

Bringing Skilled Workers to Australia

Options Available to Employers Experiencing Critical Skills Shortages

The Chamber of Commerce and Industry WA (CCIWA) strongly supports and promotes Australian training organisation providers and local skills development of Australian citizens first and foremost.

CCIWA recognises however, that in extreme circumstances of skills shortages in critical trade areas, employers may require the services of skilled workers from overseas once domestic training and recruitment options are exhausted.

This article is provided by the Department of Immigration and Citizenship (DIAC) to assist industry to gain an understanding of available programs & schemes.

Categories Available

There are three main visa categories that employers access to bring skilled workers to Australia: the temporary subclass 457 – Business (Long Stay) and two permanent visa options under the Employer Nomination Scheme (ENS) and the Regional

Sponsored Migration Scheme (RSMS).

Subclass 457 – Business (Long Stay) program

The subclass 457 visa program is the most commonly used program for employers to sponsor skilled people from overseas to work in Australia.

This visa program allows workers to stay in Australia for up to four years. Employers can be either Australian businesses or overseas businesses.

For this visa, the employer will need to be approved as an eligible sponsor. They will also need:

- an eligible nominated position; and
- an eligible nominated employee.

To obtain a subclass 457 – Business (Long Stay) visa employers and employees must follow this process:

Employer

- Apply and be approved to be a sponsor to recruit overseas workers.
- Nominate the occupations you want to fill, and the employees you want to fill those positions.
- Recruit the overseas workers to fill your nominated positions.
- Act as a sponsor for your employees applying for a visa.
- Cooperate with the department's monitoring requirements.
- Meet obligations as part of the program.
- Meet training benchmarks.

Employee

- Accept the offer of employment from the employer.
- Apply for and be granted a subclass 457 visa.
- Meet all registration and licensing requirements to practise their occupation in Australia.
- Meet all conditions on their visa.

Over the past 18 months, a number of changes have been made to the subclass 457 visa program to improve its integrity as a demand-driven program. These include:

- The introduction of new sponsorship obligations.
- The requirement for employers to meet training benchmarks before they can be approved as a sponsor.
- The requirement for employers to attest in writing that they have a strong record of, or demonstrated commitment to, employing local labour and non-discriminatory work practices.
- Increasing the minimum English language requirement to level 5 of the International English Language Testing System (IELTS).
- The removal of special arrangements for employers in regional areas across Australia.
- Requiring sponsors to offer employment terms and conditions no less favourable than those that are provided, or would be provided, to an Australian worker doing equivalent work in the same workplace, which includes paying market salary rates.

Another significant change has been the introduction of a formal 457 visa skills assessment on 1 July 2009.

This process is managed by the Department of Education, Employment and Workplace Relations (DEEWR) through Trades Recognition Australia (TRA).

Availability of the assessment to prospective 457 visa applicants is based on the occupation and passport country of the applicant (i.e. currently not all subclass 457 visa applicants are subject to a skills assessment).

For more information on this process visit:

www.deewr.gov.au/Skills/Programs/SkillsAssess/TRA/457Assessment/Pages/home.aspx

Regional Sponsored Migration Scheme

The Regional Sponsored Migration Scheme (RSMS) enables employers in regional and low population growth areas of Australia to sponsor highly-skilled workers either from overseas, or from

people temporarily in Australia, to fill skilled vacancies in their business.

To be eligible under this scheme, employers must:

- Be lawfully and actively operating in regional Australia (which includes all areas of Australia except Brisbane, the Gold Coast, Sydney, Newcastle, Wollongong, Melbourne and Perth).
- Show that the position is a genuine full-time vacancy and is available for at least two consecutive years.
- Show that the vacant position requires a person with at least an Australian equivalent trade, diploma or higher qualification (unless exceptional circumstances apply).
- Provide conditions of employment and wages that comply with Australian legislation and awards.

The nominee must be a foreign national who meets the age skills and language requirements.

The process for obtaining a visa under the RSMS involves three stages and is summarised below:

Employer

- Nominates the position(s) that they wish to fill.
- Arranges certification by the Regional Certifying Body.
- Seeks approval of the nomination from the department.
- Recruits the overseas worker(s) to fill the nominated positions.

Regional Certifying Bodies (RCB)

- Assists employers to fill vacancies in regional Australia.
- Assesses whether the position is genuinely vacant and unable to be filled by an Australian employee.
- If these requirements are met, certifies the position.

Employee

- Accepts the offer of employment from the nominating employer.
- Applies for a visa.
- Meets the conditions on their visa (once approved).

Employer Nomination Scheme

The Employer Nomination Scheme (ENS) enables employers to sponsor highly-

skilled workers to fill skilled vacancies in their business.

Skilled workers can be recruited either from overseas, or from people temporarily in Australia.

To be eligible under this scheme, employers must:

- Be actively and lawfully operating a business in Australia.
- Have a genuine need for a paid employee to fill a position in their business.
- Follow all relevant Australian laws and have a satisfactory record of meeting immigration laws (if applicable).
- Have a current training strategy for existing Australian employees, or if a newly established business, have a training plan for future training of Australian employees.
- Provide the employee with an offer of permanent employment.

Furthermore, the nominated position must meet the following requirements:

- Full-time, ongoing and available for at least three consecutive years.
- Provide working conditions that are no less favourable than provided under the relevant Australian legislation and awards.
- Be a highly-skilled occupation that is on the Employer Nomination Scheme Occupation List (ENSOL).
- Meet the minimum salary level for ENS (as specified on the ENSOL).

The nominee must be a foreign national who, amongst other things, meets the age, skill and language requirements.

While the RSMS is a three-stage process, the ENS is a two-stage process and is summarised below:

Employer

- Nominates the position(s) that they wish to fill.
- Finds a suitable employee who is willing to work for them in Australia.

Employee

- Accepts the offer of employment from the nominating employer.
- Applies for a visa and meets any conditions on their visa (once approved).

Note: Under the RSMS and the ENS, the nomination must be approved before the visa can be granted.

The nomination application should be lodged before or at the same time as the visa application.

If the nomination application is lodged first, the visa application must be lodged within six months of the nomination approval date.

Some of the other options for people coming to work in Australia include:

- General Skilled Migration (GSM) program for skilled foreign nationals wanting to apply for permanent residency independently, without sponsorship.
- Working Holiday Maker scheme, which allows people aged between 18 and 30 from certain “arrangement” countries to come to Australia on an extended holiday and work for an employer for up to six months.

While the information above might help to de-mystify Australia’s skilled visa program, it does not cover all of the requirements, processes or visa options.

Employers can discuss options with their local DIAC Industry Outreach Officer (IOO) or Regional Outreach Officer (ROO). IOOs assist and support businesses in gaining the workers they need.

In Western Australia, there are two IOOs based in Perth and a ROO:

Robert Bailey (IOO Chamber of Commerce and Industry WA) Mobile: 0427 380 412 or Email: Robert.Bailey@immi.gov.au

Emma Hogen-Esch (IOO WA Resources Sector Consortium) Mobile: 0434 077 585 or Email: Emma.Hogen-Esch@immi.gov.au

Steve Lanyi (ROO) Mobile: 0403 448 168 or Email: Steve.Lanyi@immi.gov.au

For more information on visa programs including application processing time frames visit the Department of Immigration and Citizenship (DIAC) website: www.immi.gov.au