



**Australian Government**  
**Department of Home Affairs**

LIN 22/083

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

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I, Andrew Giles, Minister for Immigration, Citizenship and Multicultural Affairs, under subclauses 188.222(1) and 188.242(1) of Schedule 2 to the *Migration Regulations 1994* (the **Regulations**):

- (a) Specify that for subclauses 188.222(1) and 188.242(1) of Schedule 2 to the Regulations, **the applicant's score on the business innovation and investment points test must be not less than 65 points.**
- (b) Repeal *Points for Business Innovation Stream and Investor Stream of Business Innovation and Investment (Provisional) Visa* (IMMI 12/041).

This instrument commences on the day after registration.

Dated 4 October 2022

**ANDREW GILES**

Minister for Immigration, Citizenship and Multicultural Affairs

## 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.