



# Migration Amendment (Graduate Visas) Regulations 2024

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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                    20 June                    2024

David Hurley  
Governor-General

By His Excellency's Command

Clare O'Neil  
Minister for Home Affairs

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## 1 Name

This instrument is the *Migration Amendment (Graduate Visas) Regulations 2024*.

## 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 2024.	1 July 2024

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Change of names of certain visa streams and streamlining of visa grant pathways

#### *Migration Regulations 1994*

#### **1 Subparagraph 1229(3)(f)(ii) of Schedule 1**

Repeal the subparagraph.

#### **2 Paragraph 1229(3)(k) of Schedule 1**

Omit “Graduate Work stream”, substitute “Post-Vocational Education Work stream”.

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

Omit “Post-Study Work stream” (first occurring), substitute “Post-Higher Education Work stream”.

#### **4 Subparagraph 1229(3)(la)(i) of Schedule 1**

After “Post-Study Work stream”, insert “or the Post-Higher Education Work stream”.

#### **5 Subparagraph 1229(4)(a)(v) of Schedule 1**

After “Post-Study Work stream” (first occurring), insert “or the Post-Higher Education Work stream”.

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

Omit “subsequent Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream”, substitute “subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream”.

#### **7 Subparagraph 1229(4)(aa)(ii) of Schedule 1**

Repeal the subparagraph, substitute:

- (ii) must not include more than one Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream, or the Post-Higher Education Work stream, granted on the basis of meeting the requirements in clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2;

#### **8 Division 485.2 of Schedule 2 (note to Division heading)**

Omit “Graduate Work stream”, substitute “Post-Vocational Education Work stream”.

#### **9 Division 485.2 of Schedule 2 (note to Division heading)**

Omit “Post-Study Work stream”, substitute “Post-Higher Education Work stream”.

#### **10 Paragraphs 485.211(b) to (d) of Schedule 2**

Repeal the paragraphs, substitute:

- (b) has not previously held a Subclass 485 (Temporary Graduate) visa in the Graduate Work stream or the Post-Vocational Education Work stream on the basis of satisfying the primary criteria for the grant of that visa; and
- (c) has not previously held a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream or the Post-Higher Education Work stream on the

basis of satisfying the primary criteria for the grant of that visa, unless the applicant:

- (i) has nominated the Post-Higher Education Work stream in the application; and
  - (ii) meets the requirements of clause 485.232, 485.233, 485.234 or 485.235; and
- (d) has not previously held the following:
- (i) 3 Subclass 485 (Temporary Graduate) visas in the Post-Study Work stream;
  - (ii) 2 Subclass 485 (Temporary Graduate) visas in the Post-Higher Education Work stream.

**11 Subdivision 485.22 of Schedule 2 (heading)**

Omit “Graduate Work stream”, substitute “Post-Vocational Education Work stream”.

**12 Subdivision 485.22 of Schedule 2 (note to Subdivision heading)**

Omit “Graduate Work stream”, substitute “Post-Vocational Education Work stream”.

**13 Subdivision 485.23 of Schedule 2 (heading)**

Omit “Post-Study Work stream”, substitute “Post-Higher Education Work stream”.

**14 Subdivision 485.23 of Schedule 2 (note to Subdivision heading)**

Omit “Post-Study Work stream”, substitute “Post-Higher Education Work stream”.

**15 Paragraph 485.232(1)(a) of Schedule 2**

After “Post-Study Work stream”, insert “or the Post-Higher Education Work stream”.

**16 Subparagraph 485.232(1)(c)(ii) of Schedule 2**

Omit “area; and”, substitute “area.”.

**17 Paragraph 485.232(1)(d) of Schedule 2**

Repeal the paragraph.

**18 Paragraph 485.233(1)(a) of Schedule 2**

After “Post-Study Work stream”, insert “or the Post-Higher Education Work stream”.

**19 Paragraph 485.233(1)(c) of Schedule 2**

Omit “clauses 485.232 and 485.237 do”, substitute “clause 485.232 does”.

**20 Subparagraph 485.234(1)(c)(ii) of Schedule 2**

Omit “area; and”, substitute “area.”.

**21 Paragraph 485.234(1)(d) of Schedule 2**

Repeal the paragraph.

**22 Paragraph 485.235(1)(c) of Schedule 2**

Omit “clauses 485.234 and 485.237 do”, substitute “clause 485.234 does”.

**23 Clauses 485.236 and 485.237 of Schedule 2**

Repeal the clauses.

**24 Subclause 485.613(1) of Schedule 2**

Omit “Post-Study Work stream on the basis of meeting the requirements in clause 485.232, 485.233, 485.234, 485.235, 485.236 or 485.237”, substitute “Post-Higher Education Work stream on the basis of meeting the requirements in clause 485.232, 485.233, 485.234 or 485.235”.

**25 Subclause 8610(1) of Schedule 8**

Omit “Post-Study Work stream that was granted on the basis that the holder met the requirements of clause 485.232, 485.234 or 485.236”, substitute “Post-Higher Education Work stream that was granted on the basis that the holder met the requirements of clause 485.232 or 485.234 of Schedule 2”.

**26 Subclause 8610(3) of Schedule 8**

Omit “Post-Study Work stream that was granted on the basis that the holder met the requirements of clause 485.233, 485.235 or 485.237”, substitute “Post-Higher Education Work stream that was granted on the basis that the holder met the requirements of clause 485.233 or 485.235 of Schedule 2”.



## **Part 2—Restrictions on access to visa streams based on qualifications**

### ***Migration Regulations 1994***

#### **27 Clause 485.111 of Schedule 2**

Insert:

*associate degree* means an associate degree, under the Australian Qualifications Framework, that is awarded by a body authorised to award associate degrees.

*completed*, in relation to an associate degree, diploma or trade qualification, means having met the academic requirements for its award.

Note: The academic requirements for the award of an associate degree, diploma or trade qualification do not include the formal conferral of the associate degree, diploma or trade qualification. Therefore, a person can complete an associate degree, diploma or trade qualification, for the purposes of this definition, before the award is formally conferred.

#### **28 Clauses 485.221 and 485.222 of Schedule 2**

Repeal the clauses, substitute:

##### **485.221**

The applicant, in the period of 6 months immediately before the day the application was made, completed one or more associate degrees, diplomas or trade qualifications for award by an Australian educational institution as a result of a course or courses:

- (a) that are registered courses; and
- (b) that were completed in a total of at least 16 calendar months; and
- (c) that were completed as a result of a total of at least 2 academic years study; and
- (d) for which all instruction was conducted in English; and
- (e) that the applicant undertook while in Australia as the holder of a visa authorising the applicant to study.

##### **485.222**

Each associate degree, diploma or trade qualification used to satisfy clause 485.221 is closely related to the applicant's nominated skilled occupation.

#### **29 Subclause 485.231(1) of Schedule 2**

Omit “qualification or qualifications”, substitute “degree or degrees”.

#### **30 Subclause 485.231(2) of Schedule 2**

Omit “qualification”, substitute “degree”.

#### **31 Subclause 485.231(3) of Schedule 2**

Repeal the subclause, substitute:

**Schedule 1** Amendments

**Part 2** Restrictions on access to visa streams based on qualifications

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- (3) The applicant's study for the degree or degrees satisfied the Australian study requirement in the period of 6 months immediately before the day the application was made.

## **Part 3—Repeal of pathway to apply for Subclass 485 visa free of charge**

### ***Migration Regulations 1994***

#### **32 Subparagraph 1229(2)(a)(ia) of Schedule 1**

Repeal the subparagraph.

#### **33 Sub-subparagraph 1229(2)(a)(i)(A) of Schedule 1**

Repeal the sub-subparagraph, substitute:

- (A) who holds a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream, the Post-Higher Education Work stream or the Replacement stream, and is applying for a subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream; or

#### **34 Subitems 1229(2A) and (2B) of Schedule 1**

Repeal the subitems.

#### **35 Paragraph 485.212(2)(a) of Schedule 2**

Repeal the paragraph.

#### **36 Subclause 485.212(2) of Schedule 2 (note)**

Repeal the note.

#### **37 Subclause 485.213(2) of Schedule 2**

Repeal the subclause (including the note), substitute:

- (2) Subclause (1) does not apply to an applicant who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235.

#### **38 Subclause 485.231(1A) of Schedule 2**

Repeal the subclause (including the note), substitute:

- (1A) This clause does not apply to an applicant who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235.

## Part 4—Other amendments

### *Migration Regulations 1994*

#### **39 Before paragraph 1228(3)(a) of Schedule 1**

Insert:

- (aa) An application must be made before 1 July 2024.

#### **40 Paragraph 1229(3)(ka) of Schedule 1**

Repeal the paragraph.

#### **41 Paragraph 1229(3)(l) of Schedule 1**

Repeal the paragraph, substitute:

- (l) An applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream must hold, or have held, a Student Temporary (Class TU) visa.

#### **42 Paragraph 1229(4)(b) of Schedule 1**

Repeal the paragraph, substitute:

- (b) the applicant seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa must be:
  - (i) if the applicant holds a Hong Kong passport or a British National (Overseas) passport, or has completed a masters degree (research) or a doctoral degree—less than 50 years old; or
  - (ii) otherwise—35 years old or younger.

#### **43 Subitem 1229(11) of Schedule 1**

Insert:

*completed*, in relation to a masters degree (research) or a doctoral degree, means having met the academic requirements for its award.

Note: The academic requirements for the award of a masters degree (research) or a doctoral degree do not include the formal conferral of the degree. Therefore, a person can complete such a degree, for the purposes of this definition, before the award is formally conferred.

#### **44 Paragraph 1229(5)(a) of Schedule 1**

Omit “January 2027”, substitute “July 2024”.

#### **45 Subclause 485.223(1) of Schedule 2**

Omit “(1)”.

#### **46 Subclauses 485.223(2) and 485.224(3) of Schedule 2**

Repeal the subclauses.

## **Part 5—Application and transitional provisions**

### *Migration Regulations 1994*

#### **47 In the appropriate position in Schedule 13**

Insert:

## **Part 134—Amendments made by the Migration Amendment (Graduate Visas) Regulations 2024**

### **13401 Operation of amendments**

- (1) The amendments of Schedule 2 to these Regulations made by Schedule 1 to the *Migration Amendment (Graduate Visas) Regulations 2024* (the **amending Schedule**) apply in relation to an application for a visa made on or after the commencement of the amending Schedule.
- (2) The amendments of Schedule 8 to these Regulations made by the amending Schedule apply in relation to a visa granted on or after that commencement if the application for the visa was made on or after that commencement.

## EXPLANATORY STATEMENT

Issued by the Minister for Home Affairs

*Migration Act 1958*

*Migration Amendment (Graduate Visas) Regulations 2024*

The *Migration Act 1958* (the Migration Act) is an Act relating to the entry into, and presence in, Australia of aliens, and the departure or deportation from Australia of aliens and certain other persons.

Subsection 504(1) of the Migration Act provides that the Governor-General may make regulations, not inconsistent with the Migration Act, prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

The *Migration Amendment (Graduate Visas) Regulations 2024* (the amending Regulations) amend the *Migration Regulations 1994* (the Migration Regulations) to simplify the Temporary Graduate visa program as outlined in the Migration Strategy released 11 December 2023 and combined with other policy measures, will help return migration to near pre-pandemic levels by next financial year. Specifically, this involves changes to the Subclass 485 (Temporary Graduate) visa, including the streams, and the closure of the Subclass 476 (Skilled-Recognised Graduate) visa.

### Changes to the Subclass 485 (Temporary Graduate) visa streams

#### *The Subclass 485 (Temporary Graduate) visa in the Post-Vocational Education Work Stream*

The Subclass 485 (Temporary Graduate) visa in the Graduate Work stream is renamed the Post-Vocational Education Work Stream.

To be eligible for the Post-Vocational Education Work stream, an eligible applicant must hold an ‘associate degree’, ‘diploma’ or ‘trade qualification’.

That qualification must also continue to be related to that applicant’s nominated occupation.

The restrictions that were in place for applicants whose first student visa was granted because of an application made before 5 November 2011 has been removed.

Where an applicant has graduated with a degree or higher qualification, they may be eligible to apply for a Temporary Graduate visa in the Post-Higher Education Work stream.

On or after 1 July 2024, eligible applicants are only able to hold one Post-Vocational Education Work stream visa, just as they could previously hold one Graduate Work stream visa.

### *The Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream*

The Subclass 485 (Temporary Graduate) (the Temporary Graduate visa) visa in the Post-Study Work stream is renamed the Post-Higher Education Work stream.

Applications for the Temporary Graduate visa in the Post-Study Work stream (the Post-Study Work stream) two year no visa application charge (VAC) visa extension (the 'nil' VAC visa extension), which requires an eligible applicant to hold a select degree, is closed and ceases to be available to all applicants (primary applicants and their family member(s)) from 1 July 2024.

From 1 July 2024, eligible Post-Higher Education Work stream visa holders (the first visa) are only able to apply for a second visa in that stream. Additionally, initial Temporary Graduate visa holders in the Post-Study Work stream are able to transition to the Post-Higher Education Work stream, from that date.

### *Eligible age requirements for initial Subclass 485 (Temporary Graduate) visa applications*

The maximum eligible age for the Subclass 485 (Temporary Graduate) visa in the Post Vocational Education Work stream or the Post-Higher Education Work stream is reduced to 35 years of age and under at the time of application. Hong Kong and British National Overseas passport holders, and Masters (research) and Doctoral degree (PhD) graduates are eligible if they are under 50 years of age.

### *Closure of the Subclass 485 (Temporary Graduate) visa in the Replacement Stream*

The Subclass 485 (Temporary Graduate) visa in the Replacement stream (the Replacement stream) is closed to all applicants from 1 July 2024.

### *Application of amendments*

The amendments made by the amending Regulations do not apply to an application for a Subclass 485 (Temporary Graduate) visa validly made and not finally determined on or before 30 June 2024.

### *Transitional Subclass 485 (Temporary Graduate) visa pathways*

The following transitional visa pathways are available to existing Subclass 485 (Temporary Graduate) visa holders, where an eligible application (which includes the primary applicant and any family member(s)) for the subsequent (third or fourth visa) is made on or after 1 July 2024:

- applicants moving from a Subclass 485 (Temporary Graduate) visa in the Replacement stream, or from a Post-Study Work stream with a 'nil' VAC visa extension attached, can apply to move to a subsequent (i.e. third or fourth) visa in the Post-Higher Education Work stream based on study and residence in a regional centre or other regional area, or a designated regional area.

## Closure of the Subclass 476 (Skilled-Recognised Graduate) visa

The Subclass 476 (Skilled-Recognised Graduate) visa is closed to all applicants (primary applicants and their family member(s)) from 1 July 2024.

The Migration Act specifies no conditions that need to be satisfied before the power to make the regulations may be exercised.

The matters dealt with in the amending Regulations are appropriate for implementation in regulations rather than Parliamentary enactment. It has been the consistent practice of the Government of the day to provide for detailed visa criteria and conditions in the Migration Regulations rather than the Migration Act itself. The Migration Act expressly provides for these matters to be prescribed in regulations, as can be seen in the authorising provisions in [Attachment A](#). These include, for example, subsection 31(3), which provides that the Migration Regulations may prescribe criteria for a visa or visas of a specified class.

The current Migration Regulations have been in place since 1994, when they replaced regulations made in 1989 and 1993. Providing for these details to be in delegated legislation rather than primary legislation gives the Government the ability to effectively manage the operation of Australia's visa program and respond quickly to emerging needs.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny Act) 2011*. The overall assessment is that the Migration Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Statement is at [Attachment B](#).

The Office of Impact Analysis (OIA) has been consulted in relation to the amendments. No Impact Analysis is required. The OIA consultation reference number is OIA23-05963.

Consultation has been undertaken with relevant government agencies and peak body representatives. Consultation was undertaken on post study work arrangements with a wide variety of groups through the Migration Review. This review found that generous Temporary Graduate visa arrangements were one of the key drivers of visa applicants becoming 'permanently temporary' and longer periods of stay in Australia did not usually result in better labour market outcomes. Consultation was also undertaken through the Council for International Education that includes relevant Commonwealth Ministers and expert members from Universities, Vocational Education and Training providers, peak bodies and State and Territory Governments. Members provided input on issues and possible policy solutions in relation to post study work rights.

The Department has also consulted with external Commonwealth agencies, including the Department of Prime Minister and Cabinet, the Department of Finance, the Treasury, the Department of Foreign Affairs and Trade, the Department of Education, the Department of Employment and Workplace Relations and regulators, the Tertiary Education Qualification and Standards Agency and the Australian Skills Quality Authority.

The Department engaged key international education sector stakeholders, including non-government peak bodies, states and territories, business representatives and unions, and other Australian Government agencies through the Education Visa Consultative Committee



to discuss the proposed changes to graduate work right arrangements. Discussions were held on 8 June 2023, 14 September 2023, 13 December 2023 and 8 May 2024. At these meetings the Department advised members of the proposed changes to the Temporary Graduate visa, including policy updates, implementation processes and timeframes.

This consultation was conducted in relation to the amending Regulations measures. This accords with the consultation requirements of the *Legislation Act 2003* (the Legislation Act).

The amendments commence on 1 July 2024.

Further details of the amending Regulations are set out in Attachment C.

The amending Regulations amend the Migration Regulations, which are exempt from sunseting under table item 38A of section 12 of the *Legislation (Exemptions and other Matters) Regulations 2015*. The Migration Regulations are exempt from sunseting on the basis that the repeal and remaking of the Migration Regulations:

- is necessary as the Migration Regulations are regularly amended numerous times each year to update policy settings for immigration programs;
- would require complex and difficult to administer transitional provisions to ensure, amongst other things, the position of the many people who hold Australian visas, and similarly, there would likely be a significant impact on undecided visa and sponsorship applications; and
- would demand complicated and costly systems, training and operational changes that would impose significant strain on Government resources and the Australian public for insignificant gain, while not advancing the aims of Legislation Act.

The Migration Regulations are a legislative instrument for the purposes of the Legislation Act.

**AUTHORISING PROVISIONS**

Subsection 504(1) of the *Migration Act 1958* (the Migration Act) relevantly provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Migration Act.

In addition, the following provisions of the Migration Act may also be relevant:

- subsection 31(1), which provides that the Migration Regulations may prescribe classes of visas;
- subsection 31(3), which provides that the Migration Regulations may prescribe criteria for a visa or visas of a specified class;
- subsection 31(4), which provides that the Migration Regulations may prescribe whether visas of a class are visas to travel to and enter Australia, or to remain in Australia, or both;
- subsection 31(5), which provides that the Migration Regulations may specify that a visa is a visa of a particular class;
- section 40, which provides that the Migration Regulations may provide that visas or visas of a specified class may only be granted in specified circumstances;
- subsection 41(1) which provides that the Migration Regulations may provide that visas, or visas of a specified class, are subject to specified conditions;
- subsection 45(1), which provides that subject to the Migration Act and the Migration Regulations, a non-citizen who wants a visa must apply for a visa of a particular class;
- section 45A, which provides that a non-citizen who makes an application for a visa is liable to pay a visa application charge if, assuming the charge were paid, the application would be a valid visa application;
- subsection 45B(1), which provides that the amount of visa application charge is the amount, not exceeding the visa application charge limit, prescribed in relation to the application (the visa application charge limit is determined under the *Migration (Visa Application) Charge Act 1997*);
- subsection 45B(2), which provides that the amount prescribed in relation to an application may be nil;
- paragraph 46(1)(b), which provides that the Migration Regulations may prescribe the criteria and requirements for making a valid application for a visa;
- subsection 46(3), which provides that the Migration Regulations may prescribe criteria that must be satisfied for an application for a visa of a specified class to be a valid application;
- subsection 46(4), which provides that, without limiting subsection 46(3), the Migration Regulations may prescribe:
  - (a) the circumstances that must exist for an application for a visa of a specified class to be a valid application; and
  - (b) how an application for a visa of a specified class must be made; and
  - (c) where an application for a visa of a specified class must be made; and
  - (d) where an applicant must be when an application for a visa of a specified class is made;
- subsection 504(2) of the Migration Act, which provides that section 14 of the Legislation Act does not prevent regulations whose operation depends on a country or

other matter being specified or certified by the Minister in an instrument in writing made under the regulations after the commencement of the regulations.

## **Statement of Compatibility with Human Rights**

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

### ***Migration Amendment (Graduate Visas) Regulations 2024***

This Disallowable 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 Disallowable Legislative Instrument**

Australia provides international students with an opportunity to gain temporary access to the Australian labour market, and obtain practical work experience to accompany their qualification, without the need to have a sponsoring employer. Although there is no requirement to work in specific areas or sectors linked to their qualification, graduates are able to work in their field of study with a view of progressing to permanent residence if eligible.

The Subclass 485 (Temporary Graduate) visa (Subclass 485 visa) provides international students who recently graduated with qualifications from an Australian institution the opportunity to live and work in Australia temporarily following the completion of their studies. The Subclass 476 (Skilled-Recognised Graduate) visa (Subclass 476 visa) provided recent engineering graduates from approved overseas institutions to live, work or study in Australia for up to 18 months.

The Migration Strategy released on 11 December 2023, building on the findings of the ‘Review of the Migration System’ report, led by Dr Martin Parkinson AC, PSM (the Migration Review) and the ‘Rapid Review into the Exploitation of Australia’s Visa System’ (the Nixon Review). The Migration Strategy announced a suite of broader structural reforms to ensure Australia’s most highly skilled international graduates drive long term prosperity by transitioning to permanent visas as soon as possible. Key objectives of the Migration Strategy reforms are to build stronger communities and reduce migrant worker exploitation by reducing the number of migrants who are ‘permanently temporary’.

The *Migration Amendment (Graduate Visas) Regulations 2024* (the Amending Regulations) amend the *Migration Regulations 1994* (the Migration Regulations) to give effect to the Australian Government’s intention to:

- implement the policy commitments of the Migration Strategy to simplify the Temporary Graduate visa program; and
- combined with other policy measures, help return migration to near pre-pandemic levels by next financial year as outlined in the Migration Strategy.

Specifically, the amendments involve a range of changes to the Subclass 485 visa and the closure of the Subclass 476 visa. These amendments are described in more detail below.

## ***Subclass 485 (Temporary Graduate) visa***

### ***Previous settings***

Prior to the amendments being made by the Amending Regulations, the Subclass 485 visa had two main streams:

- The Graduate Work stream (GWS) for international students who have recently graduated with a degree, diploma or trade qualification from an Australian institution, that is relevant to occupations with skills shortages that are listed on the Medium and Long-term Strategic Skills List (MLTSSL) in Australia. GWS visa holders could live, study and work in Australia temporarily up to 18 months.
- The Post-Study Work stream (PSW) for international students who have recently graduated with a degree from an Australian institution. PSW visa holders could live, study and work in Australia temporarily for varying periods, set out in policy, depending on the degree obtained.

Applicants for both streams had to meet a range of other visa application requirements including being under 50 years of age, being in Australia, holding or having recently held a Student visa, and meeting the 'Australian study requirement', including having completed a Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registered course from an Australian institution six months before the day of application.

Members of the family unit of the Subclass 485 visa applicant or Subclass 485 visa holder (the 'primary applicant') can also apply for a Subclass 485 visa as 'secondary applicants' and do not themselves have to meet most of the visa criteria that the primary applicant has to meet.

Normally visa applicants could not have previously been granted more than one Subclass 485 visa as a primary visa holder, however a range of arrangements had been put in place that allowed a person to apply for subsequent Subclass 485 visas as follows.

There was an option of a second PSW visa implemented in 2020 for applicants studying, living and working in regional areas (PSW Regional visa). The PSW Regional visa provided a two year stay period for applicants who have studied and resided in more remote areas (regional centre or other regional area), or a one year stay period for applicants who have studied and resided in all other designated regional areas (all areas outside of Sydney, Melbourne and Brisbane).

In response to the disruption created by COVID-19, a new Replacement stream was created to allow the grant of a replacement visa (of the same duration as the original visa) for Subclass 485 visa holders who lost any time on their original visa due to COVID-19.

This opened up the possibility that up to three PSW visas could be held successively:

- First PSW visa followed by PSW Regional visa followed by Replacement visa; or
- First PSW visa followed by Replacement visa followed by PSW Regional visa.

Further, eligible applicants, who held a qualification specified by the Minister in a legislative instrument, were provided an extension of post study work rights through an additional two year stay in Australia on a subsequent Subclass 485 visa (PSWR extension). Applicants could receive this benefit through their first PSW, PSW Regional or Replacement stream application at no extra cost. The extended stay period was an outcome of the September 2022 Jobs and Skills Summit to address skills shortages facing the labour market at that time, as

announced in the Post-Study Work Rights Working Group report to the Ministers for Education and Home Affairs.

### The amendments

The amendments made by the Amending Regulations make the following changes to the Subclass 485 visa:

- reduce the maximum eligible age from less than 50 to 35 years old or younger, while maintaining existing arrangements for Hong Kong and British National (Overseas) passport holders as well as Masters (research) and Doctoral degree (PhD) graduates;
- cease the Replacement stream and rename remaining streams;
- wind back the extension to post-study work rights that had been available to specified qualification holders.

The amendments are being made for the reasons below.

The Government, through the Migration Strategy, committed to ‘strengthen and simplify’ the Subclass 485 visa. To support this objective, the amendments made by the Amending Regulations reduce the eligible age for a primary applicant for a Subclass 485 visa (in all streams) from under 50 years of age to 35 years of age or under, subject to some exceptions. The eligibility age for many permanent skilled visas is 45 so some older graduates are left ‘permanently temporary’ as they are unable to progress to permanent residency under the Skilled Migration Program. When considering data from the 2019-20 program year to end of April 2024, the total number of visas granted to primary applicants was 317,270. Of these, only 16,167 (or 5 per cent) were granted to primary applicants aged over 35 years of age. Reducing the maximum eligible age for primary applicants to 35 years or under will reposition the Subclass 485 visa as a product for early career professionals who can contribute to the Australian economy over a longer period and reduce the number of visa holders from being ‘permanently temporary’. This reduction of the eligible age limit for a Subclass 485 visa will not apply to Hong Kong and British National Overseas passport holders or to Masters (research) and Doctoral degree (PhD) graduates.

The Migration Review found that former students are among the largest cohort of ‘permanently temporary’ migrants. The extra time on a graduate visa does not improve graduates’ career outcomes and many are working in low skilled jobs, not gaining the skilled work experience necessary to become eligible for a skilled permanent visa.

In line with the recommendations in the Post-Study Work Rights Working Group report, the Migration Review evaluated the effectiveness of extended stay periods and found that they did not assist applicants to secure skilled employment in the longer term. With effect from 1 July 2024, the amendments cease the PSWR extension that provided an additional two year stay in Australia for specified qualification holders.

From 1 July 2024, only applicants who were granted their first Subclass 485 visa (in either the Post-Study Work stream or the Post-Higher Education Work stream, which is replacing the Post-Study Work stream, from that date) based on living and studying in a regional area are eligible for a second Post-Higher Education Work visa (also known as the Regional visa). This may include those who transitioned from a first Post-Study Work stream visa to a Replacement stream and/or a PSWR extension prior to 1 July 2024.

As noted above, the Replacement stream was established to assist those visa holders who had lost time in Australia due to the disruption created by COVID-19. As borders have reopened, temporary and permanent migrants have returned to Australia, leading to a temporary

rebound in the number of people arriving and fewer departures from Australia. As a result, this stream no longer aligns with policy priorities. As announced in the Migration Strategy, the amendments made by the Amending Regulations close this stream to new applicants with effect from 1 July 2024.

The names and eligibility criteria of the Post-Study Work and Graduate Work streams of the Subclass 485 visa are confusing for applicants, with many applying for the wrong stream. As recommended in the Migration Strategy, to better clarify the purpose of the streams, the amendments made by the Amending Regulations re-name these streams as 'Post-Higher Education Work' (PHEW) and 'Post-Vocational Education Work' (PVEW) streams, respectively.

The change also restricts the new PVEW stream to Vocational Education and Training Sector graduates only, with applicants who hold a higher education degree eligible to apply for the PHEW stream. To achieve this objective, PVEW stream applicants must now hold an 'associate degree, diploma or trade qualification' as defined in the regulations. Applicants continue to have to satisfy the Australian study requirement and ensure their qualification is closely related to their nominated skilled occupation.

While PHEW stream applicants will continue to have to have held a Student visa, the Amending Regulations remove a previous requirement for Post-Study Work stream applicants to have held that visa on or after 5 November 2011 and that it be the first student visa held. This change will ensure that applicants with a bachelor or above qualification, whose first student visa was granted before 5 November 2011, are eligible to apply for the PHEW stream.

All of the above amendments take effect from 1 July 2024, and apply to new applications made on or after that date. They do not affect on-hand applications or the visas of current visa holders however would affect some existing visa holders if they wish to apply for a Subclass 485 visa, for example current Student visa holders who wish to apply for a Subclass 485 visa or current Subclass 485 visa holders who wish to apply for a subsequent Subclass 485 visa.

### ***Subclass 476 (Skilled-Recognised Graduate) visa***

The Migration Strategy included commitments to strengthen the integrity and quality of international education, including abolishing unnecessary visas to simplify the visa system.

As a part of the Migration Strategy, the Subclass 476 visa was identified as no longer aligning with policy priorities. Applicants for this visa usually apply from outside Australia and it is not the only migration pathway available for overseas-trained engineers. Abolishing this visa will simplify the visa system and contribute to reducing migration levels.

The Amending Regulations therefore close the Subclass 476 visa to new applications with effect from 1 July 2024. The visas of existing Subclass 476 visa holders are not affected by this change.

There are no on-hand applications for the Subclass 476 visa as a result of the capping and ceasing of Subclass 476 visa applications for the 2023-24 financial year made by a legislative instrument (LIN 23/089), which commenced on 22 December 2023, under section 85 of the *Migration Act 1958*, for the purposes of section 39 of that Act and paragraph 476.226(a) of Schedule 2 to the Migration Regulations. The maximum number of Subclass 476 visa grants was reached in January 2024, and all undecided Subclass 476 visa applications lodged before the cap was reached are taken not to have been made, and any new Subclass 476 visa applications lodged after the cap was reached were also taken not to have been made. Affected visa applicants were able to apply for a repayment of the visa application charge.

## **Human rights implications**

This Disallowable Legislative Instrument engages the following rights:

- the rights of equality and non-discrimination contained in Article 26 of the *International Covenant on Civil and Political Rights* (ICCPR) and Article 2(2) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).
- the right to work and the right to education in Articles 6(1) and 13(1) of the ICESCR.
- rights relating to families and children, in particular those in Articles 17 and 23 of the ICCPR and Article 10 of the *Convention on the Rights of the Child* (CRC).

### *Rights of equality and non-discrimination*

The amending Regulations engage the rights of equality and non-discrimination contained in Article 26 of the ICCPR and Article 2(2) of the ICESCR.

Article 26 of the ICCPR provides that:

*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.*

Article 2(2) of the ICESCR provides that:

*The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

In its General Comment 18, the UN Human Rights Committee (UNHRC) 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 [ICCPR].*

Similarly, in its General Comment on Article 2 of the ICESCR, the UN Committee on Economic, Social and Cultural Rights 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 [ICESCR] 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 ICCPR nor the ICESCR give a right for non-citizens to enter Australia. The UNHRC, 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 and stay of non-citizens in Australia, and does so on the basis of reasonable and objective criteria. The ability for a temporary visa holder to remain in Australia beyond the duration of their current visa depends on their ability to meet eligibility requirements for the grant of a further visa. It is open to the Government to change visa settings for new applicants to meet its policy priorities for a well-managed migration program, consistently with its international obligations, that is intended to benefit the Australian community as a whole.

The reduction in eligibility age for Subclass 485 visa applicants from 50 to 35 years made by the amendments supports the Migration Strategy intent to reposition the visa so that it supports early career professionals to develop the relevant work history they will need to progress to a skilled visa or use their education and skills in the global jobs market. The changes signal that early career professionals with better prospects of becoming skilled migrants are the target demographic for this visa.

With the previous maximum eligible age for a Subclass 485 visa of under 50 years of age many older graduates are left 'permanently temporary' as they cannot access skilled permanent residence pathways which generally have a maximum eligibility age for applicants of 45 years. By repositioning the visa as a product for early career professionals, this helps the graduates working in skilled jobs stay permanently, while reducing the number of graduates that are left in limbo and stay, sometimes working in lower-skilled jobs, despite having fewer prospects of permanent residence.

Graduates who have relevant work histories but are no longer eligible for the Subclass 485 visa due to the change in eligibility age remain eligible for other visas which may provide them with the ability to work or undertake further study in Australia. Historical data obtained around the visa pathways for holders of Student visas aged over 35 years old, indicates a good proportion of these visa holders currently pursue alternate pathways to a Subclass 485 visa to remain in Australia. These pathways include points tested visa applications in the Subclass 189 (Skilled Independent) visa, Subclass 190 (Skilled Nominated) visa and Subclass 491 (Skilled Work Regional (Provisional)) visa. When considering the impact of the points allocated for Australian work experience in these points-tested visa applications, data shows these applicants are already pursuing options other than the Subclass 485 visa, removing the need for the additional work experience points the Subclass 485 visa could provide. This indicates that the impact of the change to the age eligibility for the Subclass 485 visa may be low and applicants up to 45 years old will continue to be able to access permanent visa pathways. Graduates aged 45-50 can apply for a skilled temporary visa if they wish to work in Australia, subject to them finding an approved sponsor, and meeting relevant nomination and visa requirements.

The age reduction will not apply to Hong Kong and British National Overseas (BNO) passport holders. This Australian Government decision is a continuation of existing commitments announced on 9 July 2020. These commitments were designed to address the public, social and international concern of the imposition in Hong Kong of the National

Security law, whilst maximising the benefits of skilled entrants to the Australian economy by attracting highly skilled Hong Kong passport holders who are looking to leave Hong Kong following the imposition of the National Security Law. The Statement of Compatibility with Human Rights accompanying the *Migration Amendment (Hong Kong Passport Holders) Regulations 2020* and *Migration Legislation Amendment (Hong Kong) Regulations 2021* provide further information.

The age reduction will also not apply to the postgraduate sector (PhD and Masters by research) graduates. This recognises that these graduates are likely to contribute to Australia's research and innovation capabilities and grow the skills and expertise of the Australian workforce. The amendments that reduce the age eligibility for Subclass 485 visa applicants are therefore reasonable, necessary and proportionate to the legitimate aims of maintaining a temporary migration program that benefits the Australian community as whole, and supports international student graduates to use their qualifications to pursue relevant work experience placements and realistic pathways to permanent residence in Australia or join the global workforce.

### Right to work

These amendments also engage the rights to work and to study contained in Article 6(1) and Article 13(1) of the ICESCR.

Article 6(1) of the ICESCR provides that:

*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.*

Article 13(1) of the ICESCR provides that:

*The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*

Existing visa holders are able to continue working and studying on their existing visa. However, the amendments made by the Amendment Regulations implement a number of measures that will result in some non-citizens who are in Australia, who may have been eligible for a Subclass 485 or 476 visa, or the PSWR extension, had they applied prior to the commencement of these amendments, no longer being eligible. This may affect their ability to continue working or studying in Australia.

As noted above, the ability for a temporary visa holder to remain in Australia beyond the duration of their current visa depends on their ability to meet eligibility requirements for the grant of a further visa. It is open to the Government to change visa settings for new applicants to meet its policy priorities for a well-managed migration program, consistently with its international obligations, that is intended to benefit the Australian community as a whole.

The reduction in eligibility age from 50 to 35 years or younger for non-citizens applying for a Subclass 485 visa from 1 July 2024, subject to some exceptions as explained above, supports the Migration Strategy intent to reposition the visa so that it supports early career professionals to develop the relevant work history they will need to progress to a skilled visa or use their education and skills in the global jobs market.

The abolishment of the Replacement stream and the cessation of the PSWR two-year extension for eligible applicants address changes in temporary migration patterns and workforce needs following the COVID-19 pandemic and are also supported by the Migration Review, which found that extra time on a graduate visa does not improve graduates' employment outcomes. Graduates with the ability to contribute to the skilled labour market are likely to be employed soon after graduating and able to move on to different types of skilled temporary or permanent visas without these additional opportunities on a Subclass 485 visa.

Graduates who have relevant work histories but are no longer eligible for a Subclass 485 visa due to the change in eligibility age or abolishment of the Replacement stream and the cessation of the PSWR two-year extension remain eligible for other visas which may provide them with the ability to work or undertake further study in Australia. This aligns with the Migration Strategy priorities to simplify the Subclass 485 visa.

Similarly, the Subclass 476 visa is being closed because having a specialised visa for overseas-trained engineering graduates no longer aligns with Government priorities. However, this does not preclude persons who had been intending to apply for this visa from pursuing other visa options that would allow them to work or study in Australia. Although primary applicants and their family members could apply for the Subclass 476 visa inside or outside Australia, in most cases they must be outside of Australia to be granted the visa, as the Subclass 476 visa was intended primarily as an 'offshore' visa, that is, a visa for persons outside Australia seeking to come to Australia. Overseas-trained and qualified engineers have alternative and preferred pathways to work in Australia.

As such, while some non-citizens who had been intending to apply for a Subclass 485 or 476 visa, or the PSWR extension, are no longer be eligible to do so, this does not limit their ability to pursue other visa options to enter or remain in Australia for work or study purposes and the amendments do not unduly limit these rights.

#### Rights relating to families and children

The Subclass 476 visa allowed members of a primary applicant's family unit to apply for, and be granted, the Subclass 476 visa at the same time as the primary applicant. In some cases this did not happen, for example if the family unit members intended to join the primary applicant in Australia later or where the family unit formed after the grant of the visa to the primary applicant – in such cases the family unit members could apply as 'subsequent entrant' applicants. The closure of the Subclass 476 visa may engage rights relating to families and children because some Subclass 476 visa holders who are currently in Australia may have members of their family unit either in or outside Australia who did not apply for the visa at the same time as the primary applicant did and who are no longer able to apply for this visa to either join or remain with the primary Subclass 476 visa holder in Australia.

Babies born in Australia to a Subclass 476 visa holder are not affected by this closure as they are granted a Subclass 476 visa by operation of law, if they do not acquire Australian citizenship through the other parent being an Australian citizen or permanent resident. For other family members, there may be range of options for the family to reunite or to maintain family unity in Australia, including other visas for those family members to enter or remain

in Australia or through the Subclass 476 visa holder being able to travel back to visit or re-join their family.

As the Subclass 476 visa cap was reached in January 2024, no further Subclass 476 visas have been granted to primary applicants since then.

As such, because of other options available to affected families, and that Subclass 476 visa holders are able to remain in Australia on that visa for only a relatively short period of time (18 months from first entry), the closure of the Subclass 476 visa does not unduly limit rights relating to families and children.

### **Conclusion**

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

**The Hon Clare O'Neil MP**  
**Minister for Home Affairs**

**Details of the *Migration Amendment (Graduate Visas) Regulations 2024***

**Section 1 Name**

This section provides that the title of the Regulations is the *Migration Amendment (Graduate Visas) Regulations 2024* (the **amending Regulations**).

**Section 2 – Commencement**

This section provides for the commencement of the amending Regulations on 1 July 2024.

**Section 3 – Authority**

This section provides that the instrument is made under the *Migration Act 1958* (the Migration Act).

**Section 4 – Schedules**

This section provides for how the amendments in the amending Regulations operates.

**Schedule 1 – Amendments**

**Part 1 – Change of names of certain visa streams and streamlining of visa grant pathways**

***Migration Regulations 1994***

**Item [1] – Subparagraph 1229(3)(f)(ii) of Schedule 1**

This item repeals subparagraph 1229(3)(f)(ii) of Schedule 1 to the *Migration Regulations 1994* (the Migration Regulations).

Paragraph 1229(3)(g) of Schedule 1 to the Migration Regulations provides that an applicant who is not covered by paragraph 1229(3)(f) of Schedule 1 must be in Australia, but not in immigration clearance, when making their application. Paragraph 1229(3)(f) of Schedule 1 sets out a number of exceptions to this rule.

Previously, subparagraph 1229(3)(f)(ii) of Schedule 1 to the Migration Regulations provided for an eligible applicant and any family member(s), who were making a combined application, to be in or outside of Australia, but not in immigration clearance, when they made an application for a second Subclass 485 (Temporary Graduate) visa (the Temporary Graduate visa) in the Post-Study Work stream. That application had to have been made on or after 20 January 2021, during a ‘concession period’ (as defined by regulation 1.03), which ended on 25 November 2023 (in accordance with a legislative instrument made by the Minister under subregulation 1.15N(2)).

The effect of the amendment made by item 1 to that provision is to give effect to the closure on 25 November 2023, of that exception to eligible visa applicants generally being required to be in Australia at the time of the visa application being made.

Subparagraph 1229(3)(f)(iii) of Schedule 1 to the Migration Regulations no longer applies due to the amendments of items 1 and 44 to the Amending Regulations and the closure of the Temporary Graduate visa in the Replacement stream to all applications from 1 July 2024.

### **Item [2] – Paragraph 1229(3)(k) of Schedule 1**

This item amends paragraph 1229(3)(k) of Schedule 1 to the Migration Regulations by omitting ‘Graduate Work stream’ and substituting those words with ‘Post-Vocational Education Work stream’.

The effect of the amendment made by item 2 is that any eligible applicants seeking to satisfy the primary criteria for the grant of a Temporary Graduate visa in the Post-Vocational Education Work stream must nominate a skilled occupation for that application that is specified by the Minister in an instrument in writing for paragraph 1229(3)(k) of Schedule 1 to the Migration Regulations.

This item complements amendments made by items 8, 10 - 12, 27 and 28 of the Amending Regulations to give effect to the policy intent to streamline and simplify the Temporary Graduate visas. Those items’ amendments are specific to the Post-Vocational Education Work stream.

### **Item [3] – Paragraph 1229(3)(la) of Schedule 1**

#### **Item [4] – Subparagraph 1229(3)(la)(i) of Schedule 1**

Item 3 amends paragraph 1229(3)(la) of Schedule 1 to the Migration Regulations by omitting the first use of ‘Post-Study Work stream’ and substituting those words with ‘Post-Higher Education Work stream’.

Item 4 amends subparagraph 1229(3)(la)(i) of Schedule 1 to the Migration Regulations by inserting ‘or the Post-Higher Education Work stream’ after ‘Post-Study Work stream’.

The effect of the amendments made by items 3 and 4 is that in order to satisfy the requirements of subparagraph 1229(3)(la) of Schedule 1 to the Migration Regulations, an eligible applicant seeking to satisfy the primary criteria for the grant of a subsequent Temporary Graduate visa in the Post-Higher Education Work stream, at the time that application is made, must have held a Temporary Graduate visa in the Post-Study Work stream or the Post-Higher Education Work stream.

Subparagraph 1229(3)(la)(ii) of Schedule 1 to the Migration Regulations no longer has any operative effect in relation to an application made on or after 1 July 2024, due to the closure of the Temporary Graduate visa in the Replacement stream to all applications, from that date (see item 44 to the amending Regulations).

Eligible applicants for the subsequent Temporary Graduate visa in the Post-Higher Education Work stream are required to hold an initial visa in that stream or the Post-Study

Work stream (and satisfy that visa's primary criteria) in order to meet the requirements of subparagraph 1229(3)(1a)(i) of Schedule 1 to the Migration Regulations.

#### **Item [5]- Subparagraph 1229(4)(a)(v) of Schedule 1**

#### **Item [6] – Subparagraphs 1229(4)(a)(v) and (vi) of Schedule 1**

Item 5 amends subparagraph 1229(4)(a)(v) of Schedule 1 to the Migration Regulations by inserting 'or the Post-Higher Education Work stream' after the first occurrence of 'Post-Study Work stream'.

Item 6 amends subparagraphs 1229(4)(a)(v) and (vi) of Schedule 1 to the Migration Regulations by omitting 'subsequent Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream' and substituting those words with 'subsequent Subclass 485 (Temporary Graduate) visa in the Post-Higher Education Work stream'.

An applicant seeking to satisfy the primary criteria for the grant of a Temporary Graduate visa must meet the requirements of subitem 1229(4) of Schedule 1 to the Migration Regulations (see paragraph 1229(3)(m) of Schedule 1), and must satisfy one of the subparagraphs under paragraph 1229(4)(a) of Schedule 1.

As amended, subparagraph 1229(4)(a)(v) of Schedule 1 requires the applicant to:

- hold a Temporary Graduate visa in the Post-Study Work stream, on the basis that visa was granted on or before 30 June 2024, at the time that applicant is applying for a subsequent Temporary Graduate visa in the Post-Higher Education Work stream; or
- hold a Temporary Graduate visa in the Post-Higher Education Work stream, on the basis that visa was granted on or after 1 July 2024, at the time that applicant is applying for a subsequent Temporary Graduate visa in the Post-Higher Education Work stream.

As amended, subparagraph 1229(4)(a)(vi) of Schedule 1 requires the applicant to:

- hold a Temporary Graduate visa in the Replacement stream, on the basis that visa was granted on or before 30 June 2024, at the time that applicant is applying for a subsequent Temporary Graduate visa in the Post-Higher Education stream.

#### **Item [7] – Subparagraph 1229(4)(aa)(ii) of Schedule 1**

Item 7 repeals and substitute subparagraph 1229(4)(aa)(ii) of Schedule 1 to the Migration Regulations.

The new subparagraph 1229(4)(aa)(ii) of Schedule 1 to the Migration Regulations provides that the total number of Temporary Graduate visas held by the applicant 'must not include more than one Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream, or the Post-Higher Education Work stream, granted on the basis of meeting the requirements in clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2;'.

The effect of the amendment made by item 7 is that from 1 July 2024, to make a valid application for a subsequent Temporary Graduate visa in the Post-Higher Education Work stream, that eligible applicant may only:

- hold up to four Temporary Graduate visas; and

- those four visas must not include more than one of the following:
  - a Temporary Graduate visa in the Post-Study Work stream with a ‘nil’ VAC visa extension attached, where that visa was granted on or before 30 June 2024; or
  - a Temporary Graduate visa in the Post-Study Work stream granted on the basis of meeting the requirements in either clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2, where that visa was granted on or before 30 June 2024; or
  - a Temporary Graduate visa in the Post-Higher Education Work stream granted on the basis of meeting the requirements in clause 485.232 or 485.233 of Schedule 2, where that visa was granted on or after 1 July 2024; or
  - a Temporary Graduate visa in the Replacement stream, where that visa was granted on or before 30 June 2024.

The amendment made by item 7 gives effect to the policy intent, which is to:

- provide for visa holders with an existing Temporary Graduate visa in the Post-Study Work stream, the Replacement stream or the Post-Study Work Stream with a ‘nil’ VAC visa extension, to be eligible to apply (subject to that visa applicant meeting the relevant visa criteria) and transition to a subsequent Post-Higher Education Work stream visa, based on working, living, or studying in regional Australia;
- provide for visa holders with an initial Temporary Graduate visa in the Post-Higher Education Work stream, where that visa was granted on or after 1 July 2024, to apply for (subject to that visa applicant meeting the relevant visa criteria) a second Post-Higher Education Work stream visa, based on working, living or studying in regional Australia.

**Item [8] – Division 485.2 of Schedule 2 (note to Division heading)**

**Item [9] – Division 485.2 of Schedule 2 (note to Division heading)**

Item 8 amends the note under the heading ‘Primary criteria’ in Division 485.2 of Schedule 2 to the Migration Regulations by omitting ‘Graduate Work stream’ and substituting those words with ‘Post-Vocational Education Work stream’.

Item 9 amends the note under the heading ‘Primary criteria’ in Division 485.2 of Schedule 2 to the Migration Regulations by omitting ‘Post-Study Work stream’ and substituting those words with ‘Post-Higher Education Work stream’.

The effect of the amendments made by items 8 and 9 is to give effect to the policy intent of simplifying and streamlining the Temporary Graduate visas.

From 1 July 2024:

- the Temporary Graduate visa in the Graduate Work stream is known as the Temporary Graduate visa in the Post-Vocational Education Work stream. Eligible applicants for that visa need to satisfy the primary criteria in Subdivisions 485.21 and 485.22 of Schedule 2 to the Migration Regulations.
- the Temporary Graduate visa in the Post-Study Work stream is known as the Temporary Graduate visa in the Post-Higher Education Work stream. Eligible applicants for that visa need to satisfy the primary criteria in Subdivisions 485.21 and 485.23 of Schedule 2.

Subdivision 485.21 of Schedule 2 to the Migration Regulations no longer applies to applicants seeking to satisfy the primary criteria for the Temporary Graduate visa in the



Replacement stream, where that application was made on or after 1 July 2024, due to the closure of that stream to all applications, from that date (see item 44 to the Amending Regulations).

### **Item [10] – Paragraphs 485.211(b) to (d) of Schedule 2**

This item repeals and substitutes paragraphs 485.211(b) to (d) of Schedule 2 to the Migration Regulations.

The effect of the amendment made by item 10 is that where an eligible applicant is seeking to satisfy the relevant primary criteria for the grant of a Temporary Graduate visa in either the Post-Vocational Education Work or the Post-Higher Education Work stream, from 1 July 2024, that visa applicant must:

- have not previously held a Temporary Graduate visa in the Graduate stream or the Post-Vocational Education Work stream on the basis of satisfying the primary criteria for that visa; and
- have not previously held a Temporary Graduate visa in the Post-Study Work stream or the Post-Higher Education Work stream on the basis of satisfying the primary criteria for that visa; unless that applicant:
  - has nominated the Post-Higher Education Work stream in their application; and
  - meets the requirements of clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2 to the Migration Regulations; and
- have not previously held two Temporary Graduate visas in the Post-Higher Education Work stream or three Temporary Graduate visas in the Post-Study Work stream.

Subparagraph 485.211(d)(i) of Schedule 2 makes it clear that only three visas in the Temporary Graduate visa Post-Study Work stream (the Post-Study Work stream) could previously have been held by an applicant for a Temporary Graduate visa. Those visas can be a combination of the following:

- the initial Post-Study Work stream visa, based on the applicant meeting that relevant primary criteria and that visa being granted on or before 30 June 2024; and
- a second Post-Study Work stream visa, based on the applicant having lived/ worked/ studied in regional Australia and that visa was granted on or before 30 June 2024; or
- a subsequent Post-Study Work stream visa with a ‘nil’ VAC visa extension attached, based on subparagraph 1229(2)(a)(ia) of Schedule 1 applying to that application and that visa was granted on or before 30 June 2024.

An applicant in these circumstances may also have previously held a Temporary Graduate visa in the Replacement stream, based on the applicant meeting the relevant primary criteria for that visa and that visa being granted on or before 30 June 2024.

### **Item [11] – Subdivision 485.22 of Schedule 2 (heading)**

### **Item [12] – Subdivision 485.22 of Schedule 2 (note to Subdivision heading)**

Item 11 amends the heading in Subdivision 485.22 of Schedule 2 to the Migration Regulations by omitting ‘Graduate Work stream’ and substituting those words with ‘Post-Vocational Education Work stream’.

Item 12 amends the note in Subdivision 485.22 of Schedule 2 to the Migration Regulations by omitting ‘Graduate Work stream’ and substituting those words with ‘Post-Vocational Education Work stream’.

The effect of these amendments is to rename the second limb of the primary criteria for the Temporary Graduate visa in the Graduate Work stream to the Post-Vocational Education Work stream and to amend the note under Subdivision 485.22 of Schedule 2 to the Migration Regulations to that effect.

Those items’ amendments give effect to the policy intent to rename the Temporary Graduate visa in the Graduate Work stream to the Post-Vocational Education Work stream.

**Item [13] – Subdivision 485.23 of Schedule 2 (heading)**

**Item [14] – Subdivision 485.23 of Schedule 2 (note to Subdivision heading)**

Item 13 amends the heading in Subdivision 485.23 of Schedule 2 to the Migration Regulations by omitting ‘Post-Study Work stream’ and substituting those words with ‘Post-Higher Education Work stream’.

Item 14 amends the note in Subdivision 485.23 of Schedule 2 to the Migration Regulations by omitting ‘Post-Study Work stream’ and substituting those words with ‘Post-Higher Education Work stream’.

The effect of these amendments is to rename the second limb of the primary criteria for the Temporary Graduate visa in the Post-Study Work stream to the Post-Higher Education Work stream and to amend the note under Subdivision 485.23 of Schedule 2 to the Migration Regulations to that effect.

Those items’ amendments give effect to the policy intent to rename the Temporary Graduate visa in the Post-Study Work stream to the Post-Higher Education Work stream.

**Item [15] – Paragraph 485.232(1)(a) of Schedule 2**

**Item [16] – Subparagraph 485.232(1)(c)(ii) of Schedule 2**

**Item [17] – Paragraph 485.232(1)(d) of Schedule 2**

**Item [18] – Paragraph 485.233(1)(a) of Schedule 2**

**Item [19] – Paragraph 485.233(1)(c) of Schedule 2**

Item 15 amends paragraph 485.232(1)(a) of Schedule 2 to the Migration Regulations by inserting ‘or the Post-Higher Education Work stream’ after ‘Post-Study Work stream’.

Item 16 amends paragraph 485.232(1)(c)(ii) of Schedule 2 to the Migration Regulations by omitting ‘area; and’ and substituting ‘area.’ in its place.

Item 17 repeals paragraph 485.232(1)(d) of Schedule 2 to the Migration Regulations.

Item 18 amends paragraph 485.233(1)(a) of Schedule 2 to the Migration Regulations by inserting ‘or the Post-Higher Education Work stream’ after ‘Post-Study Work stream’.

Item 19 amends paragraph 485.233(1)(c) of Schedule 2 to the Migration Regulations by omitting ‘clauses 485.232 and 485.237 do’ and substituting ‘clause 485.232 does’.

Those items' amendments to clauses 485.232 and 485.233 of Schedule 2 to the Migration Regulations provides that eligible primary applicants who apply for the second Temporary Graduate visa in the Post-Higher Education Work stream must hold, at the time of lodging the second visa application, one of the following:

- an initial Temporary Graduate visa in the Post-Higher Education Work stream, where that primary criteria was met and that visa was granted on or after 1 July 2024; or
- an initial Temporary Graduate visa in the Post-Study Work stream, where that primary criteria was met and that visa was granted on or before 30 June 2024.

Both of the above initial visa holders' visas must have been granted on the basis of that applicant having lived, worked, or studied in a regional centre or other regional area (see clause 485.232 of Schedule 2) or a designated regional area (see clause 485.233 of Schedule 2) (regional Australia).

If a family member(s) is seeking to combine their application with the primary applicant's visa for a second Temporary Graduate visa in the Post-Higher Education Work stream, that applicant must intend to live, work, or study in regional Australia.

From 1 July 2024, applicants can no longer move from a Temporary Graduate visa in the Post-Study Work stream, where that visa was granted on the basis of study and residence in regional Australia, to a Temporary Graduate visa in the Post-Study Work stream with a 'nil' VAC visa extension attached. This is due to the closure of the visa pathways previously provided for by clauses 485.236 and 485.237 in Schedule 2 to the Migration Regulations to all applications from that date (see item 23 of the amending Regulations).

**Item [20] – Subparagraph 485.234(1)(c)(ii) of Schedule 2**

**Item [21] – Paragraph 485.234(1)(d) of Schedule 2**

**Item [22] – Paragraph 485.235(1)(c) of Schedule 2**

Item 20 amends paragraph 485.234(1)(c)(ii) of Schedule 2 to the Migration Regulations by omitting 'area; and' substituting 'area.' in its place.

Item 21 repeals paragraph 485.234(1)(d) of Schedule 2 to the Migration Regulations.

Item 22 amends paragraph 485.235(1)(c) of Schedule 2 to the Migration Regulations by omitting 'clauses 485.234 and 485.237 do' and substituting 'clause 485.234 does' in its place.

Those items' amendments to clauses 485.234 and 485.235 of Schedule 2 to the Migration Regulations provides for the following visa pathways to existing Temporary Graduate visa holders and their family member(s), where their application(s), including a combined application, for the subsequent (third or fourth) visa application was made, on or after 1 July 2024:

- clause 485.234 of Schedule 2 covers eligible applicants moving from a Temporary Graduate visa in the Replacement stream or a Post-Study Work stream with a 'nil' VAC visa extension attached, to a subsequent (i.e. third or fourth) visa in the Post-Higher Education Work stream based on study and residence in a regional centre or other regional area; and

- clause 485.235 of Schedule 2 covers eligible applicants moving from a Temporary Graduate visa in the Replacement stream, or a Post-Study Work stream with a ‘nil’ VAC visa extension attached to a subsequent (i.e. third or fourth) visa in the Post-Higher Education Work stream based on study and residence in a designated regional area.

The above cohort must have held an initial (first) or a second Temporary Graduate visa in either the Replacement stream or Post-Study Work stream and have satisfied the relevant primary criteria for that visa, and that visa must have been granted on or before 30 June 2024.

The amendments made by items 20 to 22 to the Migration Regulations gives effect to the policy intent to preserve the above Temporary Graduate visa pathways for existing visa holders, where those visas were granted on or before 30 June 2024.

In accordance with paragraph 485.211(d)(ii) of Schedule 2 (see item 10 to the amending Regulations), from 1 July 2024, first-time applicants are only be able to hold two Temporary Graduate visas in the Post-Higher Education Work stream, (an initial/ first and a second visa). No subsequent visa in that stream are available from that date.

#### **Item [23] – Clauses 485.236 and 485.237 of Schedule 2**

Item 23 repeals clauses 485.236 and 485.237 of Schedule 2 to the Migration Regulations.

The effect of that item’s amendments is that, from 1 July 2024, applicants can no longer move from a Temporary Graduate visa in the Post-Study Work stream, that was granted on the basis of study and residence in regional Australia, to a Post-Study Work stream with a ‘nil’ VAC visa extension attached. This is due to the closure of the visa pathways previously provided for by clauses 485.236 and 485.237 in Schedule 2 to all applications from that date.

#### **Item [24] – Subclause 485.613(1) of Schedule 2**

#### **Item [25] – Subclause 8610(1) of Schedule 8**

#### **Item [26] – Subclause 8610(3) of Schedule 8**

Item 24 amends subclause 485.613(1) of Schedule 2 to the Migration Regulations by omitting ‘Post-Study Work stream on the basis of meeting the requirements in clause 485.232, 485.233, 485.234, 485.235, 485.236 or 485.237’ and substituting ‘Post-Higher Education Work stream on the basis of meeting the requirements in clause 485.232, 485.233, 485.234 or 485.235’.

Item 25 amends subclause 8610(1) of Schedule 8 to the Migration Regulations by omitting “Post-Study Work stream that was granted on the basis that the holder met the requirements of clause 485.232, 485.234 or 485.236” and substituting ‘Post-Higher Education Work stream that was granted on the basis that the holder met the requirements of clause 485.232 or 485.234 of Schedule 2’.

Item 26 amends subclause 8610(3) of Schedule 8 to the Migration Regulations by omitting ‘Post-Study Work stream that was granted on the basis that the holder met the requirements of clause 485.233, 485.235 or 485.237’ and substituting ‘Post-Higher Education Work

stream that was granted on the basis that the holder met the requirements of clause 485.233 or 485.235 of Schedule 2’.

The amendments made by items 24 to 26 are consequential to the creation of the second and the subsequent Post-Higher Education Work stream visa pathways (see items 15-19 and 20-22 to the amending Regulations, respectively).

Eligible applicants who are applying for a second or subsequent Temporary Graduate visa in the Post-Higher Education Work stream, who apply for that visa on or after 1 July 2024, must have visa condition 8610 imposed on their visa by subclause 485.613(1) of Schedule 2 to the Migration Regulations (for primary applicants) or subclause 485.613(2) of Schedule 2 (for family member(s) of that primary applicant) and that applicant(s) is required to comply with those conditions.

Subclause 8610(1) of Schedule 8 to the Migration Regulations applies where a second or a subsequent Temporary Graduate visa in the Post-Higher Education Work stream visa was granted to an applicant and/or their family member(s) on the basis that they met subclause 485.232 or 485.234 to Schedule 2, respectively.

Subclause 8610(3) of Schedule 8 to the Migration Regulations applies where a second or a subsequent Temporary Graduate visa in the Post-Higher Education Work stream visa was granted to an applicant and/or their family member(s) on the basis that they met subclause 485.233 or 485.235 to Schedule 2, respectively.

From 1 July 2024, applicants can no longer move from a Temporary Graduate visa in the Post-Study Work stream, that visa was granted on the basis of study and residence in regional Australia, to a Post-Study Work stream with a ‘nil’ VAC visa extension attached, due to the visa pathways previously provided for by clauses 485.236 and 485.237 in Schedule 2 to the Migration Regulations being closed to all applications from that date. (see item 23 to the amending Regulations).

In accordance with paragraph 485.211(d)(ii) of Schedule 2 to the Migration Regulations (see item 10 to the amending Regulations), from 1 July 2024, eligible applicants can only hold two Temporary Graduate visas in the Post-Higher Education Work stream, (an initial/ first and a second visa). No subsequent visa in that stream is available from that date.

## **Part 2 – Restrictions on access to visa streams based on qualifications**

### ***Migration Regulations 1994***

#### **Item [27] – Clause 485.111 of Schedule 2**

#### **Item [28] – Clauses 485.221 and 485.222 of Schedule 2**

Item 27 amends clause 485.111 of Schedule 2 to the Migration Regulations by inserting a definition of ‘associate degree’, which means ‘an associate degree, under the Australian Qualifications Framework, that is awarded by a body authorised to award associate degrees’.

That item also inserts a definition of ‘completed’, which means having met the academic requirements for the award of an associate degree, diploma or trade qualification’.

Additionally, item 27 inserts a note under the above insertion of the definition of ‘completed’. That note states that ‘the academic requirements for the award of an associate degree, diploma or trade qualification do not include the formal conferral of the associate degree, diploma or trade qualification. Therefore, a person can complete an associate degree, diploma or trade qualification, for the purposes of this definition, before the award is formally conferred’.

Item 28 repeals and substitute clauses 485.221 and 485.222 of Schedule 2 to the Migration Regulations.

From 1 July 2024, the new clause 485.221 of Schedule 2 to the Migration Regulations requires an applicant for the Temporary Graduate visa in the Post-Vocational Education Work stream to have completed one or more associate degrees, diplomas or trade qualifications for award by an educational institution as a result of a course or courses:

- that are registered courses; and
- that were completed in a total of at least 16 calendar months; and
- that were completed as a result of a total of at least 2 academic years study; and
- for which all instruction was conducted in English; and
- that the applicant undertook while in Australia as the holder of a visa authorising the applicant to study.

For the purposes of the new clauses 485.221 and 485.222 of Schedule 2 to the Migration Regulations, the references to ‘diploma’ and ‘trade qualification’ under clause 485.111 of Schedule 2 continues to have the same meaning as in subregulation 2.26AC(6). Additionally, the reference to ‘associate degree’ and ‘completed’ in that new provision has the meaning provided for in amended clause 485.111 of Schedule 2 (see item 27 to the amending Regulations).

For the purposes of the new paragraph 485.221(a) of Schedule 2 to the Migration Regulations, ‘registered course’ continues to be defined in regulation 1.03, as is mentioned in note 3 of clause 485.111 of Schedule 2.

The new clause 485.222 of Schedule 2 to the Migration Regulations provides that each associate degree, diploma or trade qualification used to satisfy clause 485.221 of Schedule 2 is closely related to the applicant’s nominated skilled occupation.

For the purposes of the new clause 485.222 of Schedule 2 to the Migration Regulations, ‘skilled occupation’ continues to be defined in regulation 1.03, as is mentioned in note 3 of clause 485.111 of Schedule 2.

Complementary amendments for successful grant of a Temporary Graduate visa in the Post-Vocational Education Work stream are found in items 2, 8, 10, 11 and 12 to the amending Regulations.

These items’ amendments give effect to the policy intent to simplify and streamline the Temporary Graduate visa in the Post-Vocational Education Work stream.

**Item [29] – Subclause 485.231(1) of Schedule 2**

**Item [30] – Subclause 485.231(2) of Schedule 2**

**Item [31] – Subclause 485.231(3) of Schedule 2**

Item 29 amends subclause 485.231(1) of Schedule 2 to the Migration Regulations by omitting ‘qualification or qualifications’ and substituting ‘degree or degrees’.

Item 30 amends subclause 485.231(2) of Schedule 2 to the Migration Regulations by omitting ‘qualification’ and substituting ‘degree’.

Item 31 repeals and substitute subclause 485.231(3) of Schedule 2 to the Migration Regulations.

The new subclause 485.231(3) of Schedule 2 to the Migration Regulations provides that for an initial (first visa) Temporary Graduate visa in the Post-Higher Education Work stream, the applicant’s study for the degree or degrees must satisfy the Australian study requirement in the period of 6 months immediately before the day that application was made.

For the amended clause 485.231 of Schedule 2 to the Migration Regulations, by the above items (29 to 31), clause 485.111 of Schedule 2 continues to provide that:

- ‘degree’ has the same meaning as in subregulation 2.26AC(6); and
- regulation 1.03 provides that ‘Australian study requirement’ has the same meaning set out in regulation 1.15F (see note 3 in that provision).

Complementary amendments for successful grant of an initial (the first visa) Temporary Graduate visa in the Post-Vocational Education Work stream are found in items 2, 8-10, 13 – 14 and 29-31 to the amending Regulations.

These items’ amendments give effect to the policy intent to simplify and streamline the Temporary Graduate visa in the Post-Higher Education Work stream.

### **Part 3 – Repeal of pathway to apply for Subclass 485 visa free of charge**

#### ***Migration Regulations 1994***

##### **Item [32] – Subparagraph 1229(2)(a)(ia) of Schedule 1**

##### **Item [33] – Sub-subparagraph 1229(2)(a)(i)(A) of Schedule 1**

##### **Item [34] – Subitems 1229(2A) and (2B) of Schedule 1**

Item 32 repeals subparagraph 1229(2)(a)(ia) of Schedule 1 to the Migration Regulations.

Subparagraph 1229(2)(a)(ia) of Schedule 1 to the Migration Regulations, previously provided for an applicant who was covered by the former subitem 1229(2A) of Schedule 1, or whose application was combined with an application made by a person covered by that former provision of the Migration Regulations, that there was no visa application charge (VAC) (a ‘nil’ VAC).

The effect of this item’s amendment is that no applicant is eligible for the Temporary Graduate visa in the Post-Study Work with a ‘nil’ VAC visa extension pathway from 1 July 2024.

Item 33 repeals and substitute sub-subparagraph 1229(2)(a)(i)(A) of Schedule 1 to the Migration Regulations.

The new sub-subparagraph 1229(2)(a)(i)(A) of Schedule 1 to the Migration Regulations provides that an applicant ‘who holds a Temporary Graduate visa in the Post-Study Work stream, the Post-Higher Education Work stream or the Replacement stream, and is applying for a subsequent Temporary Graduate visa in the Post-Higher Education Work stream’ is eligible for a reduced VAC, as is an applicant whose application is combined with a primary applicant’s application in those streams.

The effect of this item’s amendment is that an eligible applicant for a subsequent Temporary Graduate visa in the Post-Higher Education Work stream and their family member(s) must pay the first instalment of the VAC set out in items 1 to 3 to the table under the new sub-subparagraph 1229(2)(a)(i)(B) of Schedule 1 to the Migration Regulations.

Item 34 repeals subitems 1229(2A) and (2B) of Schedule 1 to the Migration Regulations.

The repeal of subitem 1229(2A) of Schedule 1 to the Migration Regulations provides for the closure of the subsequent Temporary Graduate visa in the Post-Study Work stream ‘nil’ VAC visa extension to all applications from 1 July 2024. This item’s amendment gives effect to the policy intent to close that visa pathway to all applications from 1 July 2024.

The repeal of subitem 1229(2B) of Schedule 1 to the Migration Regulations is consequential to the closure of the ‘nil’ VAC visa extension pathway and the replacement of the Post-Study Work stream with the Post-Higher Education Work stream. The reduced VAC visa pathway for subsequent degree-holding applicants continues to be available via amended sub-subparagraph 1229(2)(a)(i)(A) of Schedule 1 (see item 33).



**Item [35] – Paragraph 485.212(2)(a) of Schedule 2**

**Item [36] – Subclause 485.212(2) of Schedule 2 (note)**

Item 35 repeals paragraph 485.212(2)(a) of Schedule 2 to the Migration Regulations.

Item 36 repeals the note to subclause 485.212(2) of Schedule 2 to the Migration Regulations.

The effect of those items' amendments is to remove the exemption for applicants for a subsequent Temporary Graduate visa with a 'nil' VAC visa extension, from having to satisfy the requirements of subclause 485.212(1) to Schedule 2. See also items 32, 33 and 34, which deal with the closure of the nil VAC visa extension pathway.

From 1 July 2024, subclause 485.212(1) of Schedule 2 to the Migration Regulations requires an initial/first application for a Temporary Graduate visa in the Post-Higher Education Work stream to be accompanied by evidence that the applicant either:

- holds the required English language proficiency (under paragraph 485.212(1)(a)(i) and (ii) of Schedule 2); or
- that the applicant holds a passport of a type specified by the Minister in a legislative instrument made under paragraph 485.212(1)(b) of Schedule 2.

The amendments made by items 35 and 36 to subclause 485.212(2) of Schedule 2 to the Migration Regulations means eligible applicants for a second or subsequent Temporary Graduate visa in the Post-Higher Education Work stream does not have to satisfy the requirements of subclause 485.212(1) of Schedule 2 where that applicant meets the requirements of clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2.

The purpose of the amendments made by items 35 and 36 is to give effect to the policy intent to close the subsequent Temporary Graduate visa with a 'nil' VAC visa extension visa pathway, to all applications, from 1 July 2024. The above items complement the repeal of subparagraph 1229(2)(a)(ia) of Schedule 1 to the Migration Regulations and subitems 1229(2A) and (2B) of Schedule 1 (see items 32 and 34 to the amending Regulations, respectively).

Those items' amendments also give effect to the following visa pathways, as this cohort would have satisfied the requirements of subclause 485.212(1) of Schedule 2 to the Migration Regulations, when they made their initial/first Temporary Graduate visa:

- existing Temporary Graduate visa holders in the Replacement stream or the Post-Study Work stream with a 'nil' VAC visa extension attached moving to a subsequent Temporary Graduate visa in the Post-Higher Education Work stream, based on that applicant living, working, or studying in regional Australia; or
- existing initial/first Temporary Graduate visa holders in the Post-Study Work stream or Post-Higher Education Work stream moving to a second visa in the Post-Higher Education Work stream, based on that applicant living, working, or studying in regional Australia.

### **Item [37] – Subclause 485.213(2) of Schedule 2**

This item repeals and substitute subclause 485.213(2) of Schedule 2 to the Migration Regulations, including the note to that provision.

The new subclause 485.213(2) of Schedule 2 to the Migration Regulations provides for subclause 485.213(1) of Schedule 2 to not apply to an applicant applying for a subsequent Temporary Graduate visa in the Post-Higher Education Work stream who meets the requirements of clause 485.232, 485.233, 485.234 or 485.235 to Schedule 2. The required evidence of that applicant having applied for an Australian Federal Police check (as is required by subclause 485.213(1) of Schedule 2) would have been provided with the application for the initial/first Temporary Graduate visa.

The amendments made by item 37 give effect to the policy intent to provide for the following visa pathways from 1 July 2024:

- existing Temporary Graduate visa holders in the Replacement stream or the Post-Study Work stream with a ‘nil’ VAC visa extension attached moving to a subsequent Temporary Graduate visa in the Post-Higher Education Work stream, based on that applicant living, working, or studying in regional Australia; or
- existing initial/first Temporary Graduate visa holders in the Post-Study Work stream or the Post-Higher Education Work stream moving to a second visa in the Post-Higher Education Work stream, based on that applicant living, working, or studying in regional Australia.

### **Item [38] – Subclause 485.231(1A) of Schedule 2**

This item repeals and substitute subclause 485.231(1A) of Schedule 2 to the Migration Regulations, including the note to that provision.

The new subclause 485.231(1A) of Schedule 2 to the Migration Regulations provides that an applicant applying for a subsequent Temporary Graduate visa in the Post-Higher Education Work stream does not have to satisfy the requirements of subclauses 485.231(1) to (3) of Schedule 2, if that applicant meets the requirements of clause 485.232, 485.233, 485.234 or 485.235 of Schedule 2. That applicant would have met the requirements of subclauses 485.231(1) to (3) of Schedule 2 when they applied for the initial/first Temporary Graduate visa.

The new subclause 485.231(1A) to Schedule 2 to the Migration Regulations gives effect to the policy intent to provide for the following visa pathways from 1 July 2024:

- existing Temporary Graduate visa holders in the Replacement stream or the Post-Study Work stream with a ‘nil’ VAC visa extension attached moving to a subsequent Temporary Graduate visa in the Post-Higher Education Work stream, based on that applicant living, working, or studying in regional Australia; or
- existing initial/first Temporary Graduate visa holders in the Post-Study Work stream or the Post-Higher Education Work stream moving to a second visa in the Post-Higher Education Work stream, based on that applicant living, working, or studying in regional Australia.

## **Part 4 – Other amendments**

### ***Migration Regulations 1994***

#### **Item [39] - Before paragraph 1228(3)(a) of Schedule 1**

This item inserts a new provision, paragraph 1228(3)(aa), before paragraph 1228(3)(a) of Schedule 1 to the Migration Regulations.

The new paragraph 1228(3)(aa) of Schedule 1 to the Migration Regulations provides for an application for a Subclass 476 (Skilled – Recognised Graduate) visa must be made before 1 July 2024.

The effect of this item’s amendment is to give effect to the policy intent to close the Skilled (Provisional) (Class VF) visa’s Subclass 476 (Skilled – Recognised Graduate) to all applications (primary applicants and their family member(s)) from 1 July 2024.

#### **Item [40] – Paragraph 1229(3)(ka) of Schedule 1**

This item repeals paragraph 1229(3)(ka) of Schedule 1 to the Migration Regulations.

The former paragraph 1229(3)(k) of Schedule 1 to the Migration Regulations provided that an applicant seeking to satisfy the primary criteria for the grant of a Temporary Graduate visa in the Graduate Work stream must have nominated a skilled occupation for that applicant, which was specified by the Minister in an instrument made for that provision.

Previously paragraph 1229(3)(ka) of Schedule 1 to the Migration Regulations provided that the former paragraph 1229(3)(k) of Schedule 1 did not apply in relation to certain applications made between 1 July 2022 and 1 July 2023. The amendment made by item 40 repeals paragraph 1229(3)(ka) of Schedule 1, and removes this exemption from the requirement to nominate a skilled occupation for the Graduate Work stream in the Post-Vocational Education Work stream.

The effect of the amendments made by items 28, 40 and 46 of the amending Regulations is to remove the exceptions previously provided by subclauses 485.222(2), 485.223(2) and 485.224(3) to Schedule 2 to the Migration Regulations for Temporary Graduate visa in the Graduate Work stream applicants, where that applicant was seeking to satisfy the relevant primary criteria for that visa, and where the application was made between 1 July 2022 and 1 July 2023.

#### **Item [41] - Paragraph 1229(3)(l) of Schedule 1**

This item repeals and substitute paragraph 1229(3)(l) of Schedule 1 to the Migration Regulations.

The new paragraph 1229(3)(l) of Schedule 1 to the Migration Regulations provides that an applicant seeking to satisfy the primary criteria for the grant of a Temporary Graduate visa in the Post-Higher Education Work stream must hold, or have held, a Student Temporary (Class TU) visa (a student visa).

The amendment by this item gives effect to the policy intent to remove the previous requirement that applicants for an initial Temporary Graduate visa in the Post-Study Work stream must have held or hold a student visa that was granted on the basis of an application made on or after 5 November 2011, and the visa was the first student visa held, at the time they were applying for that initial Temporary Graduate visa.

From 1 July 2024, in order to satisfy the new paragraph 1229(3)(1) of Schedule 1 to the Migration Regulations, applicants who are applying for their first Temporary Graduate visa in the Post-Higher Education Work stream, are required to hold or have held a student visa, at the time they make their application for their first Temporary Graduate visa in that stream.

#### **Item [42] – Paragraph 1229(4)(b) of Schedule 1**

This item repeals and substitute paragraph 1229(4)(b) of Schedule 1 to the Migration Regulations.

This item's amendment reduces the general eligible age requirement for the Temporary Graduate visa in the Post-Vocational Education Work stream and the Post-Higher Educational Work stream from the previous less than 50 years old to 35 years old or younger. Additionally, this item's amendment removes the exception to the general age requirement for Temporary Graduate visa applicants in the Post-Study Work stream who were previously eligible to apply for the 'nil' VAC visa extension, (based on the former subparagraph 1229(2)(a)(ia) of Schedule 1, applying to that visa application (see items 32-34 to the amending Regulations)). This cohort were required to be less than 50 years old at the time they made that visa application.

The new paragraph 1229(4)(b)(ii) of Schedule 1 to the Migration Regulations requires an eligible applicant for either of the Temporary Graduate visa in the Post-Vocational Education Work stream or the Post-Higher Education Work stream to be 35 years or younger when they make their application for their Temporary Graduate visa.

The new paragraph 1229(4)(b)(i) of Schedule 1 to the Migration Regulations provides for exceptions to the new age requirement for Temporary Graduate visa applications, as provided for by the new paragraph 1229(4)(b)(ii) of Schedule 1, as follows:

- if that eligible applicant holds a Hong Kong passport or a British National (Overseas) passport, this applicant must be less than 50 years old at the time they make their application; or
- if that eligible applicant has completed a Masters degree (Research) or a Doctoral degree (PhD), this applicant must be less than 50 years old at the time they make their application.

This item's amendment gives effect to the policy intent to provide a visa pathway for eligible early career professionals, subject to those individuals meeting the criterion for the Temporary Graduate visa in the Post-Higher Education Work Stream.

### **Item [43] – Paragraph 1229(11) of Schedule 1**

This item inserts a new paragraph 1229(11) of Schedule 1 to the Migration Regulations.

That new provision inserts and provides that the definition of ‘completed’, in relation to a masters degree (research) or a doctoral degree, means having met the academic requirements for its award.

The new paragraph 1229(11) of Schedule 1 to the Migration Regulations also provides for a note under that provision of the Migration Regulations. That note provides that ‘The academic requirements for the award of a masters degree (research) or a doctoral degree do not include the formal conferral of the degree. Therefore, a person can complete such a degree, for the purposes of this definition, before the award is formally conferred’.

The amendments made by item 42 gives effect to the new paragraph 1229(4)(b)(i) of Schedule 1 to the Migration Regulations exception to the age requirement (35 years of age or younger at the time the visa application is made) in the new paragraph 1229(4)(b)(ii) of Schedule 1 (see item 42 of the amending Regulations). Specifically, the amendment made by item 43 only applies to the cohort in the new paragraph 1229(4)(b)(i) of Schedule 1, being an individual who is applying for an initial Temporary Graduate visa in the Post-Higher Education Work Stream, who has completed a Masters degree (Research) or a Doctoral degree (PhD). That amended provision requires that applicant to be less than 50 years old at the time they make that application.

The note to the new paragraph 1229(11) of Schedule 1 to the Migration Regulations also provides that an applicant for a Temporary Graduate visa in the Post-Higher Education Work Stream must have completed a Masters degree (Research) or a Doctoral degree (PhD), for that applicant to meet the exception to the general age requirement in the new paragraph 1229(4)(b)(i) of Schedule 1, before the award is formally conferred.

The amendment made by item 43 gives effect to the policy intent to provide a visa pathway for eligible early career professionals, subject to those individuals meeting the criterion for the Temporary Graduate visa in the Post-Higher Education Work Stream.

### **Item [44] – Paragraph 1229(5)(a) of Schedule 1**

This item amends paragraph 1229(5)(a) of Schedule 1 to the Migration Regulations by omitting ‘January 2027’ and substituting ‘July 2024’.

Previously, from 1 July 2022 until 31 December 2026, eligible initial Temporary Graduate visa (Graduate Work or Post-Study Work stream) visa holders who lost time in Australia due to COVID-19 travel restrictions can apply for the Temporary Graduate visa in the Replacement stream.

The effect of this item’s amendment is to provide for and to give effect to the policy intent to close the Temporary Graduate visa in the Replacement stream to all applications from 1 July 2024. Specifically, the amendments made by item 44 to paragraph 1229(5)(a) of Schedule 1 to the Migration Regulations by bringing forward the previous close date for applications for that visa from 1 January 2027 to 1 July 2024. No new applications for the Temporary Graduate visa in the Replacement stream can be made on or after that date.

Eligible existing Temporary Graduate visa holders in the Replacement stream have the option to move to a subsequent Temporary Graduate visa in the Post-Higher Education Work stream, based on that applicant living, working, or studying in regional Australia (subject to them meeting that visa's primary criteria).

**Item [45] – Subclause 485.223(1) of Schedule 2**

**Item [46] – Subclauses 485.223(2) and 485.224(3) of Schedule 2**

Item 45 amends subclause 485.223(1) of Schedule 2 to the Migration Regulations by omitting '(1)' from that provision.

The effect of this amendment is that from 1 July 2024, eligible applicants who are applying for a Temporary Graduate visa in the Post-Vocational Education Work stream, are required to provide evidence of having applied for an assessment of their skills for the nominated skilled occupation by a relevant assessing authority, at the time they make their application for that visa.

Item 46 repeals subclauses 485.223(2) and 485.224(3) of Schedule 2 to the Migration Regulations.

The amendments made by items 28, 40 and 46 of the amending Regulations is to remove the exceptions previously provided for by subclauses 485.222(2), 485.223(2) and 485.224(3) of Schedule 2 to the Migration Regulations for Temporary Graduate visa in the Graduate Work stream applicants, where that applicant was seeking to satisfy the relevant primary criteria for that visa, from being required to satisfy paragraph 1229(3)(ka) of Schedule 1, from 1 July 2024.

Subclauses 485.224(1), (1A) and (2) of Schedule 2 to the Migration Regulations require that an applicant for a Temporary Graduate visa in the Post-Vocational Education Work stream must have had the skills for the applicant's nominated skilled occupation assessed by a relevant assessing authority during the last 3 years as suitable for the occupation, among other requirements relating to the skills assessment.

## **Part 5 – Application and transitional provisions**

### ***Migration Regulations 1994***

#### **Item [47] – In the appropriate position in Schedule 13**

Item 47 inserts Part 134 in Schedule 13 to the Migration Regulations. The purpose of Part 134 is to set out the application of the amendments made by the amending Regulations.

Subclause 13401(1) provides that the amendments to Schedule 2 to the Migration Regulations made by Schedule 1 to the amending Regulations apply to applications for Temporary Graduate visas made on or after the commencement date (1 July 2024).

Subclause 13401(2) provides that the amendments to Schedule 8 to the Migration Regulations made by Schedule 1 to the amending Regulations applies in relation to a Temporary Graduate visa granted on or after the commencement date (1 July 2024), if the application for the visa was made on or after that commencement date.