



Migration (LIN 18/138: Specification of Income Threshold and Exemptions for Subclass 189 (Skilled – Independent) Visa (New Zealand Stream)) Instrument 2018

I, David Coleman, Minister for Immigration, Citizenship and Multicultural Affairs, make the following instrument.

Date 6/12/18

David Coleman
The Hon David Coleman MP
Minister for Immigration, Citizenship and Multicultural Affairs

Contents

Part 1 – Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
5 Schedules	1
Part 2 – Income Threshold and Class of Exempt Applicants	2
6 Minimum amount of income.....	2
7 Class of exempt applicants and evidence in relation to that class	2
Part 3 – Application	5
8 Application of this instrument.....	5
Schedule 1—Repeals	6
<i>Migration (IMMI 17/035: Specification of Income Threshold and Exemptions for Subclass 189 Skilled – Independent Visa (New Zealand Stream)) Instrument 2017 (F2017L00723)</i>	6
1 The whole of the instrument	6

Part 1 – Preliminary

1 Name

- (1) This instrument is the *Migration (LIN 18/138: Specification of Income Threshold and Exemptions for Subclass 189 (Skilled – Independent) Visa (New Zealand Stream)) Instrument 2018*.
- (2) This instrument may be cited as LIN 18/138.

2 Commencement

This instrument commences on the day after registration on the Federal Register of Legislation.

3 Authority

This instrument is made under subclause 189.233(2) of the *Migration Regulations 1994*.

4 Definitions

In this instrument:

income year has the same meaning as in the *Income Tax Assessment Act 1997*.

medical certificate has the same meaning as in the *Fair Work Act 2009*.

Regulations means the *Migration Regulations 1994*.

primary NZ Applicant means an applicant seeking to satisfy the primary criteria for the grant of a Subclass 189 (Skilled – Independent) visa in the New Zealand stream.

5 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Part 2 – Income Threshold and Class of Exempt Applicants

6 Minimum amount of income

For the purposes of paragraph 189.233(1)(a) of Schedule 2 to the Regulations, the minimum amount of income is specified in Column 2 for each corresponding income year in Column 1 of the following table:

Item No.	COLUMN 1 Income Year	COLUMN 2 Minimum Amount of Income
1	2011-2012	\$49,330
2	2012-2013	\$51,400
3	2013-2014	\$53,900
4	2014-2015	\$53,900
5	2015-2016	\$53,900
6	2016-2017	\$53,900
7	2017-2018	\$53,900

7 Class of exempt applicants and evidence in relation to that class

For the purposes of paragraph 189.233(1)(b) of Schedule 2 to the Regulations, the classes of exempt applicants are specified in Column 1 and the evidence in relation to each corresponding class is specified in Column 2 of the following table:

Item No.	COLUMN 1 Class of Exempt Applicants	COLUMN 2 Evidence
1	Primary NZ applicant who: (a) holds a Subclass 444 (Special Category) visa; and (b) was unable to meet the income requirement for any period during 5 years immediately before the date of the application because they were prevented from leaving Australia to return to New Zealand because the	Any of the following, which assign primary care of a child to a New Zealand citizen and which are either signed by both parents or have a court seal: (a) a parenting order; (b) a registered parenting plan; (c) a written parenting plan; (d) consent orders.

Item No.	COLUMN 1 Class of Exempt Applicants	COLUMN 2 Evidence
	Family Court of Australia or the Federal Circuit Court of Australia assigned primary care of a child to the applicant and placed restrictions on the applicant from removing the child from Australia.	
2	Primary NZ applicant who: (a) holds a Subclass 444 (Special Category) visa; and (b) was unable to meet the income requirement for any period during the 5 years immediately before the date of the application because they were receiving compensation for an injury which prevented them from earning at or above the income threshold; and (c) would have their ongoing rehabilitation or compensation discontinued if the applicant returned to New Zealand.	Any of the following documents (or any combination of the following documents): (a) a statutory declaration from the applicant outlining their personal circumstances; (b) a statutory declaration from the employer advising on return date to work and income amount; (c) a medical certificate; (d) official compensation documentation relating to that applicant; (e) official rehabilitation documentation relating to that applicant.
3	Primary NZ applicant who: (a) holds a Subclass 444 (Special Category) visa; and (b) was unable to meet the income requirement for any period during the 5 years immediately before the date of the application, because they were on an approved period of parental (including maternity and paternity) or carer's leave from their usual employment; and	Any of the following documents (or any combination of the following documents) : (a) a statutory declaration from the applicant outlining the personal circumstances; (b) a statutory declaration from the employer advising on return date to work and income amount; (c) a birth certificate for the child; (d) a medical certificate for carer

Item No.	COLUMN 1 Class of Exempt Applicants	COLUMN 2 Evidence
	(c) immediately before the period of parental or carer's leave, had an annual income that was no less than the applicable minimum amount specified in the table in section 6; and (d) has resumed, or is expected to resume within a reasonable period, earning an income that is no less than the applicable minimum amount specified in the table in section 6.	responsibilities.

Part 3 – Application

8 Application of this instrument

This instrument applies to an application for a Subclass 189 (Skilled – Independent) visa (New Zealand Stream) made but not yet finally determined.

Schedule 1—Repeals

Migration (IMMI 17/035: Specification of Income Threshold and Exemptions for Subclass 189 Skilled – Independent Visa (New Zealand Stream)) Instrument 2017 (F2017L00723)

1 The whole of the instrument

Repeal the instrument.