



Migration (IMMI 18/045: Exemptions to Skill, Age and English Language Requirements for Subclass 186 and Subclass 187 Visas) 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
Minister for Citizenship and Multicultural Affairs

Contents

Part 1 - Preliminary

1 Name	1
2 Commencement	1
3 Authority	1
4 Definitions	1
5 Schedules	2

Part 2 - Specification of Skill, Age and English Language Requirements for Subclass 186 and Subclass 187 Visas

6 Exemptions in relation to skills and employment history criteria for applicants of a Subclass 186 visa	3
7 Exemptions in relation to skills and qualification requirements for an applicant of a Subclass 187 visa applicants	3
8 Exemptions in relation to the Age Requirement for Applicants of a Subclass 186 visa or a Subclass 187 visa	4
9 Exemptions in relation to the Age Requirement for Applicants of a Subclass 186 visa or a Subclass 187 visa	4
10 Exemptions in relation to the 'vocational English' or 'competent English' requirement for an applicant of a Subclass 186 visa or a Subclass 187 visa	5

Part 3 - Exemptions for applicants of a Subclass 186 visa or a Subclass 187 visa who held a Subclass 457 visa on 18 April 2017, or who was an applicant for a Subclass 457 visa on 18 April 2017 which was subsequently granted

11 Applicants for Subclass 186 visa and Subclass 187 visa who are not required to be below the age of 45 at time of application	6
---	---

Part 4 - Transitional Provision

12 Application of this instrument	7
---	---

Schedule 1—Repeals

8

Part 1 - Repeal

Part 2 - Application of repeal

Part 1 – Preliminary

1 Name

- (1) This instrument is the *Migration (IMMI 18/045: Exemptions to Skill, Age and English Language Requirements for Subclass 186 and Subclass 187 Visas) Instrument 2018*.
- (2) This instrument may also be cited as IMMI 18/045.

2 Commencement

This instrument commences on 18 March 2018.

3 Authority

This instrument is made under the following paragraphs of Schedule 2 to the Regulations:

- (a) paragraph 186.221(b);
- (b) paragraph 186.222(b);
- (c) paragraph 186.231(b);
- (d) paragraph 186.232(b);
- (e) subclause 186.234(3);
- (f) paragraph 187.221(b);
- (g) paragraph 187.222(b);
- (h) paragraph 187.231(b);
- (i) paragraph 187.232(b);
- (j) paragraph 187.234(a).

4 Definitions

Note: A number of expressions used in this instrument are defined in the Regulations, including the following:

- (a) **ANZSCO** has the meaning specified in regulation 1.03 of the Regulations.
- (b) **competent English** has the meaning specified in regulation 1.15C of the Regulations.
- (c) **vocational English** has the meaning specified in regulation 1.15B of the Regulations.

In this instrument:

high income threshold has the meaning given by section 333 of the *Fair Work Act 2009*.

regional Australia means a part of Australia specified by the Minister in an instrument in writing for subregulation 5.19(16) of the Regulations.

Regulations means the *Migration Regulations 1994*.

Subclass 186 visa means Subclass 186 (Employer Nomination Scheme) visa.

Subclass 187 visa means the Subclass 187 (Regional Sponsored Migration Scheme) visa.

Subclass 444 visa means Subclass 444 (Special Category) visa.

Subclass 461 visa means Subclass 461 (New Zealand Citizen Family Relationship) (Temporary) visa.

Subclass 457 visa means the Subclass 457 (Temporary Work) (Skilled) visa.

Subclass 482 visa means the Subclass 482 (Temporary Skill Shortage) visa.

5 Schedules

Each instrument 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 –Specification of Skill, Age and English Language Requirements for Subclass 186 and Subclass 187 Visas

6 Exemptions to skills and employment history requirements for applicants for a Subclass 186 visa

For the purposes of subclause 186.234(3) of Schedule 2 to the Regulations, the following classes of persons are specified:

- (a) a researcher, scientist or technical specialist who has been assessed at the ANZSCO skill level one or two, and who is nominated for a position by an Australian scientific government agency;
- (b) a person nominated for a position by an Australian university to be employed at an Academic Level of A, B, C, D or E, in one of the following positions:
 - (i) University Lecturer (ANZSCO: 242111);
 - (ii) Faculty Head (ANZSCO: 134411);
- (c) a person who holds a Subclass 444 visa or a Subclass 461 visa and who has been working in a nominated occupation for the nominating employer for at least two years (excluding any periods of unpaid leave), in the three years immediately prior to the date of application for a Subclass 186 visa.

7 Exemptions to skills and qualification requirements for applicants for a Subclass 187 visa

For the purposes of paragraph 187.234(a) of Schedule 2 to the Regulations, persons who:

- (a) hold a Subclass 444 visa or a Subclass 461 visa; and
- (b) have been working in a nominated occupation for the nominating employer for at least two years (excluding any periods of unpaid leave), in the three years immediately prior to the date of application for a Subclass 187 visa;

are specified.

8 Exemptions to age requirement for applicants for a Subclass 186 visa or Subclass 187 visa (Direct Entry Stream)

For the purposes of paragraphs 186.231(b) and 187.231(b) of Schedule 2 to the Regulations, the following classes of persons are specified:

- (a) a researcher, scientist or technical specialist who has been assessed at the ANZSCO skill level one or two and who is nominated for a position by an Australian scientific government agency;
- (b) an academic who is nominated for a position by an Australian university to be employed at an Academic Level of B, C, D or E in one of the following positions:
 - (i) University Lecturer (ANZSCO: 242111);
 - (ii) Faculty Head (ANZSCO: 134411);
- (c) a person who holds a Subclass 444 visa or a Subclass 461 visa and who has been working in a nominated occupation for the nominating employer for at least two years (excluding any periods of unpaid leave), in the three years immediately prior to the date of application for a Subclass 186 visa or Subclass 187 visa.

9 Exemptions to age requirement for applicants for a Subclass 186 visa or Subclass 187 visa (Temporary Residence Transition Scheme)

For the purposes of paragraphs 186.221(b) and 187.221(b) of Schedule 2 to the Regulations, the following classes of persons are specified:

- (a) a researcher, scientist or technical specialist who has been assessed at the ANZSCO skill level one or two and who is nominated by an Australian scientific government agency;
- (b) an academic who is nominated for a position by an Australian university to be employed at an Academic Level of B, C, D or E in one of the following positions:
 - (i) University Lecturer (ANZSCO: 242111);
 - (ii) Faculty Head (ANZSCO: 134411);
- (c) a person who holds a Subclass 457 visa or a Subclass 482 visa and who has been working in a nominated occupation for the nominating employer for at least three years, immediately prior to the date of application for a Subclass 186 visa or a Subclass 187 visa; and whose annual income for each year of the three year period was at least

equivalent to the High Income Threshold; or

- (d) a person::
- (i) who is a medical practitioner (ANZSCO MINOR GROUP 253);and
 - (ii) who has been employed as a medical practitioner for a period of at least three years, immediately prior to the date of application for a Subclass 186 visa or a Subclass 187 visa; and
 - (iii) who, during that three year period prior to application for a Subclass 186 visa or a Subclass 187 visa, was a holder of a Subclass 457 visa or a Subclass 482 visa; and
 - (iv) who was employed in regional Australia for at least two years during the period of three years immediately prior to application for a Subclass 186 visa or a Subclass 187 visa; and
 - (v) in relation to whom the nominated position is located in regional Australia.

10 Exemptions to ‘vocational English’ or ‘competent English’ requirement for applicants for a Subclass 186 visa or Subclass 187 visa

For the purposes of paragraphs 186.222(b) and 187.222(b) of Schedule 2 to the Regulations, persons who, at the date of application for a Subclass 186 visa or a Subclass 187 visa, have completed a minimum of five years of full-time study in a secondary or higher education institution where all tuition was delivered in English, are specified.

Part 3 – Exemptions for applicants of a Subclass 186 visa or a Subclass 187 visa who held a Subclass 457 visa on 18 April 2017, or who was an applicant for a Subclass 457 visa on 18 April 2017 which was subsequently granted

11 Applicants for Subclass 186 visa and Subclass 187 visa who are not required to be below the age of 45 at time of application

For the purposes of paragraphs 186.221(b) and 187.221(b) of Schedule 2 to the Regulations, persons who:

- (i) at the time of application, had not turned 50 years of age; and
- (ii) on 18 April 2017, were either:
 - (A) a holder of a Subclass 457 (Temporary Work (Skilled)) visa; or
 - (B) an applicant for a Subclass 457 (Temporary Work (Skilled)) visa and that application had not been finally determined on that date and that visa was subsequently granted;

are specified.

Part 4 – Transitional Provision

12 Application of this Instrument

- (1) This instrument applies to an application for Subclass 186 visa and Subclass 187 visa made on or after 18 March 2018.

Schedule 1—Repeals

Part 1 - Repeal

Migration (IMMI 17/058: Occupations for Subclass 187 visas; Skill, Age and English language requirements for Subclass 186 and Subclass 187 visas) Instrument 2017 – F2017L00847

1 The whole of the instrument

Repeal the instrument.

Migration Regulations 1994 - Specification of Class of Persons Instrument 2015 (IMMI 15/109) - F2015L01148

2 The whole of the instrument

Repeal the instrument.

Part 2 – Application of Repeal

1 Application of repeal

- (1) Despite the repeal of the *Migration (IMMI 17/058: Occupations for Subclass 187 visas; Skill, Age and English language requirements for Subclass 186 and Subclass 187 visas) Instrument 2017* by Part 1 of this Schedule, that instrument, as in force immediately before the commencement of that Part, continues to apply in relation to:
 - (a) a nomination of an occupation if the nomination was made before 18 March 2018; and
 - (b) a visa application of a kind mentioned in IMMI 17/058 if the application is made before 18 March 2018; and
 - (c) a visa application of a kind mentioned in IMMI 17/058 made before, on, or after 18 March 2018 if the related nomination was applied for before 18 March 2018.

- (2) Despite the repeal of *Migration Regulations 1994 - Specification of Class of Persons Instrument 2015 (IMMI 15/109)* by Part 1 of this Schedule, that instrument, as in force immediately before the commencement of that Part, continues to apply in relation to:
 - (a) a nomination of an occupation if the nomination was made before 18 March 2018; and
 - (b) an application for a Subclass 186 visa or a Subclass 187 visa if the application was made before 18 March 2018; and
 - (c) an application for a Subclass 186 visa or a Subclass 187 visa made before, on, or after 18 March 2018 if the related nomination was applied for before 18 March 2018.