

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Immigration

Migration Regulations 1994

Migration (English Language Requirements for Subclass 485 (Temporary Graduate) Visas) Instrument 2025

The instrument, departmental reference LIN 25/089, is made under clause 485.212 of Schedule 2 to the *Migration Regulations 1994* (the Regulations).

The instrument repeals and replaces the *Migration (English Language Requirements for Subclass 485 (Temporary Graduate) Visas) Instrument (LIN 24/021) 2024* (LIN 24/021) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). 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 7 August 2025. It is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

Background

The *Migration (English Language Requirements for Subclass 485 (Temporary Graduate) Visas) Instrument (LIN 24/021) 2024* (LIN 24/021) commenced on 1 July 2024. That instrument was made under clause 485.212 of Schedule 2 to the Regulations.

The purpose of that instrument was to specify the English language requirements to be satisfied to meet the criteria for a Subclass 485 (Temporary Graduate) visa under clause 485.212 of the Schedule 2 to the Regulations.

Subclause 485.212(1) of Schedule 2 to the Regulations provides that the application was accompanied by evidence that (see paragraph 485.212(1)(a) of Schedule 2):

- the applicant (see paragraph 485.212(1)(a)(i) – (ii)):
 - has undertaken a language test specified by the Minister in a legislative instrument made for this paragraph; and
 - has achieved, within the period specified by the Minister in the instrument, the score specified by the Minister in the instrument in accordance with the requirements (if any) specified by the Minister in the instrument; or
- the applicant holds a valid passport of a type specified by the Minister in a legislative instrument made for this paragraph (see paragraph 485.212(1)(b) of Schedule 2).

Subclause 485.212(2) of Schedule 2 to the Regulations provides that subclause 485.212(1) does not apply to an applicant (see paragraphs 485.212(2)(b) – (c) of Schedule 2):

- who meets the requirements of clause 485.232, 485.233, 485.234, or 485.235; or
- who nominated the Replacement stream in the application.

LIN 24/021 specified the English language tests for the purposes of subparagraph 485.212(1)(a)(i) of Schedule 2 to the Regulations (see section 5 of that instrument).

For the purposes of subparagraph 485(1)(a)(ii) of Schedule 2 to the Regulations, LIN 24/021 specified the tests scores to be achieved in the specified English language tests in Schedule 1 to that instrument, or for an applicant who was a Hong Kong passport holder or a British National (Overseas) passport holder in Schedule 2 to that instrument (see section 6 of that instrument).

LIN 24/021 also specified the period and requirements for the purposes of subparagraph 485.212(1)(a)(ii) of Schedule 2 to the Regulation (see section 7 of that instrument), as follows:

- the applicant achieved the specified test scores within 1 year before the day on which the visa application was made; and
- unless the test was an Occupational English Test (OET), the test scores were achieved in a single sitting.

Additionally, LIN 24/021 specified passports issued by select countries to a citizen of that country in relation to which English proficiency requirements did not apply for the purposes of paragraph 485.212(1)(b) of Schedule 2 to the Regulation (see section 8 of that instrument), as follows:

- Canada;
- New Zealand;
- the Republic of Ireland;
- the United Kingdom;
- the United States of America.

Purpose

Migration (English Language Requirements for Subclass 485 (Temporary Graduate) visa) Instrument 2025

The purpose of the *Migration (English Language Requirements for Subclass 485 (Temporary Graduate) visa) Instrument 2025* is to specify the English language proficiency requirements that an applicant may be required to meet in order to satisfy clause 485.212 of Schedule 2 to the Regulations for the grant of a Subclass 485 (Temporary Graduate) visa (the Subclass 485 visa) in either of the Post-Vocational Education Work stream or the Post-Higher Education Work stream. This includes the following:

- the English language tests that are specified for demonstrating English language proficiency for the purposes of subparagraph 485.212(1)(a)(i) of Schedule 2 to the Regulations;
- for the purposes of subparagraph 485.212(1)(a)(ii) of Schedule 2 to the Regulations:
 - the specified period of time in which the specified required test scores must be achieved; or
 - unless the applicant is a Hong Kong passport holder or British National (Overseas) passport holder; and
- applicants who are exempt from demonstrating English language proficiency for the purposes of subparagraph 485.212(1)(b) of Schedule 2 to the Regulations.

The intent of this instrument is to update the above mentioned English language proficiency requirements for Subclass 485 visa in either of the Post-Vocational Education Work stream or the Post-Higher Education Work stream applicants in accordance with the outcome of the Department's Request for Expression of Interest (REOI) process that commenced in July 2022. Through that REOI process, this instrument also reflects a change of the language tests to give effect to new Deeds of Agreement (Deeds) between the Department and the new test providers.

Consultation

External consultation was undertaken throughout the REOI process by the Department with key departmental committees and industry bodies such as the Education Visa Consultative Committee (EVCC), Australian Health Practitioner Regulation Agency (AHPRA), Law Council of Australia (LCA) and Migration Institute of Australia (MIA). This consultation accords with the consultation requirements in section 17 of the Legislation Act.

Parliamentary scrutiny etc.

The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because in accordance with paragraph 44(2)(b) of the Legislation Act and item 20(b) in regulation 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, instruments made under Schedule 2 to the Regulations are prescribed as being exempt from disallowance. Given the instrument is exempt from disallowance, a statement of compatibility in accordance with section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is not required.

The instrument was made by the Assistant Minister for Immigration under and in accordance with clause 485.212 of Schedule 2 to the Regulations.

Details of the instrument

Part 1 – Preliminary

Section 1 – Name

This section of the instrument provides that the name of the instrument is the *Migration (English Language Requirements for Subclass 485 (Temporary Graduate) visa) Instrument 2025* (this instrument).

Section 2 – Commencement

This section of the instrument provides that this instrument commences on 7 August 2025.

Section 3 – Authority

This section of the instrument provides that the instrument is made under subclause 485.212 of Schedule 2 to the *Migration Regulations 1994* (the Regulations).

Section 4 – Definitions

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

- ***average band score*** means a test score calculated from the makeup of the scores received for each of the English test components.
- ***English language tests*** means: see section 6 of this instrument.
- ***English test component*** means all of the following:
 - listening;
 - reading;
 - writing;
 - speaking.
- ***overall band score*** means a test score calculated from the makeup of the scores received for each of the English test components.
- ***total band score*** means a test score calculated from the makeup of the scores received for each of the English test components.
- ***Regulations*** means the *Migration Regulations 1994*.
- ***required language test scores*** means: see section 10 of this instrument.
- ***visa applicant*** means an applicant for a Skilled (Provisional) (Class VC) visa in one of the following streams within the Subclass 485 (Temporary Graduate) visa:
 - Post-Vocational Education Work stream; or
 - Post-Higher Education Work stream.

Section 5 – Schedules

This section of the instrument 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 English language requirements

Section 6 – Specified English Language tests

Section 6 of Part 2 of the instrument provides that for the purposes of subparagraph 485.212(1)(a)(i) of Schedule 2 to the Regulations, the following **English language tests** are specified (see paragraphs 6(a) – (i) of this instrument):

- Cambridge Advanced test (***C1 Advanced***);
- Canadian English Language Proficiency Index Program General (***CELPIP General***);
- International English Language Testing System Academic (***IELTS Academic***);
- International English Language Testing System General Training (***IELTS General Training***);
- LANGUAGECER Academic Test (***LANGUAGECER Academic***);
- Michigan English Test (***MET***);
- Occupational English Test (***OET***);
- Pearson Test of English Academic (***PTE Academic***);
- Test of English as a Foreign Language internet based test (***TOEFL iBT***).

The term English language tests is defined in section 4 of this instrument.

The effect of section 6 of Part 2 of the instrument is to specify the language tests for the purposes of subparagraph 485.212(1)(a)(i) of Schedule 2 to the Regulations.

Section 7 – Specified required test scored to be achieved

Section 7 of Part 2 of the instrument provides that for subparagraph 485.212(1)(a)(ii) of Schedule 2 to the Regulations, the **required test scores** to be achieved, in one of the English language test specified in section 6 of this instrument, unless the test was a C1 Advanced, are specified (see paragraphs 7(a) – (b) of this instrument):

- in Schedule 1 to this instrument; or
- if the visa applicant is a Hong Kong passport holder or British National (Overseas) passport holder as specified in Schedule 2 to this instrument.

The terms required test scores and visa applicant are defined in section 4 of this instrument.

The effect of section 7 of Part 2 of the instrument is to specify the test scores for the purposes of subparagraph 485.212(1)(a)(ii) of Schedule 2 to the Regulations.

Section 8 – Specified period and requirements

Section 8 of Part 2 of the instrument provides that for subparagraph 485.212(1)(a)(ii) of Schedule 2 to the Regulations, the following period and requirements are specified (see paragraph 8(a) of this instrument):

- the visa applicant achieved the required test score specified in section 7 of the instrument, within 1 year before the day on which the applicant made the application for the relevant visa.

The terms English test component and visa applicant are defined in section 4 of this instrument.

The effect of section 8 of Part 2 of the instrument is to specify the period for the tests scores, specified in section 7 of this instrument, and the other requirements for the purposes of subparagraph 485.212(1)(a)(ii) of Schedule 2 to the Regulations.

Section 9 – Specified passports in relation to which English proficiency requirements do not apply

Section 9 of Part 2 of the provides that for paragraph 485.212(1)(b) of Schedule 2 to the Regulations, a valid passport issued by one of the following countries to a citizen of that country is specified (see paragraphs 9(a) – (e) of this instrument):

- Canada;
- New Zealand;
- the Republic of Ireland;
- the United Kingdom;
- the United States of America.

The effect of section 9 of Part 2 of the instrument is to exempt valid passport holders issued by one of the countries (specified in paragraphs 9(a) – (e) of this instrument) issued to a citizen of the relevant country. The applicant who can satisfy the requirements of paragraph 485.212(1)(b) of Schedule 2 to the Regulations will not be required to satisfy the English proficiency requirements of subparagraphs 485.212(a)(i) and (ii) of Schedule 2 to the Regulations.

Section 10 - Specified evidence of English language proficiency—language tests undertaken before commencement of this instrument

This section of the instrument provides for the specified evidence of English language proficiency where a test was undertaken before the commencement of this instrument (7 August 2025).

Subsection 10(1) of Part 2 of the instrument provides for the purposes of subparagraphs 485.212(1)(a)(i) and (ii) of Schedule 2 to the Regulations, the requirements in subsection 10(2) of this instrument are specified and recognised as evidence of the English language proficiency of a person, for a person who:

- makes a valid application for a Subclass 485 (Temporary Graduate) visa in either of the Post-Vocational Education Work stream or the Post-Higher Education Work stream on or after the day this instrument commences (see paragraph 10(1)(a) of this instrument); and
- the visa application made by the visa applicant was accompanied by evidence that (see paragraph 10(1)(b) of this instrument):
 - the visa applicant (see paragraphs 10(1)(b)(i)(A) to (E) of this instrument):
 - has undertaken a **language test** specified in paragraph 10(2)(a) or (b) of this instrument; and
 - has achieved, the **required language test scores** specified in paragraph 10(2)(a) or (b) of the instrument within the relevant specified language test; and
 - the specified required language test score was achieved, within 1 year immediately before the day on which the relevant visa application was made; and
 - before the day on which this instrument commences; and
 - unless the specified language test was an OET, the specified required language test score was achieved in a single sitting.

Subsection 10(2) of Part 2 of the instrument provides that for the purposes of subparagraphs 10(1)(b)(i)(A) and (B) of this instrument, the following language tests and required language test scores are specified (see paragraphs 10(2)(a) and (b) of this instrument):

- in Schedule 3; or
- if the visa applicant is a Hong Kong passport holder or British National (Overseas) passport holder—in Schedule 4.

The terms language test and required language test scores are defined in section 4 of this instrument.

The effect of section 10 of Part 2 of the instrument is that a person will be determined to possess the necessary English language proficiency for the purposes of subparagraphs 485.212(1)(a)(i) and (ii) or 485.212(1)(b) of Schedule 2 to the Regulations, where:

- that person makes a valid application for a Subclass 485 (Temporary Graduate) visa in either of the Post-Vocational Education Work stream or the Post-Higher Education Work stream application on or after 7 August 2025; and
- that applicant has undertaken one of the tests specified in subsection paragraph 10(2)(a) or (b) of this instrument; and
- where that test was undertaken during the period 7 August 2024 and 6 August 2025 (inclusive); and
- that applicant provides the necessary evidence of having achieved the necessary score in the specified test in paragraph 10(2)(a) or (b) of this instrument.

Part 3 - Application provisions

Section 11 – Application of the instrument

This section provides that this instrument applies in relation to a visa application that is made on or after the commencement of this instrument.

The effect of section 11 of Part 3 of the instrument is that a visa applicant will be assessed against the requirements of section 6, 7 and 8, or 9 of this instrument where that application was made on or after 7 August 2025.

Schedule 1 – Specified English Language test scores

This Schedule provides for the specified English language test scores in a table under Schedule 1 to this instrument for the purposes of paragraph 7(a) of this instrument.

Schedule 2 – Required English language test scores for Hong Kong and British National (Overseas) passport holders

This Schedule provides for the Required English language test scores for Hong Kong and British National (Overseas) passport holders in a table under Schedule 2 to this instrument for the purposes of paragraph 7(b) of this instrument.

Schedule 3 – Specified Language test scores

This Schedule provides for the specified language test scores in a table under Schedule 3 this the instrument for the purposes of paragraph 10(2)(a) of this instrument.

Schedule 4 – Required language test scores for Hong Kong and British National (Overseas) passport holders

This Schedule provides for the required language test scores for Hong Kong and British National (Overseas) passport holders in a table under Schedule 4 to this instrument for the purposes of paragraph 10(2)(b) of this instrument.

Schedule 5 – Repeals

Item 1 of Schedule 5 repeals the *Migration (English Language Requirements for Subclass 485 (Temporary Graduate) Visas) Instrument (LIN 24/021)2024*.