

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration and Citizenship

Migration Regulations 1994

Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Amendment (Annual TSMIT Increase) Instrument 2025

The instrument, departmental reference LIN 25/038, is made under and for the purposes of paragraph 2.72C(15)(d) of the *Migration Regulations 1994* (the Migration Regulations).

The instrument amends *Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018* (IMMI 18/033) in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*. That subsection provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.

The purpose of this instrument is to amend IMMI 18/033 to increase the temporary skilled migration income threshold (TSMIT) from \$73,150 to \$76,515. The increase to the TSMIT is in accordance with the annual Average Weekly Ordinary Times Earnings figure of November 2024 of 4.6 per cent, which was released publicly in February 2025.

Section 140GB of the *Migration Act 1958* provides that a person who is an approved work sponsor or who is a party to negotiations for a work agreement may nominate a proposed occupation, program or activity, or an applicant for a visa of a prescribed kind in relation to the applicant's occupation or proposed occupation, or the program proposed to be undertaken by the applicant, or the activity to be carried out by the applicant. The Minister must approve the person's nomination if, among other things, the nomination satisfies the prescribed criteria.

Regulation 2.72C of the Migration Regulations sets out the criteria for approval of a nomination of a proposed occupation in relation to a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa. Subregulation 2.72C(15) provides that, subject to subregulation 2.72C(16), if the occupation is nominated for a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa in the Employer Sponsored stream, and the Minister is not satisfied that the nominee's annual earnings in relation to the occupation will be at least the amount specified by the Minister in a legislative instrument (currently IMMI 18/033), then a criterion for approval of the nomination is that the Minister is satisfied that the annual market salary rate, excluding any non-monetary benefits, for the occupation is not less than the TSMIT specified by the Minister in a legislative instrument. These

requirements also apply to the subclass 187 (Regional Sponsored Migration Scheme) visa under regulation 5.19(5A)(m) of the Migration Regulations.

Despite introduction of the Core Skills Income Threshold (CSIT) on 7 December 2024 – which applies to the Subclass 186 (Employer Nomination Scheme) visa and the Subclass 482 (Skills in Demand) visa in the Core Skills stream – nominations lodged in relation to a Subclass 494 (Skilled Employer Sponsored Regional) or subclass 187 (Regional Sponsored Migration Scheme) visa will still be assessed against the TSMIT. The new TSMIT amount is consistent with the new CSIT amount that reflects the indexation that will occur on 1 July 2025. The increase in the TSMIT amount ensures that real wage growth is maintained for visa applicants for the Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) and subclass 187 (Regional Sponsored Migration Scheme) visas.

This instrument also inserts an application provision dealing with the amendments made by LIN 25/038 to IMMI 18/033. The increased TSMIT amount of \$76,515 applies in relation to applications for approval of a nomination where the application is made on or after 1 July 2025. All nominations lodged prior to 1 July 2025 in relation to a visa subclass for which TSMIT was the income threshold at the time of the lodgement will continue to be assessed against the TSMIT amount that was in force at that time.

The amendments made by this instrument implement an announcement made by the Migration Strategy 2023 to allow for the annual indexation of skilled visa income thresholds. Annual indexation of skilled migration income thresholds seek to ensure wages for skilled migrants increase at the same rate as Australian workers so that skilled migrants can continue to support themselves through increases in cost of living and to best guard against employer exploitation through under paying skilled migrants

The overall assessment is that the amendments in the amending instrument are compatible with human rights. A copy of the Statement is at **Attachment A**.

The intended income threshold indexation for 1 July 2025 was announced in a news item on the Department of Home Affairs' website on 24 March 2025. Having regard to requirements under the Legislation Act, no additional external consultation was undertaken or considered necessary and appropriate to undertake in relation to this instrument following prior consultation and the release of the Migration Strategy, noting this instrument gives effect to an ongoing commitment in relation to the TSMIT. The Department has updated its website to inform relevant stakeholders of the change to the TSMIT amount for 1 July 2025.

The instrument commences on 1 July 2025.

Further details of the instrument are set out in **Attachment B**.

As an amending instrument, this instrument will be repealed by operation of Division 1 of Part 3 of Chapter 3 of the *Legislation Act 2003* (Legislation Act). Specifically, that Division (under section 48A) automatically repeals a legislative instrument that has the sole purpose

of amending or repealing another instrument. As the instrument will automatically repeal, it does not engage the sunseting framework under Part 4 of the Legislation Act.

The Migration Regulations specify no conditions that need to be satisfied before the power to make the instrument may be exercised.

Statement of Compatibility with Human Rights

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

Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Amendment (Annual TSMIT Increase) Instrument 2025

This Disallowable 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 Disallowable Legislative Instrument

This Disallowable Legislative Instrument, the *Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Amendment (Annual TSMIT Increase) Instrument 2025*, amends the *Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018* to raise the Temporary Skilled Migration Income Threshold (TSMIT) from \$73,150 to \$76,515 for all new nominations lodged on or after 1 July 2025. This is in line with annual movements in Average Weekly Ordinary Time Earnings (AWOTE).

The migration legislation includes mechanisms which are aimed at ensuring that visa applicants for certain skilled temporary and permanent visas are provided with remuneration and employment conditions that are at least equivalent to what is, or would be, provided to an Australian worker performing the same work at the same location.

In order to approve an employer's nomination of a non-citizen for one of these visas, the Minister must be satisfied that the monetary benefits for an equivalent Australian worker are at least the amount of the relevant income threshold, that the nominated skilled migrant worker (nominee) will be paid at least the same as an equivalent Australian worker, and that the nominee's guaranteed annual earnings, excluding any non-monetary benefits, will not be less than the relevant income threshold. In practice, this means that any non-monetary benefits included in the nominee's salary package (such as accommodation, clothing, meals, travel etc.) must be additional amounts, over and above the threshold.

The TSMIT was introduced in 2009 and indexed annually until 2013, when it was set at \$53,900. In 2023, the *Migration (Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Amendment Instrument (LIN 23/045) 2023* raised the TSMIT amount for the first time in 10 years, to \$70,000.

Indexing the TSMIT directly aligns with the Government's priorities under the Migration Strategy visa reforms and commitments to increase Australia's place as a country and employer of choice for highly skilled migrants when competing on the world stage. By ensuring skilled migrant workers are able to support themselves in Australia, they are less vulnerable to exploitation and do not find themselves in difficult financial circumstances. Increasing and annually indexing the TSMIT also received broad consensus at both the Jobs and Skills Summit in September 2022, and the Ministerial Advisory Council on Skilled Migration (MACSM) held in November 2022.

Delivering a commitment outlined in the 2023 Migration Strategy, a new Core Skills Income Threshold (CSIT) has been introduced in the subclass 482 (Skills in Demand), and 186 (Employer Nomination Scheme) visa programs from December 2024. The TSMIT now applies only to subclass 494 (Skilled Employer Sponsored Regional (Provisional)) and subclass 187 (Regional Sponsored Migration Scheme) visas, which provide skilled migration pathways to migrants working in regional areas.

Indexing the TSMIT ensures that regional visa products using the TSMIT keep pace with Australian salary requirements and cannot be used to undercut Australian regional wages.

Increasing the TSMIT also ensures that the skilled visa regional program retains its original intent as being limited to skilled occupations. Indexation is considered necessary to provide sufficient income for skilled migrant workers to better support themselves financially in Australia due to higher costs of living and to reduce vulnerability to exploitation.

Increasing the TSMIT in accordance with the AWOTE allows indexation to maintain the real value of the TSMIT and its relative position in the Australian wage stack, while also providing employers with enough notice of upcoming increases. The increase to the TSMIT made by this Disallowable Legislative Instrument is in accordance with the annual AWOTE figure of November 2024 of 4.6 per cent, which was released publicly in February 2025.

All nominations lodged prior to 1 July 2025 in relation to a visa subclass for which TSMIT was the income threshold at the time of the lodgement will continue to be assessed against the TSMIT amount that was in force at the time of the nomination lodgement.

The skilled visa program is designed to be flexible and responsive to labour market conditions, and many industries have already started offering increased salaries to attract workers. Indexing the TSMIT through the amendments made by this Disallowable Legislative Instrument is intended to reduce risks of exploitation of skilled migrants, which could occur if there was a lack of wage growth and greater gaps between their wages and those of Australian workers. In addition, indexation is intended to ensure that migrant workers are adequately able to support themselves whilst in Australia, requiring their incomes to remain competitive with Australian wages and sufficient to ensure that they are

not disadvantaged financially if cost of living and inflationary increases would reduce their real income.

Human rights implications

This Disallowable Legislative Instrument positively engages the following rights:

- the right to the enjoyment of just and favourable conditions of work under Article 7 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), and
- the right to an adequate standard of living under Article 11(1) of the ICESCR.

Just and favourable conditions of work

Article 7 of the ICESCR provides:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:*
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
- (b) Safe and healthy working conditions;*
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.*

Indexing the TSMIT is aimed at ensuring that skilled migrant workers are fairly remunerated for their work and in line with increases to the AWOTE. By extension, this also helps to ensure that migrant workers are not undercutting the Australian labour market. Ensuring employers commit to paying their workers at least the increased TSMIT also helps to address risks of worker exploitation. The measure in this Disallowable Legislative Instrument therefore promotes the right to fair conditions of work for under Article 7 of the ICESCR for skilled migrant workers.

Adequate standard of living

Article 11(1) of the ICESCR provides:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The

States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

Indexing the TSMIT is also aimed at ensuring that skilled migrant workers are remunerated sufficiently by their employers in order to maintain an adequate standard of living, including in line with increases to the AWOTE. This helps promote the right to an adequate standard of living under Article 11(1) of the ICESCR for skilled migrant workers.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it promotes the right to just and favourable conditions of work and the right to an adequate standard of living for skilled migrant workers.

The Hon Tony Burke MP
Minister for Immigration and Citizenship

Details of the Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Amendment (Annual TSMIT Increase) Instrument 2025

Section 1 – Name of Instrument

This section sets out the name of the instrument, which is *the Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Amendment (Annual TSMIT Increase) Instrument 2025*

Section 2 – Commencement

This section provides that the instrument commences on 1 July 2025.

Section 3 – Authority

This section provides that this instrument is made under paragraph 2.72C(15)(d) of the *Migration Regulations 1994* (the Migration Regulations).

Section 4 – Schedules

This section provides that 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.

Schedule 1 – Amendments

Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018

Item [1] – Section 6

This item amends section 6 of IMMI 18/033 to increase the TSMIT to \$76,515.

Item [2] – After section 12

This item inserts new section 13 into IMMI 18/033.

Section 13 is an application provision that provides that the amendments made by Schedule 1 to the instrument apply in relation to an application for the approval of a nomination made on or after 1 July 2025. The combined effect of section 13 and current sections 10 and 11 is to ensure that an application for the approval of a nomination lodgement will be assessed against the TSMIT amount that was in force at the time of the application:

- if the application was made prior to 1 July 2023 – \$53,900;

- if the application was made between 1 July 2023 to 30 June 2024 – \$70,000;
- if the application was made between 1 July 2024 to 30 June 2025 – \$73,150;
- if the application was made on or after 1 July 2025 – \$76,515.

This includes applications for the approval of a nomination lodgement, where TSMIT applied, for the following visa subclasses that were lodged, and were not finally determined before 7 December 2024, the date in which the Core Skills Income Threshold (CSIT) came into effect:

- Subclass 186 (Employer Nomination Scheme);
- Subclass 187 (Regional Sponsored Migration Scheme);
- Subclass 482 (Temporary Skill Shortage); and
- Subclass 494 (Skilled Employer Sponsored Regional (Provisional)).