



Sponsoring International Workers

In areas of health where there is a shortage of medical practitioners, many employers are recruiting staff from overseas and providing sponsorship for temporary residents to work in Australia.

It is very important for employers and employees to be aware of their obligations to each other, the Department of Immigration and the conditions of the sponsorship and visa, which can vary depending on the visa type and the employer's original approved nomination package.

Engaging a migration agent

When considering the sponsorship and employment of a temporary resident, it is recommended that an employer seek the assistance and guidance of an Australian Government registered migration agent.

Only registered migration agents can legally give immigration assistance in Australia. Migration agents can assist with:

- preparing, or helping to prepare, a visa application or other document
- advising about a visa application or visa matter
- preparing for proceedings before a court or review authority in relation to a visa application or visa matter
- representing in proceedings before a court or review authority in relation to a visa application or visa matter

For a list of local registered migration agents or more information on the Migration Agents Registering Authority of Australia, please visit www.mara.gov.au

Sponsor obligations

Approved sponsors are required to meet certain sponsorship obligations. Some obligations apply beyond the term of sponsorship approval.

The sponsorship obligations you need to meet will depend on the type of sponsor you are.

Most approved sponsors are required to:

- cooperate with the Department of Immigration and Border Protection (DIBP) inspectors
- ensure equivalent terms and conditions of employment
- keep and maintain accurate records
- provide information to DIBP when certain events occur
- ensure the primary sponsored person works or participates in the nominated occupation, program or activity
- not recover, transfer or take actions that would result in another person paying certain costs, such as recruitment agent fees
- pay travel costs to enable sponsored persons to leave Australia
- pay costs incurred by the Commonwealth to locate and remove unlawful non-citizens

Sponsors are responsible for meeting all sponsorship obligations, even if you have authorised someone else to act on your behalf, including a migration agent.

The DIBP will monitor employer compliance and whether the visa holders you sponsor are upholding their visa conditions for up to five years after you cease being a sponsor.

Whilst all care has been taken in preparing this document, this information is a guide only and subject to change without notice.

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Employee obligations

Like employers and sponsors, employees (the nominated person) and their dependents also have obligations to the sponsor and the Australian Government.

Temporary visa holders are required to:

- meet health and character requirements
- report any changes in circumstances (such as change of address, pregnancy, birth, death or passport details)
- meet the employment conditions of their visa
- continue to meet the health insurance requirements
- continue working in the occupation for which they were nominated
- continue working for the sponsor who nominated the position, or an associated entity of the sponsor
- not cease employment for more than 90 consecutive days
- apply for a tax file number (TFN) from the Australian Tax Office (ATO) and ensure tax is paid from earnings
- maintain licensing and registration requirements, such as AHPRA registration, to continue practising

If a sponsored employee stops working for their sponsor, they must do one of the following within 90 days:

- find another employer willing to sponsor them (they will need to lodge a nomination); OR
- apply for a different visa; OR
- make arrangements to leave Australia.

Standard business sponsors

The temporary work (skilled) visa (subclass 457) is the most common visa in circulation for business sponsors. This visa subclass allows a skilled worker to travel to Australia to work in their nominated occupation (for their approved sponsor) for up to four years where the business has been unable to find an Australian citizen or permanent resident to perform the skilled work.

On 8 April 2017, the Government announced that the Temporary Work (skilled) visa (subclass 457 visa) will be abolished and replaced with the completely new Temporary Skill Shortage visa in March 2018.

Employee rights in Australia

Regardless of an employee's residency status, all employees in Australia are covered by the Fair Work Act 2009.

All employees are entitled to fair pay and to basic rights and protections in the workplace. A sponsor must provide a sponsored employee with the same terms and conditions as Australian workers performing the same work in the same work location.

A sponsoring employer must:

- show that they are providing equal pay and conditions of employment to Australian workers performing equivalent work in the same location
- not make deductions from employee's pay (other than tax) without permission
- only employ sponsored staff in their approved skilled occupation
- pay reasonable and necessary travel costs to allow the sponsored person and his/her family members to leave Australia, if requested
- not ask the employee to pay back the cost of recruitment, including migration agent costs or the costs associated with becoming an approved sponsor
- make sure that sponsored employees do not work for other employers (special conditions apply for medical practitioners and general managers. They must still work in their nominated occupation but they can work for employers other than their sponsor or an associated entity of their sponsor)
- not pay staff in cash

More information

Practice Assist Fact Sheet – Employment Contracts and Agreements

Australian Government Fair Work Ombudsman – Fair Work Information Statement

Telephone: 131 394

Website: <https://www.fairwork.gov.au/employee-entitlements/national-employment-standards/fair-work-information-statement>

Australian Unions

Telephone: 1300 486 466

For more information on types of sponsorship, visas and application processes, etc, contact the **Department of Immigration and Border Protection**

Website: www.immi.gov.au