

## EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration and Multicultural Affairs

*Migration Regulations 1994*

### ***Migration (English Language Requirements for Subclass 192 (Pacific Engagement) Visa—Pacific Engagement Stream) Instrument 2025***

- 1 The instrument (departmental reference LIN 25/025) is made under clause 192.223 of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument also repeals *Migration (English Language Requirements for Subclass 192 (Pacific Engagement) Visa) Instrument (LIN 24/023) 2024* (LIN 24/023) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*. 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 1 May 2025. It is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 4 The instrument specifies, for the purposes of clause 192.223 of Schedule 2 to the Migration Regulations, English language test requirements that an applicant (or, if making a combined application with the applicant, the applicant's spouse or de facto partner) may be required to satisfy for the grant of a Subclass 192 (Pacific Engagement) visa in the Pacific Engagement stream (Pacific Engagement stream visa).

#### ***Background***

- 5 The *Migration Amendment (Australia Tuvalu Falepili Union Treaty Visa) Regulations 2025* amended the Migration Regulations on 1 May 2025 to introduce two streams into the Subclass 192 (Pacific Engagement) visa - the Pacific Engagement stream and the Treaty stream.
- 6 The Pacific Engagement stream visa provides an avenue to permanent residence in Australia for eligible citizens of a number of Pacific island countries and Timor-Leste (including members of their family units). Applicants must be randomly selected to apply for the visa under a visa pre-application process relating to their country of citizenship.
- 7 Applicants must meet prescribed criteria for the grant of a Pacific Engagement stream visa including the requirement in clause 192.223 of Schedule 2 to the Migration Regulations. Clause 192.223 provides that, if the Minister requires, the applicant (or their spouse or de facto partner if they have made a combined application with the applicant) must satisfy English language test requirements specified by the Minister in a legislative instrument. This criterion ensures that at least one applicant for the visa has sufficient English or appropriate prospects of acquiring English.
- 8 Applicants who can demonstrate English language proficiency, for instance through time spent working or studying in an English speaking country or by previously satisfying an approved English language

test, will not be required to satisfy the English language test requirements specified in the instrument. Applicants who do not meet these circumstances will have the option of undertaking to participate free of charge in the Australian Migrant English Program (AMEP) after arrival in Australia, or, alternatively, satisfying the English language test requirements specified in the instrument.

- 9 The instrument specifies five English language tests: the Cambridge English: Advanced test (the CAE), the International English Language Testing System (IELTS); the Occupational English Test (the OET); the Pearson Test of English Academic (the PTE); and the test of English as a Foreign Language internet-based Test (the TOEFL iBT). The instrument also specifies the required test scores for each of the specified tests. The tests have different scoring systems, however the instrument specifies equivalent scores to achieve a reasonable level of English under each test.
- 10 The English language test requirements specified in the instrument do not include the test components of reading or writing in English. The reason for this is that it is considered that minimum level English language speaking and listening skills are appropriate and sufficient for Pacific Engagement stream visa holders to effectively engage with the Australian community for the purposes of working, studying, or in cultural and community activities, in circumstances where the visa program does not require higher level occupational skills or minimum level reading or writing skills.
- 11 The instrument repeals the previous instrument, LIN 24/023, as a consequence of the amendments made by the *Migration Amendment (Australia Tuvalu Falepili Union Treaty Visa) Regulations 2025*. The instrument retains all of the previous policy settings that previously existed in relation to the Subclass 192 (Pacific Engagement) visa, which are now reflected in the visa criteria for the Pacific Engagement stream visa.

### ***Consultation***

- 12 Whole of government consultation was undertaken in relation to the amendments made by the *Migration Amendment (Australia Tuvalu Falepili Union Treaty Visa) Regulations 2025*. No further consultation was undertaken in relation to this instrument as it retains all the policy settings and requirements that were in place in relation to the Subclass 192 (Pacific Engagement) visa before its amendment on 1 May 2025.
- 13 The Office of Impact Analysis (OIA) was previously consulted in relation to LIN 24/023 and considered that all impact analysis requirements had been acquitted. No further regulatory impact statement was required. The OIA reference number is OBPR22-02320.

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

- 14 Details of the instrument are set out in the [Attachment](#).

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

- 15 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because in accordance with paragraph 44(2)(b) of the Legislation Act and item 20(b) in regulation 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, instruments made under Schedule 2 of the Migration Regulations are prescribed as being exempt from disallowance. Given the instrument is exempt from disallowance, a statement of compatibility in accordance with section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is not required.

- 16 The instrument was made by the Minister for Immigration and Multicultural Affairs, in accordance with clause 192.223 of Schedule 2 to the Migration Regulations.

**Details of the Migration (English Language Requirements for Subclass 192 (Pacific Engagement) Visa—Pacific Engagement Stream) Instrument 2025**

**Section 1 Name**

This section provides that the name of the instrument is the *Migration (English Language Requirements for Subclass 192 (Pacific Engagement) Visa—Pacific Engagement Stream) Instrument 2025* (the instrument).

**Section 2 Commencement**

This section provides that the instrument commences on 1 May 2025.

**Section 3 Authority**

This section provides that the authority under which the instrument is made is clause 192.223 of Schedule 2 to the Migration Regulations.

**Section 4 Definitions**

This section outlines the definition of terms used in the instrument:

- ***Migration Regulations*** means the *Migration Regulations 1994*;
- ***Pacific Engagement stream visa*** means a Subclass 192 (Pacific Engagement) visa in the Pacific Engagement stream as set out in Subdivision 192.22 of Schedule 2 to the Migration Regulations.

**Section 5 Schedules**

This section provides that each instrument specified in a Schedule to the 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.

**Section 6 English language test requirements for Pacific Engagement stream visa**

This section specifies the English language test requirements for the purposes of clause 192.223 of Schedule 2 to the Migration Regulations.

Paragraph 6(1)(a) provides that the applicant, or the applicant's spouse or de facto partner (if they made a combined visa application) must undertake an English language test listed in subclause (2) – see below.

Paragraph 6(1)(b) provides that the applicant, or the applicant's spouse or de facto partner (if they made a combined application), must achieve the test score specified in column 2 of the table in relation to the test undertaken. The table is set out in subsection 6(3).

Paragraph 6(1)(c) provides that the test must have been undertaken:

- if evidence of the test is provided at the time of visa application, 3 years immediately before the day of visa application; or

- if evidence of the test is not provided at the time of visa application, 3 years immediately before a decision to grant or refuse the visa application is made.

Subsection 6(2) provides the English language tests for the purposes of paragraph (1)(a) are:

- the Cambridge English Advanced test (the CAE);
- the International English Language Testing System (the IELTS);
- the Occupational English test (the OET);
- the Pearson test of English Academic (the PTE);
- the Test of English as a Foreign Language internet-based Test (the TOEFL iBT), provided that test was undertaken on or before 25 July 2023.

Subsection 6(3) provides that the required test scores are specified in column 2 in relation to the test in column 1 for each Item of the table. The note to the table clarifies that only the test scores set out in the table are required. There is no minimum test score required for reading and writing components. A minimum overall test score is also not required. This recognises speaking and listening skills are more valuable for participation and engagement in the Australian community and better supports a positive experience for applicants seeking to migrate to Australia.

## **Section 7      Application and transitional provisions**

This section sets out the application and transitional provisions for the instrument.

Subsection 7(1) provides that the instrument applies in relation to an application for a Pacific Engagement stream visa made on or after 1 May 2025, if the application relates to a selected participant for a visa pre-application process conducted on or after 1 May 2025 in relation to a Pacific Engagement stream visa. The instrument supports the amendments made by the *Migration Amendment (Australia Tuvalu Falepili Union Treaty Visa) Regulations 2025*, which commenced on 1 May 2025, to create two streams in the Subclass 192 (Pacific Engagement) visa.

Subsection 7(2) provides that despite the repeal of the *Migration (English Language Requirements for Subclass 192 (Pacific Engagement) Visa) Instrument (LIN 24/023) 2024* (LIN 24/023) made by Schedule 1 to the instrument, LIN 24/023 continues to apply in relation to an application for a Subclass 192 (Pacific Engagement) visa, if the application relates to a selected participant for a visa pre-application process conducted before 1 May 2025 in relation to a Subclass 192 (Pacific Engagement) visa. This clarifies that LIN 24/023 will continue to apply in relation to visa pre-application processes that were conducted before 1 May 2025, to facilitate the selection of registered participants who will still be eligible to apply for a Subclass 192 (Pacific Engagement) visa, despite the amendments made to the Migration Regulations.

## **Schedule 1      Repeals**

Schedule 1 repeals the previous instrument, LIN 24/023. The repeal of LIN 24/023 is consequential to the amendments made by the *Migration Amendment (Australia Tuvalu Falepili Union Treaty Visa) Regulations 2025*. The English language requirements that previously existed in relation to the Subclass 192 (Pacific Engagement) visa (as previously provided in clause 192.214 of Schedule 2 to the Migration Regulations) are now reflected in the visa criteria for the Pacific Engagement stream visa and are supported by this instrument.

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