

## EXPLANATORY STATEMENT

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

*Migration Regulations 1994*

### ***Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Amendment (Pathway Programs) Instrument 2025***

- 1 The instrument, departmental reference LIN 25/027, is made under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 This instrument amends the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024* (LIN 24/022) 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. It is a legislative instrument for the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 4 The purpose of LIN 25/027 is to substitute the table in Schedule 2 to LIN 24/022 with an updated list of registered courses that are specified to be eligible pathway programs for the purposes of paragraph 5(3)(d) of LIN 24/022. The amendment to LIN 24/022 made by LIN 25/027 increases the total number of specified eligible pathway programs from 155 to 166. In substituting the table, LIN 25/027 also serves to change the title of column 4 of the table from ‘Provider’ to ‘Destination University’ to better reflect and align with the descriptions that providers use for the matriculation of courses.

#### ***Background***

- 5 Under subclause 500.213(1) of Schedule 2 to the Migration Regulations, an applicant for a Subclass 500 (Student) visa must, if required by the Minister, provide evidence that they have a level of English language proficiency that meets the requirements specified in a legislative instrument made by the Minister under paragraph 500.213(3)(a). LIN 24/022 specifies the English language proficiency requirements that an applicant may be required to meet to satisfy the criterion for the grant of a Subclass 500 (Student) visa. This includes specifying the English language tests and the required English language test scores.
- 6 Applicants who are required to provide evidence of their English language proficiency will be eligible to meet a lower English language test score if they are enrolled in an eligible pathway program. A pathway program is a course for students who have not yet met the academic entry requirements for their intended Australian undergraduate university degree. A pathway program leads to a qualification recognised under the Australian Qualifications Framework and provides academic credit and entry to second year undergraduate study. Only pathway programs specified in Schedule 2 to LIN 24/022 will meet the definition of an *eligible pathway program*. The effect is that applicants enrolled in an eligible

pathway program will be able to meet the lower English language test score specified for the English language test in accordance with Schedule 1 of LIN 24/022.

- 7 The courses specified as an eligible pathway program have been identified as delivering reputable English language training through rigorous consultation with the university sector. The list of eligible pathway programs provides transparency regarding the registered courses an applicant can enrol in to satisfy the English language requirements. Listing the eligible pathway programs in Schedule 2 facilitates access and provides greater clarity and certainty in relation to the requirements. The updated list of eligible pathway programs reflects recent consultation with course providers and follows previous updates to the list to remain adaptive and reflective of changes in the international education sector.

### ***Consultation***

- 8 The Department of Home Affairs (the Department) undertakes regular engagement with the education sector, primarily via the Education Visa Consultative Committee (EVCC), including in relation to the assessment and review of courses identified to be eligible pathway programs. The assessment process was informed by initial consultations conducted in 2023 and 2024 through an English language working group and engagement with the Australian Government Department of Education, Australian Skills Quality Authority and Tertiary Education Quality and Standards Agency.
- 9 The Department has continued to engage with the education sector on updates to the list of eligible pathway programs through: an outreach program conducted in mid-2024 visiting 51 education stakeholders including universities, peak bodies and state and territory governments; regular EVCC meetings; and direct engagement with education providers seeking to have their courses added to the list of eligible pathway programs.
- 10 Following robust assessments in November 2024 and a number of consultations with the education sector thereafter, an additional 11 courses were identified as eligible pathway programs. Further, the destination university for 21 existing courses were amended to reflect the merger of the University of South Australia and the University of Adelaide to become Adelaide University. These updates are reflected in LIN 25/027.
- 11 The education sector continues to be consulted and kept informed of updates via the EVCC.

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

- 12 Details of the instrument are set out in **Attachment A**.

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

- 13 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.
- 14 The instrument was made by a delegate of the Minister under and in accordance with subclause 500.213(3) of Schedule 2 to the Migration Regulations.

**Details of the Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student Visa) Amendment (Pathway Programs) Instrument 2025**

**Section 1 Name**

This section provides that the name of the instrument is the *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Amendment (Pathway Programs) Instrument 2025* (the instrument).

**Section 2 Commencement**

This section provides that the instrument commences on the day after the instrument is registered on the Federal Register of Legislation.

**Section 3 Authority**

This section provides that the instrument is made under subclause 500.213(3) of Schedule 2 to the *Migration Regulations 1994* (the Migration Regulations).

**Section 4 Schedules**

This section provides that 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.

**Schedule 1 Amendments**

Item [1] inserts new section 12 (Application of amendments made by LIN 25/027). This is an application provision, and provides that the amendments made by this instrument to *Migration (English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa) Instrument (LIN 24/022) 2024* (the principal instrument) apply in relation to an application for a Subclass 500 (Student) visa made on or after the commencement of this instrument.

Item [2] amends Schedule 2 to the principal instrument. This amendment substitutes the table of eligible pathway programs – that is, registered courses specified to be eligible pathway programs for the purposes of paragraph 5(3)(d) of the principal instrument. An applicant for a Subclass 500 (Student) visa who is enrolled in one of the courses specified in the table, and who is required to meet the English language proficiency requirement under subclause 500.213(1) of Schedule 2 to the Migration Regulations, must achieve the required English language test score specified in Column 3 of an item in the table under Schedule 1 to the principal instrument.

Following further consultation with the education sector, the substituted table includes 166 courses (a net increase of 11) as registered courses identified as delivering reputable English language training. This increases the total number of eligible pathway programs from 155 to 166. In substituting the table of eligible pathway programs, this amendment also makes a change to the title of column 4 of the table by replacing ‘Provider’ with ‘Destination University’. This is intended to better reflect and align with the descriptions that course providers use for the matriculation of courses. The substituted table also amends the destination university for 21 courses to reflect the merger of the University of South Australia and the University of Adelaide to become Adelaide University. The destination university for certain courses is maintained to enable enrolled students to matriculate under current and future university settings.

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