



Migration (Income Threshold and Exemptions for Subclass 189 Visa (New Zealand Stream)) Instrument (LIN 20/170) 2020

I, Alan Tudge, Minister for Population, Cities and Urban Infrastructure, make the following instrument.

Dated: 1 December 2020

Alan Tudge
Minister for Population, Cities and Urban Infrastructure
on behalf of the Minister for Immigration, Citizenship, Migrant Services and Multicultural
Affairs

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Part 1—Preliminary

1 Name

- (1) This instrument is the *Migration (Income Threshold and Exemptions for Subclass 189 Visa (New Zealand Stream)) Instrument (LIN 20/170) 2020*.
- (2) This instrument may be cited as LIN 20/170.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

3 Authority

This instrument is made under subclause 189.233(2) of Schedule 2 to 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*.

Subclass 189 visa means a Subclass 189 (Skilled—Independent) (New Zealand stream) visa.

5 Repeal

This instrument repeals *Migration (LIN 19/191: Specification of Income Threshold and Exemptions—Subclass 189 Visa (New Zealand Stream)) Instrument 2019* (F2019L01378), in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.

6 Application

This instrument applies to the following:

- (a) an application for a Subclass 189 visa made on or after the commencement of this instrument;
- (b) an application for a Subclass 189 visa made but not finally determined before the commencement of this instrument.

Part 2—Minimum income amount and exempt applicants

7 Minimum income amount

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

Item No.	Column 1 Income year	Column 2 Minimum amount
1	2011-2012	\$49,330
2	2012-13	\$51,400
3	2013-14	\$53,900
4	2014-15	\$53,900
5	2015-16	\$53,900
6	2016-17	\$53,900
7	2017-18	\$53,900
8	2018-19	\$53,900
9	2019-20	\$53,900

8 Exempt applicants

- (1) For subparagraph 189.233(1)(b)(i) of Schedule 2 to the Regulations, an applicant is a member of a class of exempt applicants if the applicant:
 - (a) could not meet the income requirement for any period in the 5 years immediately before the date of application; and
 - (b) is of a kind mentioned in an item in column 1 of the table in Schedule 1.
- (2) For subparagraph 189.233(1)(b)(ii) of Schedule 2 to the Regulations, the evidence mentioned in column 2 of an item in the table in Schedule 1, is specified in relation to the class of exempt applicants for that item.

Schedule 1—Class of exempt applicants and evidence in relation to that class

Item No.	Column 1 Class of exempt applicants	Column 2 Evidence for the class
1	<p>The applicant:</p> <p>(a) was prevented from leaving Australia to return to New Zealand because of an Australian court order which assigned primary care of the child to the applicant and placed restrictions on, or restricted the applicant from, removing the child from Australia; or</p> <p>(b) has primary care of a child and the parents have agreed to a parenting plan on the understanding that the child will remain in Australia with access to all parents.</p>	<p>Any of the following documents that assigns primary care of a child to the applicant and is signed by all parents, or has a court seal attached:</p> <p>(a) a parenting order;</p> <p>(b) a registered parenting plan;</p> <p>(c) a written parenting plan;</p> <p>(d) a consent order.</p>
2	<p>The applicant:</p> <p>(a) was receiving compensation for an injury that prevented the applicant from earning at, or above the income threshold; and</p> <p>(b) would have ongoing rehabilitation or compensation discontinued if the applicant returned to New Zealand.</p>	<p>Any of the following documents:</p> <p>(a) a statutory declaration by the applicant setting out the applicant’s personal circumstances;</p> <p>(b) a statutory declaration by the applicant’s employer stating a return to work date and the applicant’s income amount;</p> <p>(c) a medical certificate for the applicant;</p> <p>(d) official compensation documentation relating to the applicant;</p> <p>(e) official rehabilitation documentation relating to the applicant.</p>
3	<p>The applicant:</p> <p>(a) was on an approved period of parental (including maternity or paternity) or carer’s leave from the applicant’s usual employment; and</p> <p>(b) immediately before the period of leave, had an annual income that was at least the minimum amount mentioned in the table in section 7 for the income year; and</p> <p>(c) has resumed, or is expected to resume within a reasonable period, earning an income that is at least the minimum amount mentioned in the table in section 7.</p>	<p>Any of the following documents:</p> <p>(a) a statutory declaration by the applicant setting out the applicant’s personal circumstances;</p> <p>(b) a statutory declaration by the applicant’s employer stating a 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> <p>(e) notice of approved parental leave.</p>