



Commonwealth of Australia

Migration Regulations 1994

Migration Act 1958

EVIDENCE OF FUNCTIONAL ENGLISH LANGUAGE PROFICIENCY 2015
(Regulation 5.17)

I, *MICHAELIA CASH*, Assistant Minister for Immigration and Border Protection, acting under paragraph 5.17(a) of the *Migration Regulations 1994* (the Regulations):

1. REVOKE Instrument number IMMI 14/055 (F2014L01551) signed on 12 November 2014, specifying evidence of functional English language proficiency for the purposes of paragraph 5(2)(b) of the *Migration Act 1958* (the Act); AND
2. SPECIFY that, for paragraph 5(2)(b) of the Act (providing to the Minister prescribed evidence of a person's English language proficiency) the following is recognised as prescribed evidence of the English language proficiency of a person who has functional English:
 - (a) the applicant provides evidence of having completed all years of primary education and at least 3 years of secondary education at educational institutions in which all instruction was conducted in English; or
 - (b) the applicant provides evidence of having completed at least 5 years of secondary education at institutions in which all instruction was conducted in English; or
 - (c) the applicant provides evidence of having achieved an International English Language Testing System (IELTS) average band score of at least 4.5, based on the four test components of speaking, reading, writing and listening in a test conducted:
 - not more than 12 months before lodging the relevant application to migrate; or
 - at the time of the processing of the relevant application to migrate; or
 - (d) the applicant provides evidence that he or she has successfully completed, in Australia, at least 1 year of full-time study or equivalent part-time study towards a degree, higher degree, diploma, or associate diploma, at an institution or institutions where all the instruction was conducted in English.

- (e) the applicant provides evidence of having achieved a Test of English as a Foreign Language internet-Based Test (TOEFL iBT) total band score of at least 32, based on the four test components of speaking, reading, writing and listening in a test conducted:
- not more than 12 months before lodging the relevant application to migrate; or
 - at the time of the processing of the relevant application to migrate; or
- (f) the applicant provides evidence of having achieved a Pearson Test of English Academic (PTE Academic) overall band score of at least 30, based on the four test components of speaking, reading, writing and listening in a test conducted:
- not more than 12 months before lodging the relevant application to migrate; or
 - at the time of the processing of the relevant application to migrate; or
- (g) the applicant provides evidence of having achieved a Cambridge English Advanced (CAE) overall score of at least 147 based on the four test components of speaking, reading, writing and listening in a test conducted:
- not more than 12 months before lodging the relevant application to migrate; or
 - at the time of the processing of the relevant application to migrate; or
- (h) the applicant provides evidence that he or she is the holder of a valid passport issued by the United Kingdom, the United States of America, Canada, New Zealand or the Republic of Ireland, to a citizen of that country.

This Instrument number IMMI 15/004, commences on 1 January 2015.

Dated 3/12/2014

Michaelia Cash
Assistant Minister for Immigration and Border Protection

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration Act 1958

EVIDENCE OF FUNCTIONAL ENGLISH LANGUAGE PROFICIENCY 2015

(Regulation 5.17)

1. This Instrument is made under regulation 5.17 of the *Migration Regulations 1994* (the Regulations).
2. It revokes Instrument IMMI 14/055 (F2014L01551) signed on 23 November 2014.
3. The purpose of the Instrument is to:
 - (a) specify what qualifications or experience an applicant must have to meet the definition of **functional English**; and
 - (b) **include the Cambridge English: Advanced (CAE) test**; and
 - (c) specify that applicants who are citizens of and who hold a valid passport issued by the United Kingdom, the United States of America, Canada, or the Republic of Ireland has been determined to have functional English language proficiency.
4. The Instrument operates to specify the qualifications or experience necessary for the purposes of providing evidence of English language proficiency. This includes specifying educational experience and results obtained as a consequence of sitting specific English language tests including the International English Language Testing System (IELTS) Test, the Test of English as a Foreign Language internet-based test (TOEFL iBT), the Pearson Test of English Academic (PTE Academic) and the Cambridge English: Advanced (CAE) test.
5. The Instrument is of a minor or machinery nature and does not substantially alter existing arrangements. Consultation was conducted with relevant internal and external stakeholders from the skilled migration officers group, the international education sector and other Commonwealth government agencies in addition to

consultations as part of the broader consultation relating to the expansion of alternative English language tests across other visa programmes.

6. The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required (OBPR Reference 16643).
7. Under section 44 of the *Legislative Instruments Act 2003* the Instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
8. The Instrument, IMMI 15/004, commences **on 1 January 2015**.