



LIN 21/018

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

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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

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Threshold and Exemptions for Subclass 189 Visa (New Zealand Stream)) Instrument (LIN 20/170) 2020 (F2020L01553)* is repealed.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

- (a) made on or after the commencement of this instrument; or
- (b) 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

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<b>Item</b>	<b>Income year</b>	<b>Amount (\$)</b>
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	<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 a 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 6 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 6.</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>
4	<p>The applicant:</p> <p>(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</p> <p>(b) could not meet the minimum</p>	<p>(a) either:</p> <p>(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</p> <p>(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</p>

Item	Classes of exempt applicants	Evidence
	<p>amount of the income requirement for the 2019–20 income year because of the effect of the COVID-19 pandemic on the Australian economy.</p>	<p>the applicant was likely to meet the income threshold in the 2019–20 income year; and</p> <p>(b) any of the following documents:</p> <p>(i) a statutory declaration by the applicant's employer acknowledging the applicant's 2019–20 taxable income has reduced, due to:</p> <p>(A) reduced availability of shifts/hours resulting in a drop in income; or</p> <p>(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</p> <p>(C) medically directed orders to self-isolate, preventing the applicant from working and resulting in a drop in income; or</p> <p>(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;</p> <p>(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;</p> <p>(iii) documentation proving that the applicant had access to the JobKeeper Wage Subsidy for a period in 2019–20 income year including either:</p> <p>(A) employee nomination form; other statements or documents provided by the ATO demonstrating that the applicant had access to the JobKeeper Wage Subsidy; or</p> <p>(B) alternative statements provided by the ATO at the applicant's request;</p> <p>(iv) Services Australia-Centrelink letters showing the applicant claimed and received the JobSeeker payments for a period in 2019–20 income year.</p>

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