



Migration (IMMI 18/067: Pool and Pass Marks for General Skilled Migration Visas) Instrument 2018

I, Peter Dutton, Minister for Home Affairs and Minister for Immigration and Border Protection, make the following instrument.

Dated 25 June 2018

Peter Dutton
Minister for Home Affairs
Minister for Immigration and Border Protection

Contents

Part 1—Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Schedules	1
5 Definitions	1
Part 2—Pool and pass marks in relation to general skilled migration visas	3
6 Pool and pass marks—post-1 July 2018 invitations to apply	3
7 Pool and pass marks—pre-1 July 2018 invitations to apply.....	3
Part 3—Pool and pass marks in relation to former general skilled migration visas	4
8 Pool and pass marks—certain pre-1 July 2011 visa applications.....	4
9 Pool and pass marks—certain post-1 July 2011 visa applications	4
Part 4—Application provisions	5
10 Application provision—general skilled migration visas	5
11 Application provision—former general skilled migration visas.....	5
Schedule 1—Repeals	6
<i>IMMI 12/017 (F2012L01317)</i>	6

Part 1—Preliminary

1 Name

- (1) This instrument is the *Migration (IMMI 18/067: Pool and Pass Marks for General Skilled Migration Visas) Instrument 2018*.
- (2) This instrument may be cited as **IMMI 18/067**.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	1 July 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsections 96(1) and (2) of the *Migration Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In this instrument:

Act means the *Migration Act 1958*.

former general skilled migration visa means each of the following:

- (a) a Subclass 175 (Skilled—Independent) visa;
- (b) a Subclass 176 (Skilled—Sponsored) visa;
- (c) a Subclass 475 (Skilled—Regional Sponsored) visa;

Section 5

- (d) a Subclass 487 (Skilled—Regional Sponsored) visa;
- (e) a Subclass 885 (Skilled—Independent) visa;
- (f) a Subclass 886 (Skilled—Sponsored) visa.

general skilled migration visa means each of the following:

- (a) a Skilled—Independent (Permanent) (Class SI) visa;
- (b) a Skilled—Nominated (Permanent) (Class SN) visa;
- (c) a Skilled—Regional Sponsored (Provisional) (Class SP) visa.

Regulations means the *Migration Regulations 1994*.

Part 2—Pool and pass marks in relation to general skilled migration visas

6 Pool and pass marks—post-1 July 2018 invitations to apply

- (1) For the purposes of the Act and Regulations, the pool mark in relation to a general skilled migration visa is 65 points.
- (2) For the purposes of the Act and Regulations, **the pass mark in relation to applications for a general skilled migration visa is 65 points.**

7 Pool and pass marks—pre-1 July 2018 invitations to apply

- (1) For the purposes of the Act and Regulations, the pool mark in relation to a general skilled migration visa is 60 points.
- (2) For the purposes of the Act and Regulations, the pass mark in relation to applications for a general skilled migration visa is 60 points.

Section 8

Part 3—Pool and pass marks in relation to former general skilled migration visas

8 Pool and pass marks—certain pre-1 July 2011 visa applications

- (1) For the purposes of the Act and Regulations, the pool mark in relation to a former general skilled migration visa is:
 - (a) for a Subclass 175 (Skilled—Independent) visa and a Subclass 885 (Skilled—Independent) visa—120 points; or
 - (b) otherwise—100 points.
- (2) For the purposes of the Act and Regulations, the pass mark in relation to applications for a former general skilled migration visa is:
 - (a) for a Subclass 175 (Skilled—Independent) visa and a Subclass 885 (Skilled—Independent) visa—120 points; or
 - (b) otherwise—100 points.

9 Pool and pass marks—certain post-1 July 2011 visa applications

- (1) For the purposes of the Act and Regulations, the pool mark in relation to a **former** general skilled migration visa is 65 points.
- (2) For the purposes of the Act and Regulations, the pass mark in relation to applications for a **former** general skilled migration visa is 65 points.

Part 4—Application provisions

10 Application provision—general skilled migration visas

- (1) Section 6 applies in relation to an application for a general skilled migration visa made on or after 1 July 2018 in response to an invitation given by the Minister on or after that day.
- (2) Section 7 applies in relation to an application for a general skilled migration visa made before, on or after 1 July 2018 in response to an invitation given by the Minister before that day.

11 Application provision—former general skilled migration visas

- (1) Section 8 applies in relation to an application for a former general skilled migration visa if repealed regulation 2.26AA of the Regulations, as in force immediately before 1 July 2013, applies to the applicant.
- (2) Section 9 applies in relation to an application for a former general skilled migration visa if repealed regulation 2.26AB of the Regulations, **as in force immediately before** 1 July 2013, applies to the applicant.

Schedule 1—Repeals

IMMI 12/017 (F2012L01317)

1 The whole of the instrument

Repeal the instrument.

EXPLANATORY STATEMENT

Migration Act 1958

Migration (IMMI 18/067: Pool and Pass Marks for General Skilled Migration Visas) Instrument 2018

(Subsections 96(1) and 96(2) of the Act)

1. Instrument IMMI 18/067 is made under subsections 96(1) and (2) of the *Migration Act 1958* (the Act).
2. The instrument repeals *Pass Marks and Pool Marks in relation to Applications for General Skilled Migration Visas (Classes VE, VC, VF, VB, SI, SN and SP)* (IMMI 12/017) (F2012L01317) under subsection 33(3) of the *Acts Interpretation Act 1901* (the AIA). Subsection 33(3) of the AIA states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.
3. The instrument operates to set a pool and pass mark of 65 for the “points” system under Subdivision B of Division 3 of Part 2 of the Act for the following three classes of visa where an application is made on or after 1 July 2018 in response to an invitation given by the Minister on or after 1 July 2018:
 - a Skilled – Independent (Permanent) (Class SI) visa;
 - a Skilled – Nominated (Permanent) (Class SN) visa; and
 - a Skilled – Regional Sponsored (Provisional) (Class SP) visa.
4. For these visas, the instrument sets the pool and pass mark at 65 points. This pass mark reflects **the high level of interest in skilled migration to Australia and the high calibre of prospective applicants** who express their interest in the General Skilled Migration program. This pass mark is consistent with the level set for the points test under repealed regulation 2.26AB, in effect until 1 July 2013.
5. The instrument preserves the pool and pass mark from the previous instrument for all visa applications for the above visas made before, on or after 1 July 2018 in response to an invitation given by the Minister before 1 July 2018.

6. The instrument also preserves from the previous instrument, all pre-existing pool and pass marks for outstanding applications for the following repealed visa subclasses made before 1 July 2011, and between 1 July 2011 and 1 July 2013:
 - a Subclass 175 (Skilled – Independent) visa;
 - a Subclass 176 (Skilled – Sponsored) visa;
 - a Subclass 475 (Skilled – Regional Sponsored) visa;
 - a Subclass 487 (Skilled – Regional Sponsored) visa;
 - a Subclass 885 (Skilled – Independent) visa; and
 - a Subclass 886 (Skilled – Sponsored) visa.
7. These visa subclasses were repealed on 1 July 2013 by item [26] of Schedule 2 to the *Migration Amendment Regulation 2012 (No. 2)*. Clause 102 of Schedule 13 to the *Migration Regulations 1994* provides that those amendments applied only in relation to an application for a visa made on or after 1 July 2013. The intention is that the same pool and pass mark as that which applied at the time of application for the visa, should continue to apply to outstanding visa applications.
8. Consultation was undertaken before the instrument was made with the Department of Jobs and Small Business, which manages the SkillSelect system.
9. The Office of Best Practice Regulation (OBPR) has advised that a Regulatory Impact Statement is not required (OBPR Reference 23746).
10. Under section 10 of the *Legislation (Exemptions and Other Matters) Regulation 2015*, the instrument is exempt from disallowance and therefore a Statement of Compatibility with Human Rights is not required.
11. The instrument **commences on 1 July 2018**.