



LIN 23/023

**Migration (Specification under clause 485.231—Qualifications) Instrument
(LIN 23/023) 2023**

I, Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs, make this instrument under subclause 485.231(1) of Schedule 2 to the *Migration Regulations 1994* (the *Regulations*).

Dated

21 March 2023

The Hon. Andrew Giles

Minister for Immigration, Citizenship and Multicultural Affairs

1 Name

This instrument is the *Migration (Specification under clause 485.231—Qualifications) Instrument (LIN 23/023) 2023*.

2 Commencement

This instrument commences **on the day after it is registered** on the Federal Register of Legislation.

3 Definitions

In this instrument:

Australian Qualification Framework has the meaning provided in the *Higher Education Support Act 2003*.

4 Specified qualifications

For the purposes of subclause 485.231(1) of Schedule 2 to the Regulations, each of the following **qualifications that are a result of study undertaken at the Australian Qualification Framework level 7 or higher**, is specified:

- (a) bachelor degree;
- (b) bachelor (honours) degree;
- (c) masters by coursework degree;
- (d) masters by research degree;
- (e) masters (extended) degree; or
- (f) doctoral degree.

5 Repeal

Migration Regulations 1994 — Qualifications —IMMI 13/013 (F2013L00528) is repealed.

6 Savings and transitional

Anything done under the *Migration Regulations 1994 — Qualifications —IMMI 13/013 (F2013L00528)* continues to be in effect as if it had been done under this instrument.

EXPLANATORY STATEMENT

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

Migration Regulations 1994

Migration (Specification under clause 485.231 - Qualifications) Instrument (LIN 23/023) 2023

- 1 The instrument, Departmental reference LIN 23/023, is made under subclause 485.231(1) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument repeals *Migration Regulations 1994 –Qualifications – IMMI 13/013* (F2013L00528) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*. 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.
- 3 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 2003* (Legislation Act).

Purpose

- 4 Subclause 485.231(1) of Schedule 2 to the Migration Regulations provides that applicants seeking to satisfy the primary criteria for the grant of a **Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream** must hold a qualification or qualifications of a kind specified by the Minister in an instrument in writing.
- 5 The purpose of the instrument is to specify that applicants must hold one or more of the following **qualifications that are a result of study undertaken at the Australian Qualification Framework level 7 or higher:**
 - **bachelor degree;**
 - **bachelor (honours) degree;**
 - **masters by coursework degree;**
 - **masters by research degree;**
 - **masters (extended) degree;**
 - **doctoral degree.**
- 6 The instrument enhances the quality, integrity and competitiveness of Australia’s international education sector by providing for post-study work arrangements for applicants conferred or awarded a specified degree.

- 7 All applicants must meet the Australian study requirement in the six months immediately prior to making their visa application (see paragraph 485.231(3)(a) of Schedule 2 to the Migration Regulations) and have obtained their qualification at an eligible educational institution (see subclause 485.231(2) of Schedule 2 to the Migration Regulations).
- 8 The instrument maintains the arrangements previously in place under IMMI 13/013, which is due to be repealed by sunseting on 1 April 2023.

Consultation

- 9 Consultation is unnecessary as the instrument is of a machinery nature and does not alter existing arrangements.
- 10 The Office of Impact Analysis (OIA) was consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required.
- The OIA reference number is OBPR23-04317

Details of the instrument

- 11 Section 1 of the instrument sets out its name.
- 12 Section 2 of the instrument provides that the instrument will commence the day after it is registered on the Federal Register of Legislation.
- 13 Section 3 of the instrument sets out definitions, and links the definition of ‘Australian Qualification Framework’ to the definition in the *Higher Education Support Act 2003*.
- 14 Section 4 of the instrument provides that the previously mentioned qualifications (see paragraph 5 above) are specified for the purpose of subclause 485.231(1) of Schedule 2 to the Migration Regulations.
- 15 Section 5 repeals the previous instrument, IMMI 13/013.
- 16 Section 6 is a savings provision which provides that anything done under IMMI 13/013 continues to be in effect as if it had been done under this instrument.

Parliamentary scrutiny etc.

- 17 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because a legislative instrument made under Schedule 2 of the Migration Regulations is prescribed by section 10, item 20(b) of the *Legislation (Exemptions and Other Matters) Regulation 2015* as an instrument that is not subject to disallowance.
- 18 As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
- 19 The instrument was made by the Minister for Immigration, Citizenship and Multicultural Affairs, in accordance with subclause 485.231(1) of Schedule 2 to the Migration Regulations.