

## EXPLANATORY STATEMENT

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

*Migration Regulations 1994*

### ***Migration (Specification under clause 485.231 – Educational Institutions) Instrument (LIN 23/021) 2023***

- 1 The instrument, Departmental reference LIN 23/021, is made under clause 485.231 of the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument repeals *Migration Regulations 1994 –Educational Institutions* (IMMI 13/031) (F2013L00529) 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 and is a legislative instrument for the *Legislation Act 2003* (Legislation Act).

#### ***Purpose***

- 4 Subclause 485.231(2) of Schedule 2 to the Migration Regulations provides that applicants seeking to satisfy the primary criteria for the grant of a Subclass 485 (Temporary Graduate) visa in the Post-Study Work stream must hold a qualification that was conferred or awarded by an educational institution specified by the Minister in an instrument in writing.
- 5 The instrument provides the type of educational institutions that specified qualifications must be conferred or awarded by. The institution must be an Australian university or non-university educational provider that is registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) and offer courses at bachelor's degree level and above. The CRICOS is established by section 14A of the *Education Services for Overseas Students Act 2000*.
- 6 The purpose of this instrument is to enhance the quality, integrity and competitiveness of Australia's international education sector by providing for post-study work arrangements for applicants conferred or awarded a specified degree by a specified institution.
- 7 The instrument will maintain arrangements previously in place under *Migration Regulations 1994 –Educational Institutions* (IMMI 13/031) (F2013L00529), which will be repealed by this instrument.

#### ***Consultation***

- 8 Consultation is unnecessary as the instrument is of a machinery nature and does not alter existing arrangements.
- 9 The Office of Impact Analysis (OIA) was consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OIA reference number is OBPR23-04317.

***Parliamentary scrutiny etc.***

- 10 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because a legislative instrument made under Schedule 2 of the Migration Regulations is prescribed under section 10, item 20(b), of the *Legislation (Exemptions and Other Matters) Regulation 2015* as an instrument not subject to disallowance.
- 11 As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
- 12 The instrument was made by the Minister for Immigration, Citizenship and Multicultural Affairs, in accordance with subclause 485.231(2) of Schedule 2 to the Migration Regulations.

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