



Australian Government
Department of Home Affairs

Submission

For decision

PDMS Ref. Number: MS25-000362

Date of Clearance: 11/02/2025

To Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security

Subject Ministerial Direction 114 for the Business Innovation and Investment Program (BIIP)

Timing For consideration as soon as possible, as requested by your Office on 5 February 2025.

Recommendations

That you:

1. sign the Ministerial Direction to be issued under section 499 of the *Migration Act 1958* at **Attachment A**, to give effect to an updated order of processing on-hand Business Innovation and Investment Program visa applications; and
2. note that the Department will come back with further options to manage the on-hand BIIP investor caseloads.

Signed not signed

Noted please discuss

Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, Minister for Cyber Security

Signature.....

Date: 11/2/2025

Minister's Comments

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Key Issues

1. The Ministerial Direction 114 - *Order of consideration for Subclass 188 and Subclass 132 visas* at **Attachment A** will establish an order of visa processing priority for delegates who consider and dispose of Business Innovation and Investment Program (BIIP) visa applications. Ministerial Direction 114 will commence on the day after it is signed.
2. The order of consideration applied to the processing of skilled visas is provided in Ministerial Direction 105, which places BIIP visas as the last priority. Ministerial Direction 114 will be subordinate to Ministerial Direction 105, and only cover the order of consideration for BIIP Subclass 188 and Business Talent (Subclass 132) visa applications after all other directions have been considered. In combination, these Directions will effectively ensure that the BIIP Investor based streams will be processed as the lowest priority in all skilled visa caseloads.
3. The intention of Ministerial Direction 114 is to ensure that Migration Planning level places filled under the BIIP category are meeting current government priorities. Prioritising certain visa streams for those applying for Subclass 188 and Subclass 132 visas ensures the BIIP is focussed on applications from migrants who will help create jobs and drive innovation.
4. In support of the positive experience of Entrepreneurs sponsored by States and Territory Governments, the Subclass 188 Entrepreneur cohort will be considered ahead of others. They will be followed by individuals with successful business histories that plan to establish operations in Australia that will bring clear economic benefits, including jobs for Australians. Noting Australia's ease in attracting foreign investment for profitable activities, investor streams will be processed last.
5. Ministerial Direction 114 seeks to process applications in the following order:
 - a. visa applications made by applicants for the Subclass 188 visa in the Entrepreneur stream;
 - b. visa applications made by applicants for the Subclass 188 visa in the Business Innovation stream or the Subclass 132 visa in the Significant Business History stream;
 - c. visa applications made by applicants for the Subclass 188 visa in the Investor stream;
 - d. visa applications made by applicants for the Subclass 188 visa in the Significant Investor stream
 - e. All other applications.
6. Within this priority order, Ministerial Direction 114 also prioritises visa applications made by individuals who lodged their application onshore and hold a Bridging visa associated with their BIIP visa application. This affords priority to migrants who may already have established links with Australian businesses and communities.
7. The BIIP closed permanently to new applications on 31 July 2024. The Department continues to process all on-hand applications. As at 9 February 2025, there are approximately 14,942 unfinalised BIIP applications on hand (about 4,421 primary applicants and 10,521 secondary applicants). A detailed breakdown of on-hand applications is at **Attachment B**.
8. The Department is currently conferring with Legal colleagues to consider the feasibility of other options to manage the on-hand investor caseloads including using established legislation to delay the processing of Significant Investor visas, and removing the permanent residence pathway for Significant Investors.

Background

9. Ministerial Direction 114 will commence the day after it is signed and will apply to all on-hand Subclass 188 and Subclass 132 applications.
10. Applications made by dependent applicants, either as part of a combined application or as a subsequent entrant application, will be considered in the same priority order as the associated Subclass 188 or Subclass 132 visa stream.
11. This Direction will not apply to visa applications made by members of the family unit of existing holders of a Subclass 188 or Subclass 132 visas. It also does not apply to on-hand Business Innovation and Investment (Permanent) visa (subclass 888) applications. The Department will provide advice on managing this caseload when coming back to you on options to manage the on-hand investor caseloads as referenced in paragraph eight.

The Business Innovation and Investment Program (BIIP)

12. The BIIP had a two-stage process that required nomination by a State or Territory government or the Australian Trade and Investment Commission (AUSTRADE) at both the provisional and permanent stage. Subclass 188 visa holders are only eligible to apply for a Subclass 888 – Business Innovation and Investment (Permanent) residence visa after meeting residency, investment and business establishment requirements.
13. There are four main streams of Subclass 188, with two extension streams, and two streams of Subclass 132:
 - Subclass 188 **Entrepreneur** stream for start-up and early stage entrepreneurs who have an innovative idea that will lead to commercialisation of a product or service, or development of an enterprise or business, in Australia
 - Subclass 188 **Innovation** stream for business owners with an annual business turnover of at least AUD 750, 000 and assets of at least AUD 1.25 million
 - Subclass 188 **Investor** stream for investors with at least AUD 2.5 million to invest in a complying investment
 - Subclass 188 **Significant Investor** stream for investors with at least AUD 5 million to invest in a complying investment
 - Subclass 132 **Significant Business History** stream for applicants with a net value of AUD 1.5 million and an annual business turnover of AUD 3 million
 - Subclass 132 **Venture Capital Entrepreneur** stream for applicants who sourced at least AUD 1 million from an Australian venture capital firm
 - All of the above BIIP streams are closed to new applications. Subclass 188 applications closed on 31 July 2024 and Subclass 132 applications closed on 21 July 2021.
 - Two extension streams remain available for Subclass 188 visa holders in the Business Innovation stream or the Significant Investor stream if they require extra time to meet the requirements of the Subclass 888 (permanent) visa.

BIIP outcomes and Review findings

14. The Treasury found that BIIP visa holders are more fiscally costly and contribute less to the economy than other skilled visas. BIIP migrants are older, have more secondary applicants and earn lower taxable incomes.
15. In the 2019-20 financial year, even after considering investment income, BIIP Investors and Significant Investors still earned less income and paid less tax than other skilled visa holders

on average. This level of income is less than expected given the level of investment required under the program. BIIP secondary applicants also have poorer economic outcomes than the secondary applicants of skilled independent and employer sponsored visas.

16. The Grattan Institute in its submission to the review of Australia's migration system advocated abolishing the BIIP for the following reasons:
- BIIP visa-holders are much older and earn a lower income than migrants on employer-sponsored and points-tested visas, while few investors on BIIP visas are financing projects that would not otherwise occur;
 - most recent BIIP visa holders report lower incomes than holders of permanent skilled visas. The average BIIP primary visa-holder reported an annual income of just \$25,000 at the 2016 Census, compared to the average skilled worker with an annual income of \$64,000;
 - BIIP visa-holders are much less likely to work than other skilled migrants, even as managers of the businesses or investments they own; and
 - fewer than half of investor migrants have a higher education qualification, compared to around 80 per cent of points tested migrants.

Significant Investor visa as a source of foreign investment

17. From 1 January 2018 to 31 December 2022, there were 1, 077 grants of Significant Investor visas to primary applicants with an associated \$5.385 billion of investments made. Over the same period, there has been \$5.155 trillion of foreign direct investment (FDI) and a total of \$20.4 trillion of foreign investment in Australia. Investments made under the SIV account for around one tenth of one per cent of FDI, and less than one thirtieth of one per cent of overall foreign investment.
18. The Grattan Institute found that few investors on BIIP visas are financing projects that would not otherwise occur. Australia is an open economy with good access to capital, and hence investment visas are unlikely to generate much additional foreign investment.

BIIP closure

19. The Department closed the Business Innovation and Investment Program (BIIP) permanently to new applications on 31 July 2024.
- a. The Department continues to process all valid subclass 188 and subclass 132 visa applications currently on-hand, in line with the Migration Program planning levels and processing priorities.
 - b. Subclass 188 visa holders can still apply for permanent residence through the Subclass 888 visa.
 - c. The Government reduced the number of visas that should be granted for the BIIP program from 1, 900 in 2023-4 to 1, 000 in the 2024 – 25 permanent Migration Program.
 - d. Refunds of the Visa Application Charge (VAC) are available for eligible subclass 188 and subclass 132 visa applicants who withdraw their application on or after 31 July 2024.

Managing on-hand BIIP applications

20. The Department has recently taken measures to ensure that all business migrants coming to Australia are best placed to meet the objectives of the BIIP.
- BIIP policy guidance has been tightened since the closure of the program to require applicants to demonstrate business success even in the face of challenging conditions

and to focus on business migrants that will generate innovative businesses that create clear benefit for Australia, including quality employment for Australians.

- Ministerial Direction 114 will bolster the Departments efforts to manage the on-hand BIIP caseload to promote applications that will best serve Australia's national interests. It will do this by assigning the highest processing priority to applications that will create jobs and drive innovation.

21. There have been more than 3,000 withdrawals of BIIP applications since refund provisions were introduced in September 2024. Only a small number of these have been from primary applicants in the Significant Investor stream (23) and their dependents (40).

Consultation – Internal/External

22. **Legal Group:** Special Counsel, Migration and Citizenship Law and the Migration and Citizenship Law Section has reviewed this submission and cleared the content of Ministerial Direction No. 114.

Consultation – Secretary / Associate Secretary Immigration / ABF Commissioner

23. The Secretary was not consulted on this submission.
24. The Associate Secretary was not consulted on the approach in the submission.
25. The Commissioner was not consulted on this submission.

Client Service Implications

26. The visa applications subject to Ministerial Direction 114 have been on-hand for a significant amount of time. If implemented, this Direction may cause an increase of enquiries from clients and stakeholders.

Risks and Sensitivities

27. Any changes to the BIIP visa processing priorities will attract scrutiny from State and Territory government agencies, applicants, industry and other stakeholders and will likely receive media attention.
28. State and Territory government stakeholders have previously expressed dissatisfaction with the closure of the BIIP. Further policy change to the program without consultation may result in criticism that the Government is not genuinely working with States and Territories. The position of the investor visas in the priority order of Ministerial Direction No. 114 may lead to criticism from some State and Territories that investment in key projects is being delayed.
29. Changes to the priority order of processing of on-hand BIIP applications may cause an increase in representations from investment entities who have developed specialised operations to service Significant Investor and Investor stream visa applicants.
30. There has been strong public messaging and evidence presented by key experts, such as the Productivity Commission and the Grattan Institute, regarding the low-utility of investor visas. Sensitivities can be managed through direct engagement with the States and Territories and other stakeholders through existing forums.

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31. The information contained in this submission is classified and should not be publicly released without the authority of the Department of Home Affairs. In accordance with our long-standing practices, should you wish for unclassified media lines to be prepared in relation to this issue please contact the Home Affairs Media Operations team – media@homeaffairs.gov.au.

Financial/systems/legal/deregulation/media implications

32. Departmental workflow processes will be adjusted to ensure that all on-hand Subclass 188 and Subclass 132 applications are processed in accordance with the new processing priorities.
33. The implementation of this new Ministerial Direction may attract attention from the public and the media due to recent public commentary on the Significant Investor visa by the Government and the Opposition. The Department will develop talking points and other communications material in order to respond to any enquiries that may arise.

Attachments

Attachment A Ministerial Direction No. 114 (*Order of consideration for Subclass 188 and Subclass 132 visas*) – for signature

Attachment B Detailed breakdown of on-hand BIIP caseload

Authorising Officer
Cleared by:
Michael Willard Group Manager Immigration Operations Group
Date: 11/02/2025 Mob: S. 22(1)(a)(ii)

Contact Officer Karin Maier, Assistant Secretary, Skilled Visas Branch, Ph: S. 22(1)(a)(ii) / Mob: S. 22(1)(a)(ii)

CC

Assistant Minister for Immigration
Secretary
Associate Secretary Immigration
Deputy Secretary, Legal
Group Manager, Immigration Programs
Group Manager, Immigration Compliance
Group Manager, Legal
First Assistant Secretary, Migration and Temporary Visas
First Assistant Secretary, Immigration and Citizenship Support Division
Assistant Secretary, Immigration Reform and Engagement
Assistant Secretary, Immigration Planning and Policy Framework

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DIRECTION NO. 114

MIGRATION ACT 1958

DIRECTION UNDER SECTION 499

Order of consideration for Subclass 188 and Subclass 132 visas

I, Tony Burke, Minister for Home Affairs, Minister for Immigration and Multicultural Affairs, give this Direction under section 499 of the *Migration Act 1958* (the Act).

11. 2. 25

Dated



Tony Burke

Minister for Home Affairs, Minister for Immigration and Multicultural Affairs

Part 1– Preliminary

1. Name of direction

This Direction is Direction no. 114 – Order of consideration for Subclass 188 and Subclass 132 visas. It may be cited as Direction 114.

2. Commencement

This Direction commences on the day after the date of signature.

3. Application

- (1) Subject to subsection 3(3), this Direction applies to all persons having functions and powers under the Act who consider and dispose of applications for a Subclass 188 visa or a Subclass 132 visa; and
- (2) Without intending to limit the scope of subsection 3(1), this Direction applies to decision-makers performing functions or exercising powers under sections [51](#) and [91](#) of the Act
- (3) This Direction does not apply to:
 - (a) applications that have been remitted by the AAT or ART for reconsideration;
 - (b) applications where it is readily apparent that the criteria for grant of the visa would not be satisfied;
 - (c) applications by visa applicants claiming to be a member of the family unit of a person who holds a visa granted on the basis of satisfying the primary criteria in Schedule 2 of the Regulations and who did not make a combined application with that person;

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- (d) applications by visa applicants who hold, or held at the time of application, a Subclass 188 visa in the Business Innovation stream or Significant Investor stream and who have applied for a Subclass 188 visa in the Business Innovation Extension or Significant Investor Extension stream;
- (e) applications that are combined with an application made by a person seeking to satisfy the primary criteria for grant of a Subclass 188 visa in the Business Innovation Extension or Significant Investor Extension stream;
- (f) the ART.

4. Preamble

(1) Australia's skilled visa programs are designed to select people who will make a positive contribution to the Australian economy. The Business Innovation and Investment Program (BIIP) targeted migrants with a demonstrated history of success in business, innovation or investment who were able to make a significant contribution to national innovation.

(2) The order of priority for considering applications is specified in this Direction to ensure appropriate allocation of resources in considering and disposing of applications so that certain cohorts of applications are given priority.

(3) Direction on the order of priority applied to skilled visa programs is provided in a separate ministerial direction - Ministerial Direction no. 105 *Order of consideration – Certain Skilled Visas* (MD 105). This direction only concerns the order of consideration for Subclass 188 and Subclass 132 visa applications after all other relevant directions have been considered. The two directions are intended to be complementary with this direction being subordinate to MD 105.

(4) To ensure that current government priorities are met, it is necessary to carefully consider the order of visa application processing so that the appropriate streams within the Subclass 188 and Subclass 132 visas are given priority. Prioritising certain visa streams for those applying for Subclass 188 and Subclass 132 visas ensures the BIIP is focussed on applications from migrants who will help create jobs and drive innovation. In support of the positive experience of Subclass 188 Entrepreneurs sponsored through States and Territory Governments, visa applications made by members of this cohort will be considered ahead of others in the BIIP, followed by visa applications made by individuals with successful business histories that plan to establish operations in Australia that will bring clear economic benefits – including jobs for Australians. Noting Australia's ease in attracting foreign investment for profitable activities, venture capitalist and investor streams will be processed behind other streams.

(5) Persons to whom this Direction applies are to give due regard to the priority processing directions set out below in Part 2 of this Direction

5. Interpretation

In this Direction:

Act means the *Migration Act 1958*.

AAT means the Administrative Appeals Tribunal.

ART means the Administrative Review Tribunal.

member of the family unit has the same meaning as in regulation [1.12](#) of the Regulations.

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primary criteria means the prescribed criteria for the grant to a person of a visa of a particular class which are set out in a relevant Part of [Schedule 2](#) to the Regulations.

Regulations means the *Migration Regulations 1994*.

Subclass 188 visa means a Subclass 188 (Business Innovation and Investment (Provisional)) visa as prescribed by the Regulations.

Subclass 132 visa means a Subclass 132 (Business Talent) visa as prescribed by the Regulations prior to 1 July 2021.

Part 2 – Directions

6. Order for considering applications

(1) Paragraphs 6(1)(a) to (e) set out the order of priority for allocating applications for assessment by a person covered by subsection 3(1) of this Direction as follows, with paragraph (a) being the highest priority and paragraph (e) being the lowest priority:

- (a) visa applications made by applicants for the Subclass 188 visa in the Entrepreneur stream;
- (b) visa applications made by applicants for the Subclass 188 visa in the Business Innovation stream or the Subclass 132 visa in the Significant Business History stream;
- (c) visa applications made by applicants for the Subclass 188 visa in the Investor stream;
- (d) visa applications made by applicants for the Subclass 132 visa in the Venture Capital Entrepreneur stream; and
- (e) visa applications made by applicants for the Subclass 188 visa in the Significant Investor stream.

(2) Within all paragraphs at paragraph 6(1) above, priority should be given to visa applications where the primary applicant was in Australia at the time they made their Subclass 188 or 132 visa application, and they hold a bridging visa that is associated with that visa application.

(3) Applications that are combined with an application made by a person seeking to satisfy the primary criteria for grant of a Subclass 188 or Subclass 132 visa will be considered in the priority order of the associated Subclass 188 or Subclass 132 visa stream as listed in paragraphs 6(1)(a) to (e).

(4) Subsequent applications by visa applicants claiming to be a member of the family unit of a person seeking to satisfy the primary criteria for grant of a Subclass 188 or Subclass 132 visa, but where the associated primary visa application has not yet been decided, will be considered in the priority order of the associated Subclass 188 or Subclass 132 visa stream as listed in paragraphs 6(1)(a) to (e).

OFFICIAL**Attachment B****On-hand BIIP applications***Primary and Secondary applicants by visa application stream as at 9 February 2025*

Visa Stream	Visa Subclass	Primary	Secondary
Entrepreneur	188 Business Innovation and Investment (Provisional)	<5	<5
Business Innovation	188 Business Innovation and Investment (Provisional)	2468	5851
Significant Business History	132 Business Talent	801	2006
Investor	188 Business Innovation and Investment (Provisional)	705	1742
Significant Investor	188 Business Innovation and Investment (Provisional)	422	867
Venture Capital Entrepreneur	132 Business Talent	<25	<55
Total	14,942	4421	10521

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Australian Government
Department of Home Affairs

Submission

For decision
PDMS Ref. Number: MS22-002461
Date of Clearance: 30/09/2022

To Minister for Immigration, Citizenship and Multicultural Affairs

Subject New legislative instrument for Business Innovation Stream and Investor Stream for the Subclass 188 (Business Innovation and Investment (Provisional)) visa (LIN 22/083) 2022

Timing For urgent consideration within 10 days as discussed with adviser **S. 11C(1)(a)** to allow the instrument to continue and be registered. The original instrument will cease on 1 October 2022, however normal processing will only be impacted after two weeks.

Recommendations

That you:

1. sign the *Migration (Points for Business Innovation Stream and Investor Stream of Subclass 188 Visa) Instrument (LIN 22/083) 2022* at **Attachment A**; and
2. approve the associated *Explanatory Statement for LIN 22/083* at **Attachment B**.

signed / not signed

approved / not approved

Minister for Immigration, Citizenship and Multicultural Affairs

Signature.....

Date: 4/10/2022

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under the Freedom of Information Act 1982

Minister's Comments

Are there other instruments sunsetting or expiring?

Key Issues

1. The Business Innovation and Investment Program (BIIP) is made up of four streams - Business Innovation, Investor, Significant Investor (SI), and Entrepreneur. All applicants must be nominated by a State/Territory Government or Austrade, although in practice Austrade no longer nominate applicants under BIIP.
2. This submission relates to a legislative instrument (IMMI 12/041) that governs eligibility for the Business Innovation and Investor streams.
 - The instrument, made by then Minister for Immigration and Citizenship, the Hon Chris Bowen MP, is due to sunset and cease on 1 October 2022.
 - The delay in providing this submission to you is an oversight on the Department of Home Affairs (the Department) part.
3. An applicant for a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Business Innovation stream or the Investor stream must achieve a score on the business innovation and investment points test which is not less than the number of points specified by the Minister in a legislative instrument.
 - The points-tested pass mark of 65 (minimal) is essential in the selection process for the Department, State or Territory government agency and Austrade, which is specified by legislative Instrument (IMMI 12/041) made under 188.222(1) and 188.242(1).
4. The BIIP has been the subject of considerable scrutiny over the course of its existence, with concerns raised about its value relative to other skilled visa categories. Recently, the Minister for Home Affairs indicated in a media interview that she held concerns about the Significant Investor stream and that it would be reviewed in the context of the wider review of immigration announced at the Jobs and Skills summit.
5. Notwithstanding these issues, and noting the composition of the Skill Stream for the 2022-23 Migration Program remains to be finalised, the Department recommends signing a replacement instrument for IMMI 12/041 to allow the continuation of orderly processing of applications already lodged and assessed in the Business Innovation and Investment stream.
6. There is a large onhand caseload of 18,712 BIIP applicants (as at 23 September 2022) in these streams with a high proportion of offshore applicants (17,339). Replacing this instrument will assist in dealing with these applications and will avoid further delay for applicants who meet criteria and concern from the State/Territory that nominated them.

7. Conversely, without an instrument in place, the Department would have to draw on more Significant Investor and Entrepreneur stream visa applications to meet BIIP planning levels.
8. Note the Department has only provided very limited interim allocations for BIIP (10 places each) to States and Territories for 2022-23 to date. This will act as a mechanism to control the number of new applications coming into BIIP in a context where onhand numbers are high, Migration Program composition is not finalised and the future of BIIP may be under review.
9. The renewal of this Instrument involves changes to dates and your details for signing, but no amendments to the pass mark itself.
10. To bring effect to these amendments, we seek your approval and signing of the replacement Instrument; Migration (Points for Business Innovation Stream and Investor Stream of Subclass 188 Visa) Instrument (LIN 22/083) 2022 is at Attachment A.
11. In addition, we seek your approval of the associated Explanatory Statements for LIN 22/083 Instrument at Attachment B.

Background

12. The Business Innovation and Investment Program was introduced 24 November 2012. From 1 July 2021, this program consists of four streams; Business Innovation (and extension), Investor, Significant Investor (and extension), and Entrepreneur streams:
 - The Business Innovation stream is a provisional visa for people with business skills and allows them to operate a new or existing business in Australia. Applicants are required to provide proof of their business success (annual turnover, ownership interest), score at least 65 on the points-test, and be nominated by a State or Territory government agency or Austrade before being invited to apply for this visa.
 - The Investment stream is a provisional visa for people to invest at least AUD2.5 million (on or after 1 July 2021 or AUD1.5 million in a State or Territory if invited to apply before 1 July 2021) in Australian investments that meet certain requirements, score at least 65 on the points-test, and maintain business or investment activity within Australia. The applicant must be nominated by a State or Territory government agency or Austrade before being invited to apply for this visa.
 - The points test, which allots points for attributes such the applicant's age, English language ability, qualifications and business experience is not a feature of the Significant Investor stream, which requires an investment of at least AUD5 million.

Consultation – internal/external

13. Internal: Legislation Branch, Economic Analysis and Regulation Policy Branch.
14. External: Office of Best Practice Regulation at the Department of the Prime Minister and Cabinet, and the Sunseting team at Attorney-General's Department.
 - As there were no other amendments to the purpose or function or to subsections of this Instrument, State and Territory government agencies, Austrade or other external stakeholders were not consulted.

Consultation – Secretary

15. The Secretary was not consulted on the approach in the submission.

Client service implications

16. The Department will be unable to finalise Business Innovation and Investment stream applicants on hold until the new Instrument is signed.

Risks and Sensitivities

17. There will be no legal basis for processing and granting Business Innovation and Investment stream applicants between 1 October 2022 and the new instrument being signed and registered. The Department assesses this risk as minor for the first few weeks, with client concerns likely to grow as time passes.
18. There is a risk that these changes could be conflated with broader criticism of the Significant Investor stream and the BIIP visa more broadly receives adverse media attention. The Department will prepare talking points to detail the different streams within the Subclass 188 (Business Innovation and Investment (Provisional)) visa and outcomes.
19. A submission will be provided with further detail on the Subclass 188 (Business Innovation and Investment (Provisional)) visa, including detailed visa data and options to de-prioritise processing of the Significant Investor stream element, should the Minister wish to do so.

Financial/systems/legislation/deregulation/media implications

20. None additional to those above.

Attachments

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

Attachment B *Associated Explanatory Statement for LIN 22/083*

Attachment C *Points for Business Innovation Stream and Investor Stream of Business Innovation and Investment (Provisional) Visa 2012 (IMMI 12/041)*

Authorising Officer

Cleared by:

Michael Willard
First Assistant Secretary
Immigration Programs

Date: 29/09/2022

Mob: S. 22(1)(a)(ii)

Ph: S. 22(1)(a)(ii)

Contact Officer Karin Maier, Assistant Secretary, Skilled Visa Branch, Phone: S. 22(1)(a)(ii) / Mobile: S. 22(1)(a)(ii)

CC Minister for Home Affairs, Minister for Cyber Security
Secretary
Deputy Secretary, Immigration and Settlement Services
First Assistant Secretary, Immigration Integrity Assurance and Policy



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

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**):

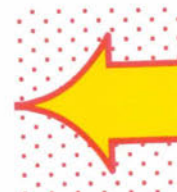
- (a) Specify that for subclauses 188.222(1) and 188.242(1) of Schedule 2 to the Regulations, the applicant's score on the business innovation and investment points test must be not less than 65 points.
- (b) Repeal *Points for Business Innovation Stream and Investor Stream of Business Innovation and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

This instrument commences on the day after registration.

Dated **9 October** 2022

A large, stylized blue ink signature, likely belonging to Andrew Giles, the Minister for Immigration, Citizenship and Multicultural Affairs.

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.

IMMI 12/041

**Commonwealth of Australia***Migration Regulations 1994***POINTS FOR BUSINESS INNOVATION STREAM AND INVESTOR STREAM OF
BUSINESS INNOVATION AND INVESTMENT (PROVISIONAL) VISA**
(Subclauses 188.222(1) and 188.242(1))

I, *CHRIS BOWEN*, Minister for Immigration and Citizenship, acting under subclauses 188.222(1) and 188.242(1) of Schedule 2 to the *Migration Regulations 1994* ('the Regulations'):

1. SPECIFY for the purposes of subclauses 188.222(1) and 188.242(1) of Schedule 2 to the Regulations, that the minimum number of points for both the **Business innovation stream** and the **Investor stream** of the Business Innovation and Investment (Provisional) visa under the business innovation and investment points test is **65 points**.

This Instrument, IMMI 12/041, commences on **1 July 2012**, immediately after the commencement of *Migration Amendment Regulation 2012 (No. 2)*.

Dated 12 June 2012

Minister for Immigration and Citizenship

Chris Bowen

[NOTE 1: Subclause 188.222(1) provides that the applicant's score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing for that subclause.]

NOTE 2: Subclause 188.242(1) provides that the applicant's score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing for that subclause.]

EXPLANATORY STATEMENT

Migration Regulations 1994

POINTS FOR BUSINESS INNOVATION STREAM AND INVESTOR STREAM OF BUSINESS INNOVATION AND INVESTMENT (PROVISIONAL) VISA

(Subclauses 188.222(1) and 188.242(1))

1. This Instrument is made under subclauses 188.222(1) and 188.242(1) of Schedule 2 to the *Migration Regulations 1994* ('the Regulations').
2. Subclause 188.222(1) of the Regulations provides that if a person applies for a Subclass 188 visa in the Business Innovation stream the applicant's score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing.
3. Subclause 188.242(1) of the Regulations provides that if a person applies for a Subclass 188 visa in the Investor stream the applicant's score on the business innovation and investment points test is not less than the number of points specified by the Minister in an instrument in writing.
4. The purpose of the Instrument is to specify within a Legislative Instrument rather than the *Migration Regulations 1994* the **minimum number of points** that an applicant **for a Subclass 188 (Business Innovation and Investment (Provisional)) visa** must score.
5. Consultation was undertaken before this Instrument was made with a wide range of Commonwealth Government Departments, State/Territory Government Departments, representative peak bodies for Migration Agents and the legal profession, and other relevant organisations.
6. The Office of Best Practice Regulation was consulted in relation to the new points test and has advised that a Regulatory Impact Statement is not required (OBPR Reference 2011/13095).

Released by Department of Home Affairs
under the Freedom of Information Act 1982

IMMI 12/041

7. Under section 44 of the *Legislative Instruments Act 2003* the Instrument is exempt from disallowance and therefore a Human Rights Statement of Compatibility is not required.
8. The instrument commences on **1 July 2012**, immediately after the commencement of *Migration Amendment Regulation 2012 (No. 2)*.

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

S. 34(1)(c)

S. 34(1)(c)

S. 34(1)(c)

S. 34(1)(c)

S. 34(1)(c)

S. 34(1)(c)

S. 47C(1)