



LIN 24/021

Migration (English Language Requirements for Subclass 476 (Skilled – Recognised Graduate) and Subclass 485 (Temporary Graduate) Visas) Instrument (LIN 24/021) 2024

I, Clare O’Neil, Minister for Home Affairs, make this instrument under clauses 476.213 and 485.212 of Schedule 2 to the *Migration Regulations 1994*.

Dated 21 March 2024

Clare O’Neil
Minister for Home Affairs

Contents

Part 1	Preliminary	3
1	Name	3
2	Commencement	3
3	Authority	3
4	Definitions	3
Part 2	English language requirements	3
5	Specified English language tests	3
6	Specified test scores to be achieved	3
7	Specified period and requirements	3
8	Specified passports in relation to which English proficiency requirements do not apply	4
Part 3	Repeals, savings, transitional	4
9	Repeal	4
10	Savings and transitional	4
Schedule 1	Required English language test scores	5
Schedule 2	Required English language test scores for Hong Kong and British National (Overseas) passport holders	6

Part 1 Preliminary

1 Name

This instrument is the *Migration (English Language Requirements for Subclass 476 (Skilled – Recognised Graduate) and Subclass 485 (Temporary Graduate) Visas) Instrument (LIN 24/021) 2024*.

2 Commencement

This instrument commences on 23 March 2024.

3 Authority

This instrument is made under clauses 476.213 and 485.212 of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).

4 Definitions

test component: each of the following is a test component of an English language test that is specified in section 5:

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

Part 2 English language requirements

5 Specified English language tests

For subparagraphs 476.213(a)(i) and 485.212(1)(a)(i) of Schedule 2 to the Migration Regulations, the following tests are specified:

- (a) Cambridge English: Advanced test (*CAE*);
- (b) International English Language Testing System (*IELTS*);
- (c) Occupational English Test (*OET*);
- (d) Pearson Test of English Academic (*PTE*); and
- (e) Test of English as a Foreign Language internet-based test (*TOEFL iBT*).

6 Specified test scores to be achieved

For subparagraphs 476.213(a)(ii) and 485.212(1)(a)(ii) of Schedule 2 to the Migration Regulations, the test scores to be achieved, in a language test specified in section 5, are specified:

- (a) in Schedule 1; or
- (b) if the applicant is a Hong Kong passport holder or British National (Overseas) passport holder—in Schedule 2.

7 Specified period and requirements

For subparagraphs 476.213(a)(ii) and 485.212(1)(a)(ii) of Schedule 2 to the Migration Regulations, the following period and requirements are specified:

- (a) the applicant achieved the specified test scores within 1 year before the day on which the visa application was made; and

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- (b) unless the test was an OET, the test scores were achieved in a single sitting.

8 Specified passports in relation to which English proficiency requirements do not apply

For paragraphs 476.213(b) and 485.212(1)(b) of Schedule 2 to the Migration Regulations, a valid passport issued by one of the following countries to a citizen of that country is specified:

- (a) Canada;
(b) New Zealand;
(c) the Republic of Ireland;
(d) the United Kingdom;
(e) the United States of America.

Part 3 Repeals, savings, transitional

9 Repeal

The instrument *Migration Regulations 1994 - Specification of English Language Tests, Scores and Passports 2015* (IMMI 15/062) is repealed.

10 Savings and transitional

- (1) This instrument applies in relation to an application made on or after the commencement of this instrument.
- (2) Despite the repeal of *Migration Regulations 1994 - Specification of English Language Tests, Scores and Passports 2015* (IMMI 15/062), that instrument, as in force immediately before the day this instrument commences, continues to apply in relation to an application made, but not yet finally determined, before the commencement of this instrument.

Schedule 1 Required English language test scores

Required test scores		
Item	If the English language test is ...	the required test scores for that test are ...
1	the CAE	(a) an overall band score of at least 176; and (b) a score of at least 162 for each test component of the CAE.
2	the IELTS	(a) an overall band score of at least 6.5; and (b) a score of at least 5.5 for each test component of the IELTS.
3	the OET	a score of at least B for each test component of the OET.
4	the PTE	(a) an overall band score of at least 57; and (b) for the listening test component of the PTE—a score of at least 43; and (c) for the reading test component of the PTE—a score of at least 48; and (d) for the speaking test component of the PTE—a score of at least 42; and (e) for the writing test component of the PTE—a score of at least 51.
5	the TOEFL iBT	(a) a total overall score of at least 83; and (b) for the listening test component of the TOEFL iBT—a score of at least 7; and (c) for the reading test component of the TOEFL iBT—a score of at least 8; and (d) for the speaking test component of the TOEFL iBT—a score of at least 16; and (e) for the writing test component of the TOEFL iBT—a score of at least 18.

Schedule 2 Required English language test scores for Hong Kong and British National (Overseas) passport holders

Required test scores		
Item	If the English language test is ...	and the applicant is the holder of a Hong Kong or British National (Overseas) passport, the required test scores for that test are ...
1	the CAE	(a) an overall band score of at least 169; and (b) a score of at least 154 for each test component of the CAE.
2	the IELTS	(a) an overall band score of at least 6; and (b) a score of at least 5 for each test component of the IELTS.
3	the OET	a score of at least B for each test component of the OET.
4	the PTE	(a) an overall band score of at least 50; and (b) a score of at least 36 for each test component of the PTE.
5	the TOEFL iBT	(a) a total overall score of at least 64; and (b) for the listening and reading test components of the TOEFL iBT—a score of at least 4; and (c) for the speaking and writing test components of the TOEFL iBT—a score of at least 14.

EXPLANATORY STATEMENT

Issued by authority of the Minister for Home Affairs

Migration Regulations 1994

Migration (English Language Requirements for Subclass 476 (Skilled – Recognised Graduate) and Subclass 485 (Temporary Graduate) Visas) Instrument (LIN 24/021) 2024

- 1 The instrument, departmental reference LIN 24/021, is made under clauses 476.213 and 485.212 of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument repeals *Migration Regulations 1994 – Specification of English Language Tests, Scores and Passports 2015* 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 the English language requirements to be satisfied to meet the criteria for a Subclass 476 (Skilled – Recognised Graduate) visa or Subclass 485 (Temporary Graduate) visa under clauses 476.213 and 485.212. 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 temporary graduate visa program.
- 5 Under clause 476.213 and clause 485.212 of Schedule 2 to the Migration Regulations, an applicant is required to provide evidence that the applicant:
 - has undertaken a language test specified by the Minister in a legislative instrument; and
 - has achieved, within the period specified, the score specified and in accordance with the requirements (if any) specified by the Minister in the instrument; or
 - the applicant holds a passport of a type specified by the Minister in a legislative instrument.
- 6 LIN 24/021 specifies five English language tests approved for the purposes of clause 476.213 and clause 485.212. These tests are the:
 - Cambridge English: Advanced test (the CAE);
 - International English Language Testing System (the IELTS);

- Occupational English Test (the OET);
 - Pearson Test of English Academic (the PTE); and
 - Test of English as a Foreign Language internet-based test (the TOEFL iBT).
- 7 The instrument also specifies the applicant must have achieved the required test scores in a single sitting, unless the test was an OET. The applicant may attempt to sit the test more than once, however they must achieve the required test scores for each component in a single sitting of that test. The only exception is for the OET, where the required test scores for each component do not need to be achieved in a single sitting.
- 8 The required test scores must be achieved within one year before the day on which the visa application was made. This reduces the period of time in which the scores must have been achieved from three years (as previously set out in *Migration Regulations 1994 – Specification of English Language Tests, Scores and Passports 2015* (IMMI 15/062) (F2015L00564)) to one year.
- 9 The required test scores are set out in the relevant Schedules to the instrument. The test scores have increased since the previous instrument IMMI 15/062. Graduates with strong English language skills are more likely to make the social and professional connections that will help them navigate the labour market. Graduates with high proficiency in English are less at risk of exploitation and better equipped to gain skilled employment, which will advance their careers and contribute to Australia's economy over the longer term.
- 10 The test scores have not increased for Hong Kong or British National (Overseas) passport holders. This maintains existing arrangements consistent with migration reforms introduced in 2020 to provide these passport holders with access to a five-year temporary graduate visa. Schedule 2 sets out the English language requirements that apply to these passport holders.
- 11 The instrument maintains existing settings and does not require English language tests to be undertaken by citizens of the following countries who hold a valid passport from that country: the United Kingdom, the United States of America, Canada, New Zealand or the Republic of Ireland, recognising these countries are native English-speaking countries.

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 Legislation Act. 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.
- 16 The instrument was made by the Minister for Home Affairs in accordance with the Migration Regulations.

Details of the instrument

- 1 Section 1 provides that the name of the instrument is the *Migration (English Language Requirements for Subclass 476 (Skilled – Recognised Graduate) and Subclass 485 (Temporary Graduate) Visas) Instrument (LIN 24/021) 2024*.
- 2 Section 2 provides the instrument commences on 23 March 2024.
- 3 Section 3 provides the instrument is made under clauses 476.213 and 485.212 of the *Migration Regulations 1994* (the Migration Regulations).
- 4 Section 4 sets out the definitions of terms used in the instrument:
 - *test component* of an approved English language test is each of the following:
 - i. listening;
 - ii. reading;
 - iii. speaking; and
 - iv. writing.
- 5 Section 5 specifies the relevant English language tests. Subparagraphs 476.213(a)(i) and 485.212(1)(a)(i) provide that the applicant has undertaken a language test specified in a legislative instrument. The following tests are specified for that purpose:
 - Cambridge English: Advanced test (the CAE);
 - International English Language Testing System (the IELTS);
 - Occupational English Test (the OET);
 - Pearson Test of English Academic (the PTE); and
 - Test of English as a Foreign Language internet-based test (the TOEFL iBT).
- 6 Section 6 relates to the test scores to be achieved by the applicant. Subparagraphs 476.213(a)(ii) and 485.212(1)(a)(ii) provide that the applicant has achieved, within the period specified by the Minister in the instrument, the score specified by the Minister in the instrument in accordance with the requirements (if any) specified by the Minister in the instrument. Section 6 provides that the scores that must be achieved in relation to each test are specified in Schedules 1 and 2 to the Instrument.
- 7 Section 7 specifies the period in which the scores must be achieved and when they must be achieved in a single sitting. Subparagraphs 476.213(a)(ii) and 485.212(1)(a)(ii) provide that the applicant has achieved, within the period specified by the Minister in the instrument, the score

specified by the Minister in the instrument in accordance with the requirements (if any) specified by the Minister in the instrument. Section 7 specifies that the required test scores must be achieved within 1 year before the day the visa application was made. It also specifies that the scores must have been achieved in a single sitting, unless the test was OET.

- 8 Section 8 specifies the passports for which English proficiency requirements do not apply. Paragraphs 476.213(b) and 485.212(1)(b) provide that the applicant holds a passport of a type specified by the Minister in a legislative instrument. Section 8 specifies the relevant passports. The applicant must be a citizen of the relevant country as well as a passport holder.
- 9 Section 9 provides the instrument *Migration Regulations 1994 - Specification of English Language Tests, Scores and Passports 2015* (IMMI 15/062) is repealed.
- 10 Section 10 provides that the instrument applies to a visa application made on or after the commencement of the instrument. The previous instrument, IMMI 15/062, continues to apply to applications made, but not yet finally determined, before the commencement of the instrument.
- 11 Schedule 1 sets out the required test scores for each of the approved English language tests. Schedule 2 sets out the required test scores for each of the approved English language test for Hong Kong or British National (Overseas) passport holders.