Subclass 500 (Student) Visa Work Hours) Regulations 2023* apply in relation to work engaged in by a visa holder on or after the commencement of that Part, whether or not the visa was granted before, on or after that commencement.