



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

I, Alan Tudge, Minister for Citizenship and Multicultural Affairs, make the following instrument.

Dated: 15 March 2018

Alan Tudge

The Hon Alan Tudge MP
Minister for Citizenship and Multicultural Affairs

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Part 1—Preliminary

1 Name

- (1) This instrument is the *Migration (IMMI 18/033: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Instrument 2018*.
- (2) This instrument may also be cited as IMMI 18/033.

2 Commencement

This instrument commences on 18 March 2018.

3 Authority

This instrument is made under subregulation 2.72(17) and paragraphs 2.72(15)(b); 2.72(15)(d) and 2.79(1A)(b) of the Regulations.

4 Definitions

In this instrument:

Australian Worker means an employee that is either an Australian citizen or an Australian permanent resident.

fair work instrument has the meaning given by section 12 of the *Fair Work Act 2009*.

Regulations means the *Migration Regulations 1994*.

Relevant employment documents may include, but is not limited to:

- (a) pay slips;
- (b) contract of employment.

Relevant information may include, but is not limited to:

- (a) information published on the Australian Government's Job Outlook website;
- (b) job advertisements from a national recruitment website or national print media that are in English and specify the salary arrangements for the advertised position;
- (c) written advice from registered employer associations and/or unions;
- (d) remuneration surveys generated across the relevant industry by a reputable organisation or body.

state industrial instrument has the meaning given by section 12 of the *Fair Work Act 2009*.

transitional instrument has the meaning given by section 2 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

Part 2—Income Threshold and Annual Earnings

5 Annual Earnings

For the purposes of paragraphs 2.72(15)(b) and 2.79(1A)(b) of the Regulations, the specified amount of annual earnings is AUD 250,000.

6 Income Threshold

For the purposes of paragraph 2.72(15)(d) of the Regulations, the temporary skilled migration income threshold is AUD 53,900.

Part 3—Method of determination of Annual Market Salary Rate

7 Method for determining the annual market salary rate where an Australian worker is performing equivalent work

- (1) For the purposes of subregulation 2.72(17) of the Regulations, where there is a fair work instrument, state industrial instrument or transitional instrument applicable to an Australian worker who is:

- (a) employed in the same workplace as the nominee; and
- (b) at the same location as the nominee; and
- (c) performing equivalent work to the nominee;

the annual market salary rate for an equivalent nominated occupation or an occupation in relation to which a position is nominated under regulation 5.19 of the Regulations, is the annual earnings of an Australian worker contained in those instruments.

- (2) Where there is no fair work instrument, state industrial instrument or transitional instrument that is applicable to an Australian worker who is:

- (a) employed in the same workplace as the nominee; and
- (b) at the same location as the nominee; and
- (c) performing equivalent work to the nominee;

the annual market salary rate for an equivalent nominated occupation or an occupation in relation to which a position is nominated under regulation 5.19 of the Regulations, must be determined by reference to relevant employment documents.

8 Method of determining the annual market salary rate where there is not an Australian worker performing equivalent work

For the purposes of subregulation 2.72(17) of the Regulations, and where section 7 of this instrument does not apply and:

- (a) where there is a fair work instrument, state industrial instrument or transitional instrument applicable to a nominated occupation, the annual market salary rate for a nominated occupation, or an occupation in relation to which a position is nominated under regulation 5.19 of the Regulations, is the annual earnings of an equivalent Australian worker specified in those instruments.

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- (b) Where there is no fair work instrument, state industrial instrument or transitional instrument applicable to a nominated occupation, the annual market salary rate for a nominated occupation or an occupation in relation to which a position is nominated under regulation 5.19 of the Regulations, is the annual earnings that would apply to an equivalent Australian worker, which must be determined by reference to relevant information.

Part 4—Transitional Provision

9 Application of Part 2 of this Instrument

This instrument applies to nominations for a proposed occupation by a standard business sponsor or a party to a work agreement (other than the Minister), made on or after 18 March 2018 in relation to a:

- (a) a holder of a Subclass 457 (Temporary Work (Skilled) visa;
- (b) a holder of a Subclass 482 (Temporary Skill Shortage) visa holder; or
- (c) an applicant or proposed applicant for a Subclass 482 (Temporary Skill Shortage) visa.