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OVERVIEW OF TEMPORARY SKILL SHORTAGE VISA GK-482

Foreword:

There are 3 steps involved in sponsoring prospective employees from overseas to Australia.

These are:

1. **Sponsorship,**
2. **Nomination** and
3. **Visa Application.**

These 3 steps are explained in further detail below.

1. SPONSORSHIP

Employers who wish to send candidates to Australia, need to be approved as a business sponsor by DIBP (Department of Immigration and Border Protection). If the business is already an approved business, they will have an SBS (Standard Business Sponsorship) number provided to them by DIBP.

STANDARD BUSINESS SPONSORSHIP (SBS) OVERSEAS BUSINESS SPONSORSHIP (OBS)

If the business does not have a business sponsorship approval and they wish to apply for a Standard Business Sponsorship (SBS) they must show that their business is registered and operating in Australia (provide a Certificate of Registration of Business Name and recent financial records) and demonstrate recent expenditure on training its Australian workforce which must equal either 1% of gross payroll OR must commit to and pay the amount equal to 2% of the gross payroll into an industry related training fund. An SBS is valid for 5 years for established businesses and 18 months for start-up businesses.

If the business is operating overseas and not in Australia, they can apply for an Overseas Business Sponsorship (OBS), where they must show that the business is lawfully registered overseas, the nature of their business and provide a copy of the business plan for the Australian business. An OBS visa is valid for only 18 months if the business has operated for less than 1 year in Australia. Approval of 5 years may be granted where the company is fulfilling contractual obligations. Businesses who wish to sponsor 457 applicants longer than 18 months may need to consider an SBS in the longer term and how they are going to meet the training benchmarks of either 1% or 2% options.

SPONSORSHIP OBLIGATIONS

Upon signing a sponsorship form on behalf of the employer, the business is confirming that they will abide by the following Migration legislation requirements:-

- to notify the department of any change in circumstances that may affect your business' ability to honour its sponsorship undertakings, and notify the department of any change in information provided in the original sponsorship or nomination application;
- to reimburse the Commonwealth for costs incurred by your sponsored employees and their families if they overstay their visas and are located, detained and removed from Australia, and for the cost of processing any protection visa application they may lodge;
- to cooperate with inspectors;
- to be responsible for the costs of return travel of the sponsored person and accompanying dependents;
- to pay location and removal costs of any person who become unlawful under the sponsorship, to a maximum of \$10,000;
- to comply with responsibilities under the immigration laws of Australia;
- not to employ a person who, by working for you, would be in breach of Australian immigration laws;
- to inform DIBP within 28 days of when certain events occur, including if a sponsored employee changes work duties or ceases to be employed with the sponsor;
- to comply with the laws relating to workplace relations and any workplace agreement that the applicant may enter into;
- to ensure that the sponsored person holds the necessary license, registration or membership where it is mandatory for performance of work by the person;
- to ensure that the sponsored employee is provided equivalent terms and condition of employment, including salary, as Australian employees would receive in the same role and location;
- to keep records of the businesses compliance with these obligations and provide them to the Department on request;
- the sponsor must not recover all or part of the costs of the recruitment or costs associated with being a sponsor;
- the sponsor must be able to confirm continual training benchmarks will be met and must maintain the records.

Should the business fail to comply with the sponsorship undertakings, provide incorrect information to the department or not continue to satisfy their requirements as a business sponsor, the Department may act to do one or more of the following:

- issuing a formal warning letter;
- bar the business sponsor from sponsoring or nomination further sponsored employees under the Temporary Business (Long Stay) visa for a specified period of time;
- cancel the business sponsorship approval;
- cancel the visas of any sponsored employees and their accompanying family members;
- accept an undertaking from the sponsor which is enforceable in Court;
- apply to the Court for civil penalty order imposed on a corporation or an individual;
- issue an infringement notice to a corporation or individual for each failure.

Serious breaches of immigration law are also subject to criminal liability.



2. NOMINATION

Employers need to nominate each position they wish to fill over the 4 year period with a temporary resident. The nomination must relate to an occupation that meets a minimum skills threshold covering managerial, professional, associate professional and trade occupations. Employers may be required to demonstrate that there is a genuine need for the position nominated within the size and scope of their business activities.

SALARY

The nominated position must also be remunerated at the current market salary rate for the nomination occupation.



HOW THE MARKET SALARY RATE IS DETERMINED:

a) if there is an equivalent Australian worker in the workplace:

- the market rate will be determined by the industrial arrangements that apply to this worker – for example, a collective agreement, award, award conditions with above award salary rates or a common law contract [This may be referred to as the 'site' or 'enterprise' rate].

b) if there is no equivalent worker onsite:

- the employer may reference collective agreements or awards for that position to substantiate the market rate. If there is no applicable agreement or award, other evidence such as remuneration surveys or earnings data must be provided.

It is the sponsor's responsibility to identify market terms and conditions of employment supported by a range of evidence.

Resources for obtaining evidence for market rates include:

Employer associations, salary surveys such as Mercer or Hay, professional institutions such as the AIM (Australian Institute of Management) or written advice from Unions.

TSMIT (Temporary Skilled Migration Income Threshold). A 457 visa applicant cannot be paid a guaranteed earning of less than \$53,900 per annum, regardless of whether the market salary rate is lower than this specified amount.



3. VISA APPLICATION

The applicant must apply for a visa to enter Australia. They will need to demonstrate that they have the required qualifications and/or relevant work experience to fill the vacancy nominated by the employer. The visa application looks at health and character criteria and all family members included in the application must pass these criteria.



HEALTH REQUIREMENTS

Applicants aged 11 years and over must undertake a medical examination and chest x-ray if they are entering Australia for 6 months or more. Applicants aged 2 -10 years are required to undertake a medical examination and TB screening test. Citizens of certain countries are not required to undertake these examinations. Those applicants who are citizens from high-risk countries for health (e.g. due to TB prevalence) and who intend to stay in Australia for 6 months or more will be required to undergo a medical examination and chest x-ray. Regardless of the period of stay, applicants who have a medical condition, pregnant, or who be attending a child care setting or likely to enter a hospital or health care area may be required to complete medical examinations.



CHARACTER REQUIREMENTS

All applicants must be of good character and all applicants must complete character questions on the visa application form. Police certificates are not normally required, but they can be asked for by the Case Officer at their own discretion.

WORK AND STUDY RIGHTS

The main applicant for the Temporary Residence (Long Stay) Visa, subclass 457 must hold a valid 457 during their stay in Australia. It is possible for main applicants to change employers while in Australia but they must hold a valid visa always and they must remain in full time, sponsored employment.

Family members of the main applicant can work and study during this time. Dependent spouses can work for any business without any restriction. Family members are also able to study. They may however incur education costs for this study. For fee details in the schools' sector for Government and non-Government institutions, log on to <http://education.gov.au/> Dependents studying at tertiary level attract the same fees as those that apply to overseas students.

More information about fees can be obtained from the website:

<http://studyassist.gov.au/sites/studyassist/help/incomingfees/hecs-help/pages/hecs-help-welcome>

ENGLISH LANGUAGE REQUIREMENTS

As of 18 April 2015, the main applicant for 457 visas is required to undertake an English Language Test and pass unless they fall under one of the following exemptions: -

- Hold citizenship of Canada, New Zealand, Republic of Ireland, the UK or USA; or
- have completed 5 accumulative years of high school or tertiary level study at an institution where the language of instruction was in English or;
- have a base salary of \$AUD 96,400 or over, based on a 38 hour week.

ENGLISH TEST MINIMUM BAND SCORE MINIMUM SCORES FOR ENGLISH TEST COMPONENTS

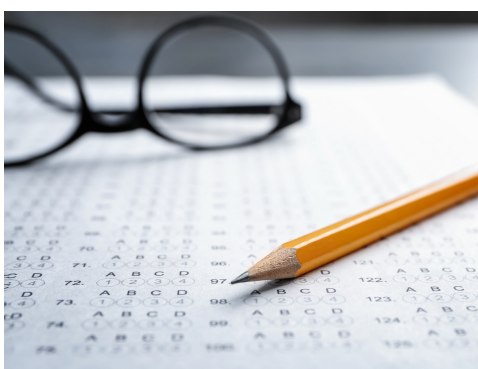
	Overall band score	Listening	Reading	Speaking	Writing
IELTS	5.0	4.5	4.5	4.5	4.5
OET		B	B	B	B
TOEFL	Total 36	3	3	12	12
PTE	36	30	30	30	30
CAE	154	147	147	147	147

THE TEST REQUIREMENT

Where the English language skill is required for registration, licensing or membership i.e. Doctor, Nurse etc. the applicant must obtain the relevant English score of the registration authority. Only the main applicant must undertake the English test.

The English language tests should have been completed not more than 3 years before time of initial visa application. There is a choice of 5 options and you must choose 1 option. The details of the options are below with links to their respective websites for you to register for the test.

IELTS - A list of worldwide IELTS testing centres and further information regarding IELTS can be found on the IELTS website at www.ielts.org.



OET – For healthcare professionals register at www.occupationalenglishtest.org.

TOEFL iBT – This is an internet based English language test and applicants can register at www.ets.org/toefl/ibt/register.

PTE – Applicants can register for PTE Academic www.pearsonpte.com and use the PTE Academic live availability pages to find a session which is convenient (please note that the candidate will have had to have made an account and be logged in to book a session). To ensure they get the best possible results, they should use the PTE Academic Practice Tests as well as the other PTE Academic preparation resources. Registration can be made at www.pearsonpte.com/book.

CAE – Cambridge English Language Exam. Registration can be made at www.cambridgeenglish.org/exams.

HEALTH INSURANCE REQUIREMENTS

As part of the visa application process, all applicants are required to hold adequate private medical and hospital health insurance cover for the entire time they are in Australia on a 457 visa. This insurance does not have to be held with an Australian insurer – arrangements made in the home country may be assessed as being acceptable.

Minimum Standards – the health insurance cover arranged must meet certain minimum standards including:

- minimum policy limit of AUD \$1,000,000
- public hospital in-patient treatment covered at 100% of cost, including maternity
- related medical out-patient benefits at 100% of Medicare scheduled fee\
- pharmacy – all PBS (pharmaceutical benefits scheme) listed drugs that are prescribed according to the PBS approved indications, that are administered during and form part of an admitted episode of care
- waiting periods – 12 months for pregnancy related conditions and pre-existing conditions and 2 months for Psychiatric, rehabilitation and palliative care
- excluded treatments – IVF, elective cosmetic treatments, bone marrow and organ transplants and services for which no Medicare item number applies.

DEPENDENTS

Your 'dependents' can be included in this application. Dependents are classified as children, married spouse, de-facto (common law) and same-sex partners.

If you are including children, they cannot have a spouse, de-facto or fiancé/e. Children under the age of 18 years are automatically classed as dependents. There is an age limit on dependent children of up to 23 years. Children between the ages of 18 to 22 years must be 'dependent' and must show financial dependency for basic needs of food, clothing and shelter. Children who are full time students are usually accepted as financially dependent.



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The information provided is of a general nature only. You should not rely on this information but seek specific advice relevant to your actual circumstances.

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