

EXPLANATORY STATEMENT*Migration Regulations 1994***Migration (IMMI 18/082: Specification of income threshold and annual earnings) Repeal
Instrument 2018***(Paragraph 2.79(1A)(b))*

1. Instrument IMMI 18/082 is made under paragraph 2.79(1A)(b) of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals IMMI 13/028 (F2013L01231). IMMI 13/028 is repealed:
 - a. under paragraph 2.79(1A)(b) of the Regulations in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, which states 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; and
 - b. subsequent to the repeal of paragraph 2.72(10)(cc) and subregulation 2.72(10AB) of the Regulations by the *Migration Legislation Amendment (Temporary Skill Shortage Visa and Complementary Reforms) Regulations 2018*.
3. The purpose of the instrument is to repeal IMMI 13/028, as it is no longer required. As at 18 March 2018, the annual earnings for the purposes of 2.79(1A)(b) are now specified in instrument IMMI 18/033.
4. This instrument operates to reflect the changes to the Regulations by the *Migration Legislation Amendment (Temporary Skill Shortage Visa and Complementary Reforms) Regulations 2018*.

5. The repeal of IMMI 13/028 is part of a broad package of reforms for the employer sponsored skilled visa programs, announced by the Government on 18 April 2017. The Department of Home Affairs has engaged with external stakeholders since the announcement in developing the policy settings and considered feedback received. Some changes to settings have been machinery, and have not been the subject of consultation.
6. These reforms were also informed by earlier reviews including: the 2014 Independent Review into the integrity of the 457 program; the 2016 Productivity Commission Inquiry Report: Migrant Intake into Australia; the 2016 Review of the Temporary Skilled Migration Income Threshold; and the 2016 Senate Inquiry: A National Disgrace: The Exploitation of Temporary Work Visa Holders. These reviews were subject to extensive consultation processes, including: individuals; academics; bodies and businesses who use the employer sponsored skilled visa programs; migration agents; representatives of foreign governments; the Ministerial Advisory Council on Skilled Migration; and government departments and agencies.
7. A Regulatory Impact Statement has been prepared in accordance with advice from the Office of Best Practice Regulation (OBPR Reference: 21946).
8. Under section 42 of the *Legislation Act 2003*, this instrument is subject to disallowance and therefore a Statement of Compatibility with Human Rights is included at Attachment A.
9. The instrument, IMMI 18/082, commences on the day after it is registered on the Federal Register of Legislation.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Migration (IMMI 18/082: Specification of income threshold and annual earnings) Repeal Instrument 2018

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Legislative Instrument

This Legislative Instrument repeals IMMI 13/028. IMMI 13/028 operated to specify the temporary skilled migration income threshold for the purposes of paragraph 2.72(10)(cc) of the *Migration Regulations 1994* (the Regulations), and the annual earnings for the purposes of subregulation 2.72(10AB) and paragraph 2.79(1A)(b) of the Regulations. Paragraph 2.72(10)(cc) and subregulation 2.72(10AB) of the Regulations have been repealed by the *Migration Legislation Amendment (Temporary Skill Shortage Visa and Complementary Reforms) Regulations 2018*. As at 18 March 2018, the annual earnings for the purposes of paragraph 2.79(1A)(b) are now specified in the Legislative Instrument IMMI 18/033.

Human rights implications

The proposed amendments do not engage any of the human rights enunciated in the seven core international human rights treaties. This Legislative Instrument is merely repealing IMMI 13/028 to reflect the repeal of the paragraph 2.72(10)(cc) and subregulation 2.72(10AB), which IMMI 13/028 was made under. The specification of income threshold and annual earnings have not been altered, and are set out in Legislative Instrument IMMI 18/033.

Conclusion

This proposed Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Alan Tudge MP, Minister for Citizenship and Multicultural Affairs