

EXPLANATORY STATEMENT

Migration Regulations 1994

Migration (LIN 19/191: Specification of Income Threshold and Exemptions—Subclass 189 Visa (New Zealand Stream)) Instrument 2019

(Subclause 189.233(2))

1. The instrument, LIN 19/191, is made under subclause 189.233(2) of the *Migration Regulations 1994* (the Regulations).
2. The instrument repeals LIN 18/138 (F2018L01738) made under subclause 189.233(2) of the Regulations, in accordance with 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, for the purposes of clause 189.233, to specify the minimum amount of taxable income for the corresponding income years for an applicant in order to meet the primary criteria for a Subclass 189 (Skilled – Independent) visa in the New Zealand stream. A Subclass 189 visa applicant's taxable income must be no less than the specified amount, unless they are a member of a class of exempt applicants. The instrument also specifies classes of applicants who are exempt from the requirement to meet the criteria of the minimum amount of taxable income for the relevant whole income year. The instrument specifies the evidence that a Subclass 189 visa applicant must provide to support their claim that they are a member of an exempt class of applicant.
4. The purpose of the instrument is to specify the minimum amount of taxable income for the income year 2018-2019 by inserting item 8 into the table in section 6 of the instrument. The minimum amount of taxable income for income year 2018-2019 remains unchanged from the previous income year 2017-2018 at \$53,900.

5. The minimum amount of taxable income for income year 2018-2019 has not changed from income years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018.
6. Income years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and 2017-2018 have also been included in the instrument. The minimum amount of taxable income for these income years remain unchanged from the revoked instrument *LIN 18/138*. Therefore the inclusion of past income years will not breach section 12 of the *Legislation Act 2003* as the instrument does not affect an applicant's rights and will not disadvantage an applicant.
7. In accordance with paragraph 15J(2)(e) of the *Legislation Act 2003* consultation was not necessary. The instrument is of a minor or machinery nature and does not substantially alter existing arrangements.
8. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 25208).
9. 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.
10. The instrument commences on the day after registration on the Federal Register of Legislation.