

EXPLANATORY STATEMENT

Migration Act 1958

Migration (IMMI 18/067: Pool and Pass Marks for General Skilled Migration Visas) Instrument 2018

(Subsections 96(1) and 96(2) of the Act)

1. Instrument IMMI 18/067 is made under subsections 96(1) and (2) of the *Migration Act 1958* (the Act).
2. The instrument repeals *Pass Marks and Pool Marks in relation to Applications for General Skilled Migration Visas (Classes VE, VC, VF, VB, SI, SN and SP)* (IMMI 12/017) (F2012L01317) under subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The instrument operates to set a pool and pass mark of 65 for the “points” system under Subdivision B of Division 3 of Part 2 of the Act for the following three classes of visa where an application is made on or after 1 July 2018 in response to an invitation given by the Minister on or after 1 July 2018:
 - a Skilled – Independent (Permanent) (Class SI) visa;
 - a Skilled – Nominated (Permanent) (Class SN) visa; and
 - a Skilled – Regional Sponsored (Provisional) (Class SP) visa.
4. For these visas, the instrument sets the pool and pass mark at 65 points. This pass mark reflects the high level of interest in skilled migration to Australia and the high calibre of prospective applicants who express their interest in the General Skilled Migration program. This pass mark is consistent with the level set for the points test under repealed regulation 2.26AB, in effect until 1 July 2013.
5. The instrument preserves the pool and pass mark from the previous instrument for all visa applications for the above visas made before, on or after 1 July 2018 in response to an invitation given by the Minister before 1 July 2018.

6. The instrument also preserves from the previous instrument, all pre-existing pool and pass marks for outstanding applications for the following repealed visa subclasses made before 1 July 2011, and between 1 July 2011 and 1 July 2013:
 - a Subclass 175 (Skilled – Independent) visa;
 - a Subclass 176 (Skilled – Sponsored) visa;
 - a Subclass 475 (Skilled – Regional Sponsored) visa;
 - a Subclass 487 (Skilled – Regional Sponsored) visa;
 - a Subclass 885 (Skilled – Independent) visa; and
 - a Subclass 886 (Skilled – Sponsored) visa.
7. These visa subclasses were repealed on 1 July 2013 by item [26] of Schedule 2 to the *Migration Amendment Regulation 2012 (No. 2)*. Clause 102 of Schedule 13 to the *Migration Regulations 1994* provides that those amendments applied only in relation to an application for a visa made on or after 1 July 2013. The intention is that the same pool and pass mark as that which applied at the time of application for the visa, should continue to apply to outstanding visa applications.
8. Consultation was undertaken before the instrument was made with the Department of Jobs and Small Business, which manages the SkillSelect system.
9. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 23746).
10. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
11. The instrument commences on 1 July 2018.