



Migration (LIN 19/085: Academic Year) Instrument 2019

I, David Coleman, Minister for Immigration, Citizenship and Multicultural Affairs, make the following instrument.

Dated 26 March 2019

David Coleman

The Hon David Coleman MP
Minister for Immigration, Citizenship and Multicultural Affairs

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Part 1 - Preliminary

1 Name

- (1) This instrument is the *Migration (LIN 19/085: Academic Year) Instrument 2019*.
- (2) This instrument may be cited as LIN 19/085.

2 Commencement

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

3 Authority

This instrument is made under the definition of *academic year* in regulation 1.03 of the *Regulations*.

4 Definitions

In this instrument:

Course means a course registered under the *Education Services for Overseas Students Act 2000*.

Regulations means the *Migration Regulations 1994*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2 – Definition

6 Definition of academic year

For the purposes of the definition of *academic year* in regulation 1.03 of the Regulations, an academic year is *at least a total of 46 weeks*, being the duration of a course or courses.

Schedule 1—Repeals

IMMI 09/040 Definition of ‘Academic Year’

1 The whole of the instrument

Repeal the instrument.

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 19/085: Academic Year) Instrument 2019

(Regulation 1.03)

1. The instrument, LIN 19/085, is made under *regulation 1.03* of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals IMMI 09/040 (F2009L01654) made under *regulation 1.03* the *Regulations* and in accordance with subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The instrument operates to define an academic year. It maintains the policy standard which has been applied since 1 September 2007, that an academic year is at least a total of 46 weeks.
4. The purpose of the instrument is to specify the number of weeks which determines the measure of an academic year for meeting the Australian study requirement. This requirement is relevant to the Temporary Graduate visa (subclass 485) and the skilled migration points test as part of applying for General Skilled Migration (GSM) visas. Students applying for a Temporary Graduate visa must have met the Australian study requirement in the six months prior to lodging their application. Students applying for a GSM visa can earn points under the skilled migration points test if they meet the Australian study requirement. The intention is to remove any uncertainty as to the number of weeks a course must be registered on the Commonwealth Register of Institutions and Courses for Overseas Students.

5. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003*, consultation was not necessary. The instrument is of a minor or machinery nature and does not substantially alter existing arrangements.
6. The Office of Best Practice Regulation (OBPR) have advised that a Regulatory Impact Statement is not required (OBPR Reference: 24040).
7. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
8. The instrument commences on the day after registration on the Federal Register of Legislation.