



LIN 24/043

# **Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student Visa) Amendment (Pathway Programs) Specification 2024**

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I, Damien Kilner, delegate of the Minister for Immigration, Citizenship and Multicultural Affairs, make the following specification.

Dated 19 April 2024

Damien Kilner  
SES Band 2 / First Assistant Secretary  
Immigration Programs Division  
Department of Home Affairs

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## 1 Name

This instrument is the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Amendment (Pathway Programs) Specification 2024*.

## 2 Commencement

This instrument commences **on the day after the instrument is registered.**

## 3 Authority

This instrument is made under **subclause 500.213(3)** of Schedule 2 to the *Migration Regulations 1994*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024*

#### 1 Section 4 (definition of *eligible pathway program*)

Repeal the definition, substitute:

***eligible pathway program*** means a registered course that is specified in an item in the table in Schedule 2 for paragraph 5(3)(d).

Note: A pathway program is a course for students who have not met the academic entry requirements for their intended Australian undergraduate university degree. A pathway program leads to a qualification recognised under the Australian Qualifications Framework and provides academic credit and entry to second year undergraduate study.

#### 2 Paragraph 5(3)(d)

Repeal the paragraph, substitute:

(d) a registered course that is specified in an item in the table in Schedule 2 (an ***eligible pathway program***);

Note: ***Registered course*** is defined in regulation 1.03 of the *Migration Regulations 1994*.

#### 3 After section 9

Insert:

#### 10 Application of amendments made by LIN 24/043

The amendments made to this instrument by the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Amendment (Pathway Programs) Specification 2024* (the ***amending instrument***) apply in relation to an application for a Subclass 500 (Student) visa made on or after the day the amending instrument commences.

#### 4 After Schedule 1

Insert:

### Schedule 2 Specified ***eligible pathway programs***

Registered courses specified for paragraph 5(3)(d) as eligible pathway programs				
Item	Column 1:	Column 2:	Column 3:	Column 4:
	CRICOS Course Code	Course Name	Institution Name	University Name
1	0100739	Diploma of Business Studies	Charles Darwin University	Charles Darwin University
2	0100740	Diploma of Information Technology	Charles Darwin University	Charles Darwin University
3	087938G	Diploma of Arts & Creative Industries	Colleges of Business and Technology (WA) Pty Ltd	Curtin University

4	087939G	Diploma of Built Environment	Colleges of Business and Technology (WA) Pty Ltd	Curtin University
5	087940C	Diploma of Commerce	Colleges of Business and Technology (WA) Pty Ltd	Curtin University
6	087941B	Diploma of Engineering	Colleges of Business and Technology (WA) Pty Ltd	Curtin University
7	087943M	Diploma of Information Technology	Colleges of Business and Technology (WA) Pty Ltd	Curtin University
8	063386M	Diploma of Business	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
9	022637C	Diploma of Commerce	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
10	097893M	Diploma of Communication	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
11	097892A	Diploma of Construction Management	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
12	097895J	Diploma of Design	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
13	063385A	Diploma of Engineering	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
14	097894K	Diploma of Film, Television and Animation	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
15	059996G	Diploma of Health Sciences	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
16	097891B	Diploma of Information Technology	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
17	063387K	Diploma of Science	Melbourne Institute of Business & Technology Pty Ltd	Deakin University
18	092032G	Diploma of Commerce	Edith Cowan College Pty Ltd	Edith Cowan University
19	092033G	Diploma of Communications and Creative Industries	Edith Cowan College Pty Ltd	Edith Cowan University
20	103337G	Diploma of Health Science	Edith Cowan College Pty Ltd	Edith Cowan University
21	092034F	Diploma of Hotel Management	Edith Cowan College Pty Ltd	Edith Cowan University
22	0100511	Diploma of Performing Arts (Music)	Edith Cowan College Pty Ltd	Edith Cowan University
23	092035E	Diploma of Science (Computing/IT)	Edith Cowan College Pty Ltd	Edith Cowan University

24	092036D	Diploma of Science (Engineering Studies)	Edith Cowan College Pty Ltd	Edith Cowan University
25	092037C	Diploma of Science (Health Studies)	Edith Cowan College Pty Ltd	Edith Cowan University
26	109402K	GC1 - Diploma of Information Technology (Higher Education)	Federation University Australia	Federation University Australia
27	109280D	Diploma in Creative Industries	Flinders University Academy	Flinders University
28	109281C	Diploma in Engineering	Flinders University Academy	Flinders University
29	109282B	Diploma in Health	Flinders University Academy	Flinders University
30	088633F	Diploma of Business Studies	Educational Enterprises Australia Pty Ltd	Flinders University
31	088634E	Diploma of Computing and Information Technology Studies	Educational Enterprises Australia Pty Ltd	Flinders University
32	076172G	Diploma of Engineering	Educational Enterprises Australia Pty Ltd	Flinders University
33	109014M	Diploma of Business	Queensland Institute of Business and Technology Pty Ltd	Griffith University
34	082070G	Diploma of Criminology and Criminal Justice	Queensland Institute of Business and Technology Pty Ltd	Griffith University
35	111385K	Diploma of Design	Queensland Institute of Business and Technology Pty Ltd	Griffith University
36	070423G	Diploma of Engineering	Queensland Institute of Business and Technology Pty Ltd	Griffith University
37	075188G	Diploma of Health Sciences	Queensland Institute of Business and Technology Pty Ltd	Griffith University
38	026675J	Diploma of Information Technology	Queensland Institute of Business and Technology Pty Ltd	Griffith University
39	109015K	Diploma of International Tourism and Hotel Management	Queensland Institute of Business and Technology Pty Ltd	Griffith University
40	092487K	Diploma of Science	Queensland Institute of Business and Technology Pty Ltd	Griffith University
41	092486M	Diploma of Social & Psychological Science	Queensland Institute of Business and Technology Pty Ltd	Griffith University
42	076108D	Diploma of Business	Navitas Bundoora Pty Ltd	La Trobe University
43	113881M	Diploma of Business Analytics	Navitas Bundoora Pty Ltd	La Trobe University



44	114033K	Diploma of Cybersecurity	Navitas Bundoora Pty Ltd	La Trobe University
45	076109C	Diploma of Information Technology	Navitas Bundoora Pty Ltd	La Trobe University
46	113489H	Diploma of Business	Kaplan Higher Education trading as Murdoch College	Murdoch University
47	081618F	Diploma in Business	QUT College	Queensland University of Technology
48	081617G	Diploma in Creative Industries	QUT College	Queensland University of Technology
49	086329G	Diploma in Engineering	QUT College	Queensland University of Technology
50	094986G	Diploma in Health Science	QUT College	Queensland University of Technology
51	081616G	Diploma in Information Technology	QUT College	Queensland University of Technology
52	107881F	Diploma of Business	RMIT University	RMIT University
53	105817H	Diploma of Graphic Design	RMIT University	RMIT University
54	110709C	Diploma of Nursing	RMIT University	RMIT University
55	110709C	Diploma of Nursing	RMIT University	RMIT University
56	107883D	Diploma of Screen and Media (Content Creation)	RMIT University	RMIT University
57	0100351	Diploma of Hotel Management	Southern Cross University	Southern Cross University
58	0101136	Diploma of Health	Southern Cross University	Southern Cross University
59	079231K	Diploma of Business	Southern Cross University	Southern Cross University
60	086408J	Diploma of Science	Southern Cross University	Southern Cross University
61	111198B	Diploma of Information Technology	Southern Cross University	Southern Cross University
62	111853J	Diploma of Engineering	Southern Cross University	Southern Cross University
63	112794G	Diploma of Education	Southern Cross University	Southern Cross University
64	102590B	Diploma of Arts and Social Sciences	Southern Cross University	Southern Cross University
65	086030E	Diploma of Business	Southern Cross University	Southern Cross University
66	114987D	Diploma of Conveyancing (Law and Practice)	Southern Cross University	Southern Cross University
67	111197C	Diploma of Regenerative Agriculture	Southern Cross University	Southern Cross University

68	089744B	Diploma of Arts and Communication (UniLink)	Swinburne University of Technology	Swinburne University of Technology
69	085473G	Diploma of Business (UniLink)	Swinburne University of Technology	Swinburne University of Technology
70	085471K	Diploma of Design (UniLink)	Swinburne University of Technology	Swinburne University of Technology
71	112999E	UniLink Bridging Program	Swinburne University of Technology	Swinburne University of Technology
72	088633F	Diploma of Business Studies (2yr program)	Educational Enterprises Australia Pty Ltd (Eynesbury College)	University of Adelaide
73	088634E	Diploma of Computing and Information Technology Studies	Educational Enterprises Australia Pty Ltd (Eynesbury College)	University of Adelaide
74	076172G	Diploma of Engineering	Educational Enterprises Australia Pty Ltd (Eynesbury College)	University of Adelaide
75	086314D	Degree Transfer Program Accelerated - Business	University of Adelaide College	University of Adelaide
76	087624D	Degree Transfer Program Extended - Business	University of Adelaide College	University of Adelaide
77	087625C	Degree Transfer Program Extended - Computer Science	University of Adelaide College	University of Adelaide
78	087626B	Degree Transfer Program Extended - Engineering	University of Adelaide College	University of Adelaide
79	0101444	Degree Transfer Program Extended - Information Technology	University of Adelaide College	University of Adelaide
80	087627A	Degree Transfer Program Extended - Science	University of Adelaide College	University of Adelaide
81	086313E	Degree Transfer Program Standard - Business	University of Adelaide College	University of Adelaide
82	086315C	Degree Transfer Program Standard - Computer Science	University of Adelaide College	University of Adelaide
83	086316B	Degree Transfer Program Standard - Engineering	University of Adelaide College	University of Adelaide
84	0101441	Degree Transfer Program Standard - Information Technology	University of Adelaide College	University of Adelaide
85	086317A	Degree Transfer Program Standard - Science	University of Adelaide College	University of Adelaide
86	070210K	Diploma of Business	University of Canberra College	University of Canberra
87	062888G	Diploma of Communication	University of Canberra College	University of Canberra

88	076136M	Diploma of Design	University of Canberra College	University of Canberra
89	090071F	Diploma of Health	University of Canberra College	University of Canberra
90	070213G	Diploma of Information Technology	University of Canberra College	University of Canberra
91	074935G	Diploma of Science	University of Canberra College	University of Canberra
92	113050F	Degree Transfer Architecture	University of Newcastle College of International Education	University of Newcastle
93	104604G	Degree Transfer Business	University of Newcastle College of International Education	University of Newcastle
94	104606E	Degree transfer Commerce	University of Newcastle College of International Education	University of Newcastle
95	113058J	Degree Transfer Construction Management	University of Newcastle College of International Education	University of Newcastle
96	104608C	Degree Transfer Engineering	University of Newcastle College of International Education	University of Newcastle
97	113051E	Degree Transfer Extended Architecture	University of Newcastle College of International Education	University of Newcastle
98	104605F	Degree Transfer Extended Business	University of Newcastle College of International Education	University of Newcastle
99	104607D	Degree transfer Extended Commerce	University of Newcastle College of International Education	University of Newcastle
100	113052D	Degree Transfer Extended Construction Management	University of Newcastle College of International Education	University of Newcastle
101	104609B	Degree Transfer Extended Engineering	University of Newcastle College of International Education	University of Newcastle
102	104611H	Degree Transfer Extended IT	University of Newcastle College of International Education	University of Newcastle
103	114397D	Degree Transfer Extended Media and Communication	University of Newcastle College of International Education	University of Newcastle

104	104610J	Degree Transfer IT	University of Newcastle College of International Education	University of Newcastle
105	114391K	Degree Transfer Media and Communication	University of Newcastle College of International Education	University of Newcastle
106	081516A	Diploma of Arts	South Australian Institute of Business and Technology Pty Ltd	University of South Australia
107	081517M	Diploma of Business	South Australian Institute of Business and Technology Pty Ltd	University of South Australia
108	088633F	Diploma of Business Studies	Educational Enterprises Australia Pty Ltd	University of South Australia
109	088634E	Diploma of Computing and Information Technology Studies	Educational Enterprises Australia Pty Ltd	University of South Australia
110	076172G	Diploma of Engineering	Educational Enterprises Australia Pty Ltd	University of South Australia
111	081519J	Diploma of Engineering	South Australian Institute of Business and Technology Pty Ltd	University of South Australia
112	081520E	Diploma of Information Technology	South Australian Institute of Business and Technology Pty Ltd	University of South Australia
113	0100203	International First Year Diploma - Business	UP Education	University of Tasmania
114	0100205	International First Year Diploma - Science	UP Education	University of Tasmania
115	112658D	Diploma of Animation Production (Extended)	UTS College Limited	University of Technology Sydney
116	080142A	Diploma of Business (Extended)	UTS College Limited	University of Technology Sydney
117	080143M	Diploma of Communication (Extended)	UTS College Limited	University of Technology Sydney
118	080144K	Diploma of Design and Architecture (Extended)	UTS College Limited	University of Technology Sydney
119	080145J	Diploma of Engineering (Extended)	UTS College Limited	University of Technology Sydney
120	080146G	Diploma of Information Technology (Extended)	UTS College Limited	University of Technology Sydney

121	080147G	Diploma of Science (Extended)	UTS College Limited	University of Technology Sydney
122	107425H	Diploma in Commerce – 12 Months	UWA College	University of Western Australia
123	111079J	Diploma in Computer and Data Science – 12 Months	UWA College	University of Western Australia
124	112405C	Diploma in Engineering – 14 Months	UWA College	University of Western Australia
125	112406B	Diploma in Engineering – 10 Months	UWA College	University of Western Australia
126	057234M	Diploma of Information Technology (3 Session)	UOW College Australia	University of Wollongong
127	0101925	Diploma of Engineering (3 Session)	UOW College Australia	University of Wollongong
128	057232B	Diploma of Business (3 Session)	UOW College Australia	University of Wollongong
129	108966D	Diploma in Arts	Western Sydney University International College	Western Sydney University
130	096800G	Diploma in Business	Western Sydney University International College	Western Sydney University
131	097252M	Diploma in Business - 2 Term Accelerated	Western Sydney University International College	Western Sydney University
132	096999J	Diploma in Design Extended Graphic Design (Pathway to Teaching Secondary)	Western Sydney University	Western Sydney University
133	096975F	Diploma in Arts	Western Sydney University	Western Sydney University
134	096993D	Diploma in Arts Extended Pathway to Teaching Secondary	Western Sydney University	Western Sydney University

## EXPLANATORY STATEMENT

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

*Migration Regulations 1994*

### ***Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Amendment (Pathway Programs) Specification 2024***

- 1 The instrument, departmental reference LIN 24/043, is made under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument amends *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024* in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
- 3 The instrument commences on the day after it is registered. It is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 4 LIN 24/022 specifies the English language proficiency requirements that an applicant may be required to meet to satisfy the criterion for the grant of a Subclass 500 (Student) visa in subclause 500.213(1). This includes specifying the English language tests an applicant must undertake; the required English language test scores; and the class of applicants to which English language requirements do not apply under subclause 500.213(2).
- 5 The purpose of LIN 24/043 is to amend the definition of *eligible pathway program* and to specify by way of a Schedule, the list of registered courses that are an eligible pathway program for the purposes of LIN 24/022. Applicants enrolled in an eligible pathway program and who are required to provide evidence of their English language proficiency will be eligible to meet a lower English language test score requirement, as specified in Schedule 1. The list of specified courses provides transparency regarding these eligible pathway programs in relation to English language requirements.

## **Background**

- 6 Under subclause 500.213(1), if required by the Minister, an applicant must provide evidence they have a level of English language proficiency that meets the requirements specified in a legislative instrument made by the Minister under paragraph 500.213(3)(a).
- 7 LIN 24/022 specifies the following English language proficiency requirements:
  - the applicant took an approved English language test;
  - the applicant took the test within 2 years immediately before the application is made (or if evidence of the test is not provided at the time the visa application is made, 2 years immediately before a decision on the application is made);
  - the applicant achieved the required English language test score specified in Schedule 1 and any associated requirements.
- 8 LIN 24/022 increased the required English language test scores previously specified in *Migration (IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument 2018*. This was in response to the Government's Migration Strategy, to improve the integrity of the student visa program.
- 9 In accordance with the Migration Strategy, the test score required for students undertaking pathway programs that deliver reputable English language training **remained at IELTS (or equivalent) 5.5**. A pathway program is a course for students who have not met the academic entry requirements for their intended Australian undergraduate university degree. A pathway program leads to a qualification recognised under the Australian Qualifications Framework and provides academic credit and entry to second year undergraduate study.
- 10 LIN 24/043 inserts new Schedule 2, which lists registered courses that are specified to be eligible pathway programs for the purposes of LIN 24/022 in relation to English language requirements and related test scores. Only pathway programs specified in Schedule 2 will meet the definition of an *eligible pathway program* for the purposes of LIN 24/022. These courses have been identified as delivering reputable English language training through rigorous consultation with the university sector. The effect is that applicants enrolled in an eligible pathway program, as specified in Schedule 2, will be able **to meet the lower English language test score** specified for the English language test in accordance with Schedule 1. Listing the

eligible pathway program courses in a schedule to the instrument facilitates access and provides greater clarity and certainty in relation to the requirements.

### ***Consultation***

- 11 Consultation was undertaken across the education sector with representatives from peak bodies. This consultation informed the list of *eligible pathway programs* specified in the instrument. This consultation accords with s 17(1) of the Legislation Act.
- 12 The Office of Impact Analysis (OIA) was previously consulted and considered all impact analysis requirements have been acquitted. No further impact analysis is required. The OIA reference number is OBPR23-04044.

### ***Details of the instrument***

- 13 Details of the instrument are set out in Attachment A.

### ***Parliamentary scrutiny etc.***

- 14 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Schedule 2 to the Migration Regulations are prescribed as being exempt from disallowance under paragraph 44(2)(b) of the Migration Regulations. See table item 20 in regulation 10 of the *Legislation (Exemptions and Other Matters) Regulations 2015*. As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
- 15 The instrument was made by a delegate of the Minister, in accordance with *Migration (Minister) (Instrument-making powers) Delegation (No.2) (ADMIN 21/160) 2021*.



***Details of the instrument***

- 1 Section 1 provides the name of the instrument is the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Amendment (Pathway Programs) Specification 2024*.
- 2 Section 2 provides the instrument commences on the day after registration.
- 3 Section 3 provides the instrument is made under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 4 Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.
- 5 Schedule 1 amends the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024* (the English requirements instrument).
- 6 Item 1 (Section 4 (definition of *eligible pathway program*)) of the Schedule repeals the definition of *eligible pathway program* in section 4 of the English requirements instrument and substitutes a new definition. The new definition provides that in the English requirements instrument, *eligible pathway program* means a registered course that is specified in an item in the table in Schedule 2 for paragraph 5(3)(d). Paragraph 5(3)(d) is also amended, see below. The note to the definition of eligible pathway program explains that a pathway program is a course for students who have not met the academic entry requirements for their intended Australian undergraduate university degree. A pathway program leads to a qualification recognised under the Australian Qualifications Framework and provides academic credit and entry to second year undergraduate study.
- 7 Item 2 (Paragraph 5(3)(d)) of the Schedule repeals the paragraph and substitutes a new paragraph 5(3)(d), referring to a registered course that is specified in an item in the table in Schedule 2. Schedule 2, inserted by item 4 of the Schedule, is a new schedule that specifies registered courses as eligible pathway programs. The effect of paragraph 5(3)(d) is that if the applicant is enrolled in a registered course that is specified in an item in the table in Schedule 2, the applicant must achieve the required English language test score specified in Column 3 of an item in the table in Schedule 1.
- 8 Item 3 (After section 9) of the Schedule adds a new section 10 (Application of amendments made by LIN 24/043) to the English requirements instrument. New section 10 provides for how the amendments made by the Schedule apply.
- 9 Item 4 (After Schedule 1 – Required English language test scores) of the Schedule inserts a new Schedule 2 – Specified eligible pathway programs – in the English requirements instrument. New Schedule 2 sets out the courses by item number that are eligible pathway

programs. An applicant for a Subclass 500 (Student) visa who is undertaking one of the courses specified in Schedule 2 will need to achieve only IELTS (or equivalent) 5.5 if required to provide evidence of English.



LIN 24/022

**Migration (English Language Tests and Evidence Exemptions for  
Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024**

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I, Clare O’Neil, Minister for Home Affairs, make this instrument under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994*.

Dated                    21 March 2024

Clare O’Neil

Minister for Home Affairs

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## Part 1 Preliminary

### 1 Name

This instrument is the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024*.

### 2 Commencement

This instrument commences on **23 March 2024**.

### 3 Authority

This instrument is made under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994* (the Regulations).

### 4 Definitions

In this instrument:

***approved English language test*** means an English language test that is specified in the requirement in paragraph 5(1)(a).

***Australian Qualifications Framework*** has the meaning given by the *Higher Education Support Act 2003*.

***eligible pathway program*** means a course, which on successful completion, provides an academic entry pathway to second year Australian undergraduate study and has been identified by the Department as delivering reputable English language training.

Note: A pathway program is a course for students who have not met the academic entry requirements for their intended Australian undergraduate university degree. A pathway program leads to a qualification recognised under the Australian Qualifications Framework and provides academic credit and entry to second year undergraduate study.

***extended foundation program*** has the meaning given by the *Education Services for Overseas Students (Foundation Program Standards) Instrument 2021* as in force from time to time.

Note: A foundation program is a nationally recognised preparatory course for students who have not met the academic entry requirements for their intended Australian undergraduate university degree. Successful completion of the foundation program provides an academic entry pathway to first year undergraduate study. A foundation program can also be completed as an alternative to an Australian Year 12 certificate. The extended foundation program is of longer duration than the standard foundation program.

***principal course*** means, where the student is enrolled in multiple courses for the purposes of the Subclass 500 (Student) visa, the course with the highest Australian Qualifications Framework level.

Note: A student may enrol in multiple registered courses for the purposes of a Subclass 500 (Student) visa.

***required English language test score*** is the score specified, in relation to an approved English language test, in an item in the table in Schedule 1.

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**standard foundation program** has the meaning given by the *Education Services for Overseas Students (Foundation Program Standards) Instrument 2021* as in force from time to time.

Note: A foundation program is a nationally recognised preparatory course for students who have not met the academic entry requirements for their intended Australian undergraduate university degree. Successful completion of the foundation program provides an academic entry pathway to first year undergraduate study. A foundation program can also be completed as an alternative to an Australian Year 12 certificate.

**test component:** each of the following is a test component of an approved English language test:

- (a) listening;
- (b) reading;
- (c) speaking;
- (d) writing.

Note: A number of expressions used in this instrument are defined in definitions section of the Regulations, including the following:

- (a) **Defence student** has the meaning specified in regulation 1.04B;
- (b) **ELICOS** has the meaning specified in regulation 1.03;
- (c) **Foreign Affairs student** has the meaning specified in subregulation 1.04A(3);
- (d) **IELTS (or an International English Language Test System) test** has the meaning specified in regulation 1.03; and
- (e) **Secondary exchange student** has the meaning specified in regulation 1.03.

## Part 2 English language requirements for Subclass 500 (Student) visa

### 5 English language test requirements

- (1) For the purposes of subclause 500.213(1) of Schedule 2 to the Regulations, the following requirements are specified:
  - (a) the applicant must undertake one of the following English language tests:
    - (i) Cambridge English: Advanced test (**CAE**) (also known as Certificate in Advanced English);
    - (ii) **International English Language Testing System (IELTS)**;
    - (iii) Occupational English Test (**OET**);
    - (iv) Pearson Test of English Academic (**PTE**);
    - (v) Test of English as a Foreign Language internet-based test (**TOEFL iBT**); and
  - (b) the applicant must have undertaken the test within the following period:
    - (i) if evidence of the test is provided at the time the applicant makes an application for a Subclass 500 (Student) visa—

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the 2 year period immediately before the day on which the visa application is made; or

- (ii) if evidence of the test is not provided at the time the visa application is made—the 2 year period immediately before the day on which a decision to grant or refuse to grant the visa is made; and
  - (c) the applicant meets the requirements in subsection (2), (3), or (4).
- (2) The applicant achieved the required English language test score specified in Column 2 of an item in the table in Schedule 1.
- (3) If the applicant is enrolled in:
- (a) at least 10 weeks of an ELICOS that accompanies a principal course and that is intended to commence after the Subclass 500 (Student) visa application was made; or
  - (b) a standard foundation program; or
  - (c) an extended foundation program; or
  - (d) an eligible pathway program;
- the applicant achieved the required English language test score specified in Column 3 of an item in the table in Schedule 1.
- (4) If the applicant is enrolled in at least 20 weeks of an ELICOS that accompanies a principal course and that is intended to commence after the Subclass 500 (Student) visa application was made, the applicant achieved the required English language test score specified in Column 4 of an item in the table in Schedule 1.

## 6 English language test requirements do not apply

- (1) For the purpose of subclause 500.213(2) of Schedule 2 to the Regulations, subclause 500.213(1) of Schedule 2 to the Regulations does not apply to the following classes of applicants:
- (a) an applicant who is a citizen of, and who holds a valid passport issued by, one or more of the following countries:
    - (i) Canada;
    - (ii) New Zealand;
    - (iii) the Republic of Ireland
    - (iv) the United Kingdom;
    - (v) the United States of America;
  - (b) an applicant who is enrolled in one of the following courses, where that course is the only course of study enrolled in for the purposes of the Subclass 500 (Student) visa application:
    - (i) a course of study that is registered to be delivered in a language other than English;
    - (ii) an ELICOS;
    - (iii) a registered school course;
    - (iv) a registered post-graduate research course;
  - (c) an applicant who is:
    - (i) a Foreign Affairs student; or
    - (ii) a Defence Student; or

- 
- (iii) a Secondary exchange student;
  - (d) an applicant, who, in the 2 years before applying for a Subclass 500 (Student) visa, has successfully completed:
    - (i) the requirements for a Senior Secondary Certificate of Education, in a course that was conducted in Australia and in English; or
    - (ii) a substantial component of a course leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher that was conducted in Australia and in English, while the applicant was holding a student visa;
  - (e) an applicant who has successfully completed a minimum of 5 years of study in English undertaken in one or more of the following countries:
    - (i) Australia;
    - (ii) Canada;
    - (iii) New Zealand;
    - (iv) South Africa;
    - (v) the Republic of Ireland;
    - (vi) the United Kingdom;
    - (vii) the United States of America.

## **Part 3 Application and repeals**

### **7 Application of this instrument**

This instrument applies in relation to an application for a Subclass 500 (Student) visa made on or after the commencement of this instrument.

### **8 Repeal of IMMI 18/015**

The instrument *Migration (IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument 2018* is repealed.

### **9 Application of repeal**

Despite the repeal of *Migration (IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument 2018* by this instrument, that instrument, as in force immediately before the commencement of this instrument, continues to apply in relation to an application for a Subclass 500 (Student) visa made but not yet finally determined before the date of commencement of this instrument.



## Schedule 1 Required English language test scores

English language test scores				
Item	Column 1:	Column 2:	Column 3:	Column 4:
	Test name	Minimum test score	Minimum test score: if principal course is accompanied by at least 10 weeks of an ELICOS; or if a standard foundation program; or if an extended foundation program; or if an eligible pathway program.	Minimum test score: if principal course is accompanied by at least 20 weeks of an ELICOS.
1	Cambridge English: Advanced (CAE) test/ Certificate in Advanced English	169	162	154
2	International English Language Testing system (IELTS Test)	Overall band score 6.0	Overall band score of 5.5	Overall band score of 5.0
3	Occupational English Test (OET)	a score of at least B for each test component	a score of at least B for each test component	a score of at least B for each test component
4	Pearson Test of English Academic (PTE)	50	42	36
5	Test of English as a Foreign Language internet-based test (TOEFL iBT)	64	46	35

## EXPLANATORY STATEMENT

Issued by authority of the Minister for Home Affairs

*Migration Regulations 1994*

### ***Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024***

- 1 The instrument, Departmental reference LIN 24/022, is made under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument repeals *Migration (IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument 2018* (F2018C00474) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the Acts Interpretation Act). That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
- 3 The instrument commences on 23 March 2024. It is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 4 The purpose of the instrument is to specify English language proficiency requirements to satisfy the criterion for the grant of a Subclass 500 (Student) visa in subclause 500.213(1). The instrument operates to increase the required English language test scores, following the release of the Government's Migration Strategy, to improve the integrity of the student visa program. The instrument also specifies the class of applicants to which English language requirements do not apply under subclause 500.213(2).

#### ***Background***

- 5 Under subclause 500.213(1), if required by the Minister, an applicant must provide evidence they have a level of English language proficiency that meets the requirements specified in a legislative instrument made by the Minister under paragraph 500.213(3)(a).
- 6 LIN 24/022 specifies the following English language proficiency requirements:
  - the applicant took an approved English language test;
  - the applicant took the test within 2 years immediately before the application is made (or if evidence of the test is not provided at the time the visa application is made, 2 years immediately before a decision on the application is made);

- the applicant achieved the required English language test score specified in Schedule 1 and any associated requirements.
- 7 The required English language test scores have increased from those previously specified in *Migration (IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument 2018*. This is because higher English language requirements will help students succeed in their studies and engage in Australian life.
  - 8 Australia has a large student cohort as a proportion of the general population, so it is important for Australia's social cohesion for students to have the language skills necessary to live, study and engage in part time or casual work. Students with strong English language skills are less likely to experience workplace exploitation and more likely to make the social and professional connections that will help them navigate the labour market and gain skilled employment as graduates. The increase to English language test scores also means Australia is more aligned with competitor countries.
  - 9 Lower test scores are specified for applicants who are unable to achieve a test score of IELTS 6.0 (or equivalent), if they enrol in a registered course of at least 10 or 20 weeks of an English Language Intensive Course for Overseas Students (ELICOS).
  - 10 Test scores are maintained at 5.5 for applicants enrolled in standard or extended foundation programs or eligible pathway programs. Foundation and pathway programs are courses for students who have not met the academic entry requirements for their intended Australian undergraduate university degree. Successful completion of a foundation program provides an academic entry pathway to first year undergraduate study. A pathway program leads to a qualification recognised under the Australian Qualifications Framework and provides academic credit for and entry to second year undergraduate study.
  - 11 The instrument also specifies classes of applicants to which the English language test requirements do not apply under subclause 500.213(2), which maintains existing settings.

### ***Consultation***

- 12 Cross-Government consultation was undertaken in relation to the reforms to increase the English language test scores. Stakeholder views were also sought through the Education Visa Consultative Committee, the Council for International Education, and a range of individual meetings with International education sector providers. Stakeholders were broadly supportive of the proposal to increase English language proficiency requirements for student and graduate visas. The Department has engaged closely with the ELICOS sector who expressed the

strongest concerns about the change. This consultation accords with s 17(1) of the Legislation Act.

- 13 The Office of Impact Analysis (OIA) was consulted and considered all impact analysis requirements have been acquitted. No further impact analysis is required. The OIA reference number is OBPR23-04044.

***Details of the instrument***

- 14 Details of the instrument are set out in Attachment A.

***Parliamentary scrutiny etc.***

- 15 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Schedule 2 to the Migration Regulations are prescribed as being exempt from disallowance under paragraph 44(2)(b) of the Migration Regulations. See table item 20 in regulation 10 of the *Legislation (Exemptions and Other Matters) Regulations 2015*. As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.

***Details of the instrument***

- 1 Section 1 provides the name of the instrument is the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024*.
- 2 Section 2 provides the instrument commences on **23 March 2024**.
- 3 Section 3 provides the instrument is made under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 4 Section 4 sets out the definitions of terms used in the instrument. The note to section 4 provides that a number of expressions used in the instrument are defined in the Migration Regulations.
- 5 Section 5 specifies the English language test requirements an applicant must meet:
  - subsection 5(1) specifies the requirements for the purpose of subclause 500.213(1) of Schedule 2 to the Migration Regulations. Subclause 500.213(1) provides, that if required by the Minister, the applicant gives evidence they have a level of English language proficiency that meets the requirements specified in a legislative instrument. The requirements specified for this purpose are:
    - i. the applicant took an approved English language test, which is defined in section 4 to mean:
      - the International English Language Testing System (the IELTS);
      - the Test of English as a Foreign Language internet based test (the TOEFL iBT);
      - the Cambridge English: Advanced test (the CAE) (also known as Certificate in Advanced English);
      - the Pearson Test of English Academic (the PTE);
      - the Occupational English Test (the OET);
    - ii. the applicant took the test either:
      - within 2 years immediately before the application is made, if evidence of the test is provided at the time the application is made; or
      - within 2 years immediately before a decision is made on the application, if evidence of the test is not provided at the time the visa application is made;

iii. the applicant satisfied the English language test score requirements in subsections (2), (3) or (4). The applicant is required to meet the requirements set out in only one of these subsections. The required English language test scores are set out against each of the approved English language tests in Schedule 1.

- subsection 5(2) provides that the applicant must have achieved the required English language test score set out in Column 2 of Schedule 1. Column 2 sets out the new minimum test scores required to be achieved.
- subsection 5(3) provides that, if the applicant has enrolled in at least 10 weeks of an ELICOS in addition to their principal course, or has enrolled in a standard foundation program, an extended foundation program or an eligible pathway program, the applicant must have achieved the required English language test score set out in Column 3 of Schedule 1, which is lower than the score required in Column 2.
- subsection 5(4) provides that, if the applicant has enrolled in at least 20 weeks of ELICOS in addition to their principal course, the applicant must have achieved the required English language test score set out in Column 4 of Schedule 1, which is lower than the score required in Column 2 and 3.

i. Column 3 and Column 4 of Schedule 1 specify lower test scores for applicants who are unable to achieve the benchmark score of IELTS 6.0 (or equivalent) specified in Column 2, provided the applicant also provides evidence of enrolment in at least 10 or 20 weeks of ELICOS. Enrolment in the relevant period of ELICOS must be in addition to the principal course of study and the ELICOS must commence after the Student visa application is made. Evidence of ELICOS undertaken prior to lodging a visa application will not be eligible for consideration. This maintains the current setting that a lower score is available where a course is packaged with the required ELICOS study.

ii. Column 3 of Schedule 1 also specifies a lower score for the foundation and pathway programs. This maintains the score of 5.5 (or equivalent) currently required for foundation and pathway programs.

6 Section 6 sets out the classes of applicants to which subclause 500.213(1) of Schedule 2 to the Migration Regulations does not apply. Applicants within the specified class are not required to meet the English language requirements specified for subclause 500.213(1).

- paragraph 6(1)(a) provides the requirements of subclause 500.213(1) do not apply to an applicant who is a citizen of and who holds a valid passport issued by:
  - i. the United Kingdom;
  - ii. the United States of America;

- iii. Canada;
  - iv. New Zealand; or
  - v. the Republic of Ireland;
- paragraph 6(1)(b) provides the requirements of subclause 500.213(1) do not apply to an applicant who is enrolled one of the following courses, where that is the only course being undertaken on the visa (ie, is not part of a package of courses):
  - i. a course of study that is registered to be delivered in a language other than English;
  - ii. an ELICOS;
  - iii. a registered school course; or
  - iv. a registered post-graduate research course;
- paragraph 6(1)(c) provides the requirements of subclause 500.213(1) do not apply to an applicant who is a:
  - i. Foreign Affairs student;
  - ii. Defence student; or
  - iii. Secondary exchange student;
- paragraph 6(1)(d) provides the requirements of subclause 500.213(1) do not apply to an applicant who in the 2 years before applying for a Subclass 500 (Student) visa, has successfully completed:
  - i. the requirements for a Senior Secondary Certificate of Education conducted in Australia and in English; or
  - ii. a substantial component of a course leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher that was conducted in Australia and in English, while the applicant was holding a student visa;
- paragraph 6(1)(e) provides the requirements of subclause 500.213(1) do not apply to an applicant who has successfully completed a minimum of 5 years of study in English undertaken in any of the following countries: Australia; Canada; New Zealand; South Africa; the Republic of Ireland; the United Kingdom; the United States of America.

- 7 Section 7 provides this instrument applies to an application for a Subclass 500 (Student) visa made on or after the commencement of this instrument.
- 8 Section 8 repeals the instrument *Migration (IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument 2018*.
- 9 Section 9 continues the application of *Migration (IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument 2018* in respect to applications for a Subclass 500 (Student) visa made, but not yet finally determined, before the date of commencement of this instrument.
- 10 Schedule 1 sets out the minimum English language test scores required in relation to each of the approved English language tests.