



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

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I, David Coleman, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, make this instrument.

Dated: 14 October 2019

David Coleman

The Hon David Coleman MP

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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## Part 1—Preliminary

### 1 Name

- (1) This instrument is the *Migration (LIN 19/191: Specification of Income Threshold and Exemptions—Subclass 189 Visa (New Zealand Stream)) Instrument 2019*.
- (2) This instrument may be cited as LIN 19/191.

### 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.

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## Part 2—Repeal

### 5 Repeal

*Migration (LIN 18/138: Specification of Income Threshold and Exemptions for Subclass 189 (Skilled – Independent) Visa (New Zealand Stream)) Instrument 2018 (F2018L01738) is repealed in accordance with subsection 33(3) of the Acts Interpretation Act 1901.*

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## Part 3—Income threshold and class of exempt applicants

### 6 Income threshold for income years

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

Item	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
8	2018-2019	\$53,900

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## 7 Class of exempt applicants and evidence

For the purposes of paragraph 189.233(1)(b) of Schedule 2 to the Regulations, the following table specifies the evidence required in column 2 from the class of exempt applicants in column 1 for that item.

Item	Column 1 Class of exempt applicants	Column 2 Evidence
1	Primary NZ applicant who: (a) currently 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 prevented from leaving Australia to return to New Zealand because the 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.	Any of the following documents, which assigns primary care of a child to a New Zealand citizen and which are either signed by both parents; or have a court seal attached: (a) a parenting order; (b) a registered parenting plan; (c) a written parenting plan; (d) consent orders.
2	Primary NZ applicant who: (a) currently 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 the applicant was receiving compensation for an injury which prevented the applicant 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: (a) a statutory declaration from the applicant outlining their personal circumstances; (b) a statutory declaration from the employer of the applicant, advising on a return to work date and the applicant's income amount; (c) a medical certificate; (d) official compensation documentation relating to the applicant; (e) official rehabilitation documentation relating to the applicant.



Item	Column 1 Class of exempt applicants	Column 2 Evidence
3	<p>Primary NZ applicant who:</p> <p>(a) currently holds a Subclass 444 (Special Category) visa; and</p> <p>(b) was unable to meet the income requirement for any period during the 5 years immediately before the date of the application because the applicant was on an approved period of parental (including maternity and paternity) or carer's leave from the applicant's usual employment; and</p> <p>(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</p> <p>(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.</p>	<p>Any the following documents:</p> <p>(a) a statutory declaration from the applicant outlining their personal circumstances;</p> <p>(b) a statutory declaration from the employer of the applicant advising on return to work date and the applicant's income amount;</p> <p>(c) a birth certificate for the applicant's child;</p> <p>(d) a medical certificate for carer responsibilities.</p>

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## **Part 4—Application**

### **8 Application of this instrument**

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