

EXPLANATORY STATEMENT

Issued by authority of the Minister for Immigration, Citizenship and Multicultural Affairs

Migration Regulations 1994

Migration (Points for Business Innovation Stream and Investor Stream of Subclass 188 Visa) Instrument (LIN 22/083) 2022

- 1 The instrument, Departmental reference LIN 22/083, is made under subclauses 188.222(1) and 188.242(1) of the *Migration Regulations 1994* (the Regulations).
- 2 The instrument repeals *Points for Business Innovation Stream and Investor Stream of Business Innovation and Investment (Provisional) Visa* (IMMI 12/041) 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.
- 3 The instrument commences the day after it is registered on the Federal Register of Legislation, and is a legislative instrument within the meaning of section 8 of *Legislation Act 2003* (the Legislation Act).

Purpose

- 4 The instrument specifies the minimum number of points that an applicant for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream or the Investor stream must score on the business innovation and investment points test. Regulation 1.03 of the Regulations provides that the business innovation and investment points test means the test set out in Schedule 7A to the Regulations.
 - For subclause 188.222(1) of Schedule 2 to the Regulations, an applicant for a Subclass 188 visa in the Business Innovation stream must not score less than the number of points specified in the instrument.
 - For subclause 188.242(1) of Schedule 2 to the Regulations, an applicant for a Subclass 188 visa in the Investor stream must not score less than the number of points specified in the instrument.
- 5 The instrument also repeals IMMI 12/041.

Consultation

- 6 No consultation was done for this instrument. This is because the instrument does not substantially alter IMMI 12/041.
- 7 The Office of Best Practice Regulation (OBPR) was also consulted and considered that the instrument dealt with matters of a minor nature and no regulatory impact statement was required. The OBPR reference number is OBPR22-03327.

Details of the instrument

- 8 Paragraph (a) specifies the minimum points required for the business innovation and investment points test for a Subclass 188 visa application in the Business Innovation stream or the Investor stream, being 65 points.
- 9 Paragraph (b) repeals IMMI 12/041.

Parliamentary scrutiny etc.

- 10 The instrument is exempt from disallowance under section 42 of the Legislation Act. This is because the instrument is made under Schedule 2 to the Regulations, which is prescribed in paragraph (b) of item 20 of the table in section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.
- 11 The instrument was made by the Minister in accordance with subclauses 188.222(1) and 188.242(1) of the Regulations.