

## EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration and Multicultural Affairs

*Migration Regulations 1994*

### ***Migration (Evidence of Intended Course of Study for Student Visa Applications) Specification 2024***

- 1 The instrument, departmental reference LIN 24/109, is made under paragraph 1222(5)(b) of Schedule 1 to the *Migration Regulations 1994* (the Migration Regulations).
- 2 The instrument repeals *Evidence of Intended Course of Study 2017/013 (IMMI 17/013)* (F2017L00269) 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 January 2025. It is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

#### ***Purpose***

- 4 The purpose of LIN 24/109 is to specify the evidence requirements in relation to the intended course of study in Australia, or activities related to study in Australia, a primary applicant for a Subclass 500 (Student) visa must satisfy, in order to make a valid visa application.
- 5 Item 1222 of Schedule 1 to the Migration Regulations sets out the requirements for making a valid application for a Student (Temporary) (Class TU) visa. Paragraph 1222(3)(c) provides that if the applicant seeks to satisfy the primary criteria for the grant of a Subclass 500 (Student) visa, the application must be accompanied by evidence of the applicant's intended course of study in Australia, or activities related to study in Australia, being evidence that satisfies the requirements specified in an instrument under paragraph 1222(5)(b).
- 6 Paragraph (5)(b) provides the Minister may, by legislative instrument, specify the requirements that evidence required by paragraph 1222(3)(c) must satisfy.
- 7 The purpose of the instrument is to specify that evidence of intended courses of study in Australia, or activities related to study in Australia, must meet the following requirements:
  - a confirmation of enrolment number (that has not been cancelled or revoked) included in the relevant field in the application form, for each intended course of study; or
  - in the case of a:
    - Foreign Affairs student—a letter of support from the Foreign Minister, attached to the application;
    - Defence student—a letter of support from the Defence Minister, attached to the application;

- secondary exchange student—an AASES form relating to the applicant, attached to the application; or
  - a letter, attached to the application, from the applicant’s relevant education provider stating the provider requires the applicant to remain in Australia during the marking of the applicant’s postgraduate thesis.
- 8 The instrument has the effect of altering the previous evidentiary requirements, such that a letter of offer in relation to a course is no longer an acceptable form of evidence, if the applicant has not been issued a confirmation of enrolment number and is lodging their application in Australia. This makes the requirements consistent for all applicants, regardless of whether they are lodging their application while located in or outside Australia. The instrument does not otherwise alter the settings that previously existed in relation to evidence requirements for the purposes of paragraph 1222(3)(c).

### ***Consultation***

- 9 The Department consulted with industry stakeholders by way of circulating a discussion paper on the proposed changes to Education Visa Consultative Committee (EVCC) members and discussing the proposed changes with the EVCC in a meeting held virtually on 12 November 2024. Consultation was also undertaken with the Department of Education, Department of Foreign Affairs and Trade and the Department of Employment and Workplace Relations.
- 10 The Office of Impact Analysis (OIA) was consulted and advised that a detailed analysis is not required under the Australian Government's Policy Impact Analysis Framework. The OIA reference number is OIA24-08772.

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

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

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

- 12 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because instruments made under Schedule 1 to the Migration Regulations are prescribed as being exempt from disallowance. See table item 20(b) in section 10 of the *Legislation (Exemptions and Other matters) Regulation 2015*. As the instrument is exempt from disallowance, a Statement of Compatibility with Human Rights is not required.
- 13 The instrument is made by a delegate of the Minister under and in accordance with paragraph 1222(5)(b) of Schedule 1 to the Migration Regulations.

***Details of the Migration (Evidence of Intended Course of Study for Student Visa Applications) Specification 2024***

**Section 1      Name**

This section provides that the name of the instrument is the *Migration (Evidence of Intended Course of Study for Student Visa Applications) Specification 2024*.

**Section 2      Commencement**

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

**Section 3      Authority**

This section provides that the instrument is made under paragraph 1222(5)(b) of Schedule 1 to the *Migration Regulations 1994* (the Migration Regulations).

**Section 4      Specification of evidence of intended course of study**

This section provides the evidence requirements for the applicant's intended courses of study in Australia or activities related to study in Australia for the purposes of lodging a valid application for a Subclass 500 (Student) visa. Subsection (1) provides for the purposes of paragraph 1222(3)(c) of Schedule 1 to the Migration Regulations, for an applicant seeking to satisfy the primary criteria for the grant of a Subclass 500 (Student) visa, the application must be accompanied by evidence of the applicant's intended courses of study in Australia or activities related to study in Australia that satisfies one or more of the requirements specified in subsection (2).

Subsection (2) specifies that the evidence is:

- a confirmation of enrolment number (that has not been cancelled or revoked) for each of the applicant's intended courses of study, included in the relevant field in the application form;
- in the case of a:
  - Foreign Affairs student—a letter of support from the Foreign Minister, attached to the application;
  - Defence student—a letter of support from the Defence Minister, attached to the application;
  - secondary exchange student—an AASES form relating to the applicant, attached to the application;
- a letter, attached to the application, from the applicant's relevant education provider that states the provider requires the applicant to remain in Australia during the marking of his or her postgraduate thesis.

## **Section 5      Application of this instrument**

This section provides the instrument applies in relation to applications for a Subclass 500 (Student) visa made on or after the instrument commences on 1 January 2025.

## **Schedule 1      Repeals**

Schedule 1 operates to repeal the instrument *Evidence of Intended Course of Study 2017/013 (IMMI 17/013)*.