

LIN 21/018

Migration (Income Threshold and Exemptions for Subclass 189 Visa (New Zealand Stream)) Instrument (LIN 21/018) 2021

I, Alex Hawke, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, make this instrument under subclause 189.233(2) of Schedule 2 to the *Migration Regulations 1994*.

Dated 13 May 2021

Alex Hawke

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

1 Name

This instrument is the *Migration (Income Threshold and Exemptions for Subclass 189 Visa (New Zealand Stream)) Instrument (LIN 21/018) 2021*.

2 Commencement

This instrument commences on the later of:

(a) the day after registration; and

(b) 31 May 2021.

3 Definitions

In this instrument:

***COVID‑19 pandemic*** means the pandemic declared by the World Health Organization on 11 March 2020, caused by the coronavirus COVID***‑***19.

***employer*** has the same meaning as in the *Fair Work Act 2009.*

***income year*** has the same meaning as in the *Income Tax Assessment Act 1997*.

***jobkeeper payment*** has the same meaning as in the *Fair Work Act 2009*.

***jobseeker payment*** has the same meaning as in the Budget 2017–18 Welfare Reform.

***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.

4 Repeal

*Migration (Income Threshold and Exemptions for Subclass 189 Visa (New Zealand Stream)) Instrument (LIN 20/170)* *2020* (F2020L01553) is repealed.

5 Application

This instrument applies to an application for a Subclass 189 visa:

1. made on or after the commencement of this instrument; or
2. made but not finally determined before the commencement of this instrument.

6 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 the following table is the amount mentioned in the table for the income year (the ***income requirement***).

| Item | Income year | Amount ($) |
| --- | --- | --- |
| 1 | 2011–12 | 49 330.00 |
| 2 | 2012–13 | 51 400.00 |
| 3 | 2013–14 | 53 900.00 |
| 4 | 2014–15 | 53 900.00 |
| 5 | 2015–16 | 53 900.00 |
| 6 | 2016–17 | 53 900.00 |
| 7 | 2017–18 | 53 900.00 |
| 8 | 2018–19 | 53 900.00 |
| 9 | 2019–20 | 53 900.00 |
| 10 | 2020–21 | 53 900.00 |

7 Exempt applicants

(1) For subparagraph 189.233(1)(b)(i) of Schedule 2 to the Regulations, an applicant is an exempt applicant if:

(a) the applicant:

(i) is not able to meet the income requirement for any period in the 5 years immediately before the date of application; and

(ii) is in a class mentioned in item 1, 2 or 3 of Schedule 1; and

(iii) provides the evidence mentioned in the item; or

(b) the applicant:

(i) is not able to meet the income requirement for the 2019–20 income year; and

(ii) is in the class mentioned in item 4 of Schedule 1; and

(iii) provides the evidence mentioned in the item.

(2) For subparagraph 189.233(1)(b)(ii) of Schedule 2 to the Regulations, the evidence mentioned in an item of Schedule 1 is specified for each class of exempt applicants mentioned in the item.

Schedule 1 Exempt applicants and evidence

(section 7)

| Item | Classes of exempt applicants | Evidence |
| --- | --- | --- |
| 1 | The applicant:  (a) was prevented from leaving Australia to return to New Zealand because of an Australian court order which assigned primary care of a child to the applicant and placed restrictions on, or restricted the applicant from, removing the child from Australia; or  (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. | 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:  (a) a parenting order;  (b) a registered parenting plan;  (c) a written parenting plan;  (d) a consent order. |
| 2 | The applicant:  (a) was receiving compensation for an injury that prevented the applicant from earning at or above the income threshold; and  (b) would have ongoing rehabilitation or compensation discontinued if the applicant returned to New Zealand. | Any of the following documents:  (a) a statutory declaration by the applicant setting out the applicant’s personal circumstances;  (b) a statutory declaration by the applicant’s employer stating a return to work date and the applicant’s income amount;  (c) a medical certificate for the applicant;  (d) official compensation documentation relating to the applicant;  (e) official rehabilitation documentation relating to the applicant. |
| 3 | The applicant:  (a) was on an approved period of parental (including maternity or paternity) or carer’s leave from the applicant’s usual employment; and  (b) immediately before the period of leave, had an annual income that was at least the minimum amount mentioned in the table in section 6 for the income year; and  (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 6. | Any of the following documents:  (a) a statutory declaration by the applicant setting out the applicant’s personal circumstances;  (b) a statutory declaration by the applicant’s employer stating a return to work date and the applicant’s income amount;  (c) a birth certificate for the applicant’s child;  (d) a medical certificate for carer responsibilities;  (e) notice of approved parental leave. |
| 4 | The applicant:  (a) would have likely met the minimum amount of the income requirement for the 2019–20 income year if not for the effect of the COVID‑19 pandemic on the Australian economy; and  (b) could not meet the minimum amount of the income requirement for the 2019–20 income year because of the effect of the COVID‑19 pandemic on the Australian economy. | (a) either:  (i) a signed letter written on a company letterhead by the applicant's current or former employer stating the applicant’s salary before 1 February 2020; or  (ii) the applicant’s pay slips, salary advices or employment contracts (stating the applicant’s salary) for a period in the 2019–20 income year to demonstrate that the applicant was likely to meet the income threshold in the 2019–20 income year; and  (b) any of the following documents:  (i) a statutory declaration by the applicant’s employer acknowledging the applicant’s 2019–20 taxable income has reduced, due to:  (A) reduced availability of shifts/hours resulting in a drop in income; or  (B) the applicant contracting COVID-19 or having caring responsibilities for a person who contracted COVID-19, preventing the applicant from working and resulted in a drop in income; or  (C) medically directed orders to self-isolate, preventing the applicant from working and resulting in a drop in income; or  (D) caring responsibilities as a result of COVID-19 pandemic shutdowns (e.g., schools, childcare centres) that prevented the applicant from working and resulted in a drop in income;  (ii) if the applicant’s employment was terminated, then a statutory declaration by the applicant’s former employer stating that the circumstances of the applicant’s dismissal were related to the COVID-19 pandemic effects on the business;  (iii) documentation proving that the applicant had access to the JobKeeper Wage Subsidy for a period in 2019–20 income year including either:  (A) employee nomination form; other statements or documents provided by the ATO demonstrating that the applicant had access to the JobKeeper Wage Subsidy; or  (B) alternative statements provided by the ATO at the applicant’s request;  (iv) Services Australia-Centrelink letters showing the applicant claimed and received the JobSeeker payments for a period in 2019–20 income year. |