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Business Skills Entry



Australian Government
Department of Immigration
and Citizenship

About this booklet

This booklet is designed to assist you understand the steps for applying for **Business Skills Entry** to Australia, and complete the relevant application forms with minimal help.

This booklet is one of a series of booklets about migration to Australia. The booklets are:

- 1 Partner Migration
- 2 Child Migration
- 3 Parent Migration
- 4 Other Family Migration
- 5 Employer Sponsored Migration
- 6 General Skilled Migration
- 7 Business Skills Entry
- 8 Special Migration

For general information about migration to Australia, read information form 1126i *Migrating to Australia*, or visit the website www.immi.gov.au

Using a migration agent

Australia wants to attract business people who have the characteristics necessary for business success in Australia.

This booklet is for prospective applicants who wish to engage in business in Australia. There are 2 pathways for Business Skills entry:

- i) As a provisional visa holder with eligibility for permanent residence after establishing a business in Australia; or
- ii) Direct permanent residence for high calibre business applicants sponsored by a state or territory government.

Note: Holders of the temporary Business (Long Stay) Independent Executive visa should refer to information form 1215i for information about applying for permanent residence in either the Established Business in Australia (EBA); Regional Established Business in Australia (REBA); or State/Territory Sponsored Business Owner (Residence) categories.

You do not need to use a migration agent to lodge a visa application. However, if you choose to use an agent, the department recommends that you use a registered migration agent.

Under Australian law, anyone who uses knowledge of migration procedures to offer immigration assistance to a person wishing to obtain a visa to enter or remain in Australia must be registered or exempt from registration (see page 39).

All registered migration agents are bound by the Migration Agents Code of Conduct, which requires agents to act professionally in their clients' lawful best interests. A list of registered migration agents is available from the Office of the Migration Agents Registration Authority (Office of the MARA) website www.themara.com.au

You can contact the Office of the MARA at:

E-mail: themara@themara.com.au

PO Box Q1551
QVB NSW 1230
AUSTRALIA

Telephone: 61 2 9299 5446

Fax: 61 2 9299 8448

The Office of the MARA investigates complaints against registered migration agents and may take disciplinary action against them. If you have a concern about a registered migration agent, you should contact the Office of the MARA. The Code of Conduct and complaint form are available from the Office of the MARA website.

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Department of Immigration and Citizenship

www.immi.gov.au

Contents

Part 1 • General information	3
Obligations	6
Monitoring	7
Costs and charges	7
Dependants	8
Other information	10
Part 2 • Provisional visa categories	11
State/Territory Sponsored Business Owner (Provisional)	11
Business Owner (Provisional)	12
State/Territory Sponsored Senior Executive (Provisional)	13
Senior Executive (Provisional)	14
State/Territory Sponsored Investor (Provisional)	15
Investor (Provisional)	16
Designated Investment (for the Investor categories)	17
State/Territory Treasury Corporations	18
Part 3 • Permanent visa categories	19
Established Business in Australia	19
Regional Established Business in Australia	20
State/Territory Sponsored Business Owner (Residence)	21
Business Owner (Residence)	22
State/Territory Sponsored Investor (Residence)	23
Investor (Residence)	24
Business Talent (Migrant)	25
Part 4 • Health and character	26
Part 5 • English language	28

Continued on the next page

Contents (continued)

Part 6 • Preparing your application	30
Forms	30
Involving state/territory governments	31
Application charge	31
Other documents	32
Document checklists	33
Lodging your application	34
Part 7 • Processing visa applications	36
Part 8 • Business Development Agencies	40
Part 9 • Terms you need to know	42

PART 1

General information

Australia welcomes skilled business people

The aim of the Business Skills Category is to attract people with a demonstrated record of business or investment activity who are committed to using their business and/or investment skills in Australia.

This booklet provides detailed information on the visa arrangements for Business Skills entry.

Who is eligible?

There is provision for Business Skills entry for business owners, senior managers, senior executives and investors.

Visa pathways

The majority of business skills entrants will enter Australia initially on a provisional (temporary) visa for 4 years and, after satisfactory evidence of a specified level of business or investment activity, may apply for permanent residence. The pathway to permanent residence is designed to give clarity and certainty to provisional business migrants and relies upon the establishment and management of genuine business activity in Australia.

There is also provision for high calibre business migrants to obtain up front direct permanent residence in the Business Talent (Migrant) visa category if they have high level business attributes and are sponsored by a state or territory. More information about this category can be found at Part 3.

Sponsorship

State/Territory government sponsorship is available for each visa category, so that states and territories can attract the kinds of business people they are seeking to assist in the economic development of specific areas. In particular, Australia is actively encouraging Business Skills entrants to set up business in regional, rural or low growth areas of Australia. Substantial concessions are available for these sponsored categories at both the provisional and permanent residence stages (see Parts 2 and 3). Business Skills entrants are expected to establish an eligible business and/or maintain investment activity in the state or territory of sponsorship. State and territory governments have their own criteria for deciding whom they will sponsor. To find out about sponsorship requirements contact the state/territory government business development agencies. Contact details can be found on the department's website www.immi.gov.au/skilled/

Business services

State and territory governments also provide a wide range of post arrival business-related services to assist Business Skills entrants in setting up their new business in Australia. Contact details for state/territory sponsorship and information on business services provided by state and territories can be found on the department's website www.immi.gov.au/skilled/

In order to self assess for eligibility in one of the Business Skills entry categories, please refer to the more detailed information in Parts 2 and 3.

Does my business proposal meet Australia's requirements?

You need to ensure that Australia's legislation does not restrict you from operating your proposed business. You should check that you satisfy any licensing, registration or residency requirements that may be applicable to your business.

Information on gaining an assessment of overseas qualifications, skills or experience and licensing/registration requirements is available from the department's website www.immi.gov.au/asri/

Information on investing in Australia is available from the Foreign Investment Review Board website www.firb.gov.au

A list of other websites that could assist you with information relating to your proposed business in Australia can be found at the back of this booklet.

Guide to business skills categories – Pathways to permanent residence

If you have a proven background as a:	You may be eligible to apply for :	and may be eligible for permanent residence in Australia in the following category:
Business Owner	Business Owner (Provisional) visa OR State/Territory Sponsored Business Owner (Provisional) visa	Business Owner (Residence) visa OR State/Territory Sponsored Business Owner (Residence) visa
Business Employee (senior) Manager	State/Territory Sponsored Business Owner (Provisional) visa	State/Territory Sponsored Business Owner (Residence) visa
Senior Executive	Senior Executive (Provisional) visa OR State/Territory Sponsored Senior Executive (Provisional) visa	Business Owner (Residence) visa OR State/Territory Sponsored Business Owner (Residence) visa
Investor	Investor (Provisional) visa OR State/Territory Sponsored Investor (Provisional) visa	Investor (Residence) visa OR State/Territory Sponsored Investor (Residence) visa OR State/Territory Sponsored Business Owner (Residence) visa
High calibre Business Owner identified by a government	Business Talent visa	You already have permanent residence and need not make an application in Australia

Obligations

All applicants for Business Skills (Provisional) and Business Talent (Migrant) visas are required to sign a declaration that they agree to meet certain obligations after arrival in Australia.

In this declaration, each applicant who is 18 years of age or over must agree to:

- notify the department of their residential address within 6 months of initial entry to Australia using form 922 *Notification of address or change of address for Business Skills visa holders*; and
- continue to notify the department of any subsequent changes of their residential address within 28 days of a change of address (this includes any residential address outside Australia), using form 922 *Notification of address or change of address for Business Skills visa holders*.

Business Owner, State/Territory Sponsored Business Owner, Senior Executive and State/Territory Sponsored Senior Executive provisional visa holders

Applicants for these visas are expected to, after a period of time in Australia, provide valuable input to the Australian economy by becoming actively involved as owners or part owners at a senior level in businesses which do at least one of the following:

- develop business links with international markets;
- create or maintain employment in Australia;
- export Australian goods or services;
- produce goods or services that would otherwise be imported;
- introduce new or improved technology;
- add to commercial activity and competitiveness within sectors of the Australian economy.

Provisional visa applicants also agree to:

- obtain a substantial ownership interest in a business in Australia demonstrating at least one of the characteristics referred to above; and
- actively participate at a senior level in the day-to-day management of that business; and
- continue to make such genuine efforts to hold a substantial ownership interest and participate at a senior level in the day-to-day management of such a business.

A failure to meet these obligations while holding a Business Skills (Provisional) visa may impact adversely upon any later application for a Business Skills (Residence) visa.

Business Talent visa holders

Business Talent visa holders have permanent residence from date of initial entry to Australia. As they are high calibre business migrants, it is expected that they quickly become actively involved in business in Australia. Business Talent visa holders are required by law, to engage in a business with one of the characteristics described above.

Business Talent visa applicants sign a declaration that they agree to meet certain obligations including those listed above and to accurately and fully complete form 1010 *Survey of Business Skills visa holders* with information about their visa activities and provide any other information that is required. Failure to meet these obligations within 3 years of arrival if the visa is granted whilst the applicant is outside Australia or 3 years from the date of visa grant where the visa is granted in Australia may result in the department deciding to cancel their visa and the visas of their family members.

Investor and State/Territory Sponsored Investor visa holders

Applicants for Investor visas must maintain their Designated Investment for a 4 year term. Failure to do so may result in visa cancellation.

Monitoring

Monitoring of most Business Skills visa holders requires that visa holders complete surveys about their business activities in Australia. The aim of the surveys is to determine the nature and extent of a visa holder's business activities in Australia and enable a visa holder to report on any difficulties being experienced in getting into business. The survey is done using form 1010 *Survey of Business Skills visa holders*.

Business Owner, State/Territory Sponsored Business Owner, Senior Executive and State/Territory Sponsored Senior Executive visa holders

Holders of these visas may be asked to complete a monitoring survey to provide the department with information about any business activities undertaken in Australia. This assists in reporting on outcomes of the Business Skills category.

Business Talent visa holders

Business Talent visa holders are required to complete a monitoring survey 24 months following initial entry to Australia. Sponsoring states and territories may also contact Business Talent visa holders to verify their business activities.

Investor and State/Territory Sponsored Investor visa holders

Holders of these visas may be asked to complete a monitoring survey to provide the department with information about any business activities undertaken in Australia. This assists in reporting on outcomes of the Business Skills category.

Costs and charges

Payment must accompany your application and is generally not refunded if the application is unsuccessful. If members of your family unit are included in your application, only one application charge is payable for the entire family unit. If a separate application is made by a member of your family unit at a later date, a separate charge is payable.

Fees may be subject to adjustment at any time. Visa Application Charges may be subject to adjustment on 1 July each year. This may increase the cost of a visa.

Charges are listed in form 990i *Charges* which is available from the department's website www.immi.gov.au/allforms/

Visa Application Charge or first instalment – applications lodged in Australia

Please pay by any major credit card, debit card or by bank cheque or money order made payable to the Department of Immigration and Citizenship. Please do not pay by cash or personal cheque.

Visa Application Charge or first instalment – applications lodged outside Australia

If you are applying outside Australia, please contact the Australian Consulate General in Hong Kong or the Australian Commerce and Industry Office in Taipei before you make your payment to find out what methods of payment can be accepted.

Visa Application Charge – second instalment

If any members of your family unit who are included in your application and who are over the age of 18 have been assessed as not having functional English language skills, they will be required to pay a second instalment (see form 990i *Charges*) which entitles them to English language tuition in Australia to achieve functional English. The full amount must be paid before a visa can be granted to them. Persons able to demonstrate functional English ability do not have to pay this charge.

English proficiency testing

You may need to sit an Independent English Language Testing System (IELTS) test to demonstrate your English ability. For testing centres see www.ielts.org. Please enquire at the testing centres for the charge required to undertake this test. See Part 5 English language ability.

Medical costs

You and members of your family unit may be required to undergo a medical and x-ray examination. The cost of the examination is a matter between you and the doctor undertaking the examination.

Other costs

You should also be prepared to pay other costs associated with your application, such as those required to obtain a character clearance from authorities in your country, and the cost of certified translations of documents.

Dependants

Your application may cover a family unit, namely a main applicant and, if applicable, spouse or de facto partner and dependants.

At the Provisional stage or when applying for a Business Talent (Migrant) visa – Dependent children

A dependent child may be your child or step-child.

'Step-child' means a child of your current spouse or de facto partner or a child of your former spouse or de facto partner when the child is under 18 years and you have a legal responsibility to care for that child (for example, when your former spouse or de facto partner is deceased and you have legal custody of your former spouse or de facto partner's child). You will need to provide a certified copy of the overseas or Australian court order which you have in relation to the child.

A child of any age is not considered dependent if he or she is married or in a de facto relationship or is engaged to be married.

A child 18 or over will not be considered dependent unless you can show that they are wholly or substantially reliant on you for financial support for their basic needs of food, shelter and clothing. You must also show that you have provided that support for a substantial period and that the child is more reliant on you than on any other person or source. Unless you can provide evidence of this, they should apply separately. You should also be aware that a child aged 25 or over will generally not be considered dependent.

Children of any age who have a total or partial loss of bodily or mental functions which stops them earning a living are regarded as dependent and part of the family unit (whether or not they migrate with you). Give details of such children and whether they are in your care or in an institution.

In all cases you should attach evidence of your child's dependency on you.

Other dependants

You may include other relatives in your application if they are wholly or substantially reliant on you for financial support for their basic needs of food, shelter and clothing and they have been reliant on you for that support for a substantial period. They must also be more reliant on you for support than on any other person or source.

A relative may also be considered dependent on you if they are reliant on you for financial support because they have a mental or physical disability which stops them from earning a living to support themselves.

Other relatives dependent on you or your partner may include, for example, an aged, unmarried relative.

If you have dependants who are 18 years of age or over, please obtain a form 47A *Details of child or other dependent family member aged 18 years or over*. A form 47A must be completed for each dependant 18 or older, whether migrating or not.

At the Residence stage – Custody requirement

Dependency will not be reassessed as part of the application for a Business Skills (Residence) visa. It will be sufficient if an applicant is deemed dependent for the purposes of the Business Skills (Provisional) visa.

The department will seek to ensure that allowing a child to migrate is not in contravention of Australia's international obligations in relation to the prevention of child abduction. If your application includes a child under 18 and the child's other parent is not migrating with you or there is any other person who has the legal right to determine where the child can live, you will need to provide a Statutory Declaration from each of them giving permission for the child to migrate. Alternatively, you can provide a certified copy of a valid court order showing that you or your partner have the legal right to remove the child from the country.

Other information

Purchasing property

The Australian Government seeks to channel foreign investment in residential real estate into activity that directly increases the supply of new housing (that is, new developments such as house and land, home units and townhouses) and brings benefits to the local building industry and their suppliers.

Some restrictions apply to provisional visa holders when purchasing residential real estate. These may affect the purchase of your family home and any intended investments. To purchase real estate you must seek prior approval from the Foreign Investment Review Board. For further information see www.firb.gov.au

Doing business in Australia

Before applying for migration you should thoroughly investigate whether your proposed business activities in Australia may be affected by either registration or licensing requirements or by your provisional visa status in Australia. Further information on investing in Australia is available from the Foreign Investment Review Board website www.firb.gov.au

PART 2

Provisional visa categories

State/Territory Sponsored Business Owner (Provisional) category

To be eligible

You need to show that:

- You have been sponsored by an appropriate regional authority of a state or territory government;
- You have an overall successful business career;
- For at least 2 of the 4 fiscal years immediately before the application is made, you had an ownership interest in up to 2 main businesses that had a combined annual turnover of at least AUD300,000; or
- You are a senior manager as defined (see Part 9 Terms you need to know);
- Your (or your and your spouse or de facto partner's combined) business and personal assets have a net value of at least AUD250,000 which are available for the conduct or establishment of a business in Australia and are lawfully acquired and available for transfer to Australia within 2 years of the grant of a State/Territory Sponsored Business Owner (Provisional) visa;
- You (or you and your spouse or de facto partner together) have business and personal assets, in addition to the assets mentioned above, that are of a sufficient net value to settle in Australia;
- You are aged less than 55 years at time of application or you are proposing to establish or participate in a business that your sponsoring state or territory has determined is of exceptional economic benefit to the state or territory;
- You have not been engaged in a business where the provision of professional, technical or trade services took up more than 50% of your time;
- Neither you nor your spouse or de facto partner have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia;
- You have a realistic commitment to establish or participate in a qualifying business in Australia and maintain a substantial ownership and direct and continuous involvement in the management of that business;
- You have demonstrated that there is a need to be temporarily in Australia to conduct or establish the proposed business activity;
- You have signed a declaration that you understand your obligations as the holder of a State/Territory Sponsored Business Owner (Provisional) visa.

Business Owner (Provisional) category

To be eligible

You need to show that:

- You have an overall successful business career;
- For at least 2 of the 4 fiscal years immediately before the application is made, you (or you and your spouse or de facto partner together) have net assets in a qualifying business of at least AUD200,000;
- For at least 2 of the 4 fiscal years immediately before the application is made, your main business, or up to 2 main businesses together, had an annual turnover of at least AUD500,000;
- Your (or your and your spouse or de facto partner's combined) business and personal assets have a net value of at least AUD500,000, which are lawfully acquired and available to transfer to Australia within 2 years after the grant of a Business Owner (Provisional) visa;
- You (or you and your spouse or de facto partner together) have business and personal assets, in addition to the assets mentioned above, that are of a sufficient net value to settle in Australia;
- You are aged less than 45 years at time of application;
- You have vocational English;
- You have not been engaged in a business where the provision of professional, technical or trade services took up more than 50% of your time;
- Neither you nor your spouse or de facto partner have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia;
- You have notified the appropriate regional authority of a state or territory of your business history and intentions to develop a business in that state or territory;
- You have a realistic commitment to establish or participate in a qualifying business in Australia and maintain a substantial ownership and direct and continuous involvement in the management of that business;
- You have demonstrated that there is a need to be temporarily in Australia to conduct or establish the proposed business activity;
- You have signed a declaration that you understand your obligations as the holder of a Business Owner (Provisional) visa.

State/Territory Sponsored Senior Executive (Provisional) category

To be eligible

You need to show that:

- You have been sponsored by an appropriate regional authority of a state or territory government;
- You have an overall successful business career;
- For at least 2 of the 4 years immediately before the application is made, you have occupied a position in the 3 highest levels of the management structure of a major business* in which you were responsible for strategic policy development affecting a major component or a wide range of operations of that major business;
- Your (or your and your spouse or de facto partner's combined) business and personal assets have a net value of at least AUD250,000, which are lawfully acquired and available to transfer to Australia within 2 years after the grant of a State/Territory Sponsored Senior Executive (Provisional) visa;
- You (or you and your spouse or de facto partner together) have business and personal assets, in addition to the assets mentioned above, that are of a sufficient net value to settle in Australia;
- You are aged less than 55 years at time of application or you are proposing to establish or participate in a business that your sponsoring state or territory has determined is of exceptional economic benefit to the state or territory;
- Neither you nor your spouse or de facto partner have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia;
- You have a realistic commitment to establish or participate in a qualifying business in Australia and maintain a substantial ownership and direct and continuous involvement in the management of that business;
- You have demonstrated that there is a need to be temporarily in Australia to conduct or establish the proposed business activity;
- You have signed a declaration that you understand your obligations as the holder of a State/Territory Sponsored Senior Executive (Provisional) visa.

* A major business for this category means a business (other than a Government Business Enterprise) the annual turnover of which was not less than the equivalent of AUD10,000,000 in each of any 2 of the 4 fiscal years immediately preceding the making of the application.

Senior Executive (Provisional) category

To be eligible

You need to show that:

- You have an overall successful business career;
- For at least 2 of the 4 years immediately before the application is made, you have occupied a position in the 3 highest levels of the management structure of a major business* in which you were responsible for strategic policy development affecting a major component or a wide range of operations of that major business;
- Your (or your and your spouse or de facto partner's combined) business and personal assets, have a net value of at least AUD500,000, which are lawfully acquired and available to transfer to Australia within 2 years after the grant of a Senior Executive (Provisional) visa;
- You (or you and your spouse or de facto partner together) have business and personal assets, in addition to the assets mentioned above, that are of a sufficient net value to settle in Australia;
- You are aged less than 45 years at time of application;
- You have vocational English;
- Neither you nor your spouse or de facto partner have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia;
- You have notified the appropriate regional authority of a state or territory of your business history and intentions to develop a business in that state or territory;
- You have a realistic commitment to establish or participate in a qualifying business in Australia and maintain a substantial ownership and direct and continuous involvement in the management of that business;
- You have demonstrated that there is a need to be temporarily in Australia to conduct or establish the proposed business activity;
- You have signed a declaration that you understand your obligations as the holder of a Senior Executive (Provisional) visa.

* A major business for this category means a business (other than a Government Business Enterprise) the annual turnover of which was not less than the equivalent of AUD50,000,000 in each of any 2 of the 4 fiscal years immediately preceding the making of the application.

State/Territory Sponsored Investor (Provisional) category

To be eligible

You need to show that:

- You have been sponsored by an appropriate regional authority of a state or territory government;
- You have a total of at least 3 years experience of direct involvement in managing one or more qualifying businesses or eligible investments;
- For at least one of the 5 fiscal years immediately before the application is made:
 - you have maintained direct involvement in either managing a qualifying business in which you (or you and your spouse or de facto partner together) had an ownership interest of at least 10% of the total value of the business; or
 - you maintained direct involvement in managing your (or your and your spouse or de facto partner's combined) eligible investments, the total value of which was at least AUD750,000;
- For the 2 fiscal years immediately before the application is made, the net value of your (or your and your spouse or de facto partner's) assets was at least AUD1,125,000;
- You have demonstrated a high level of management skill in relation to an eligible investment or qualifying business activity;
- At the time of decision, you have made a Designated Investment of AUD750,000;
- You are aged less than 55 years at time of application or you are proposing to establish or participate in a business that your sponsoring state or territory has determined is of exceptional economic benefit to the state or territory;
- Neither you nor your spouse or de facto partner have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia;
- You have a realistic commitment to continue to maintain a business or investment activity in Australia after the designated investment has matured;
- You have signed a declaration that you understand your obligations as the holder of an State/Territory Sponsored Investor (Provisional) visa.

Investor (Provisional) category

To be eligible

You need to show that:

- You have an overall successful record of eligible investment or qualifying business activity;
- You have a total of at least 3 years experience of direct involvement in managing one or more qualifying businesses or eligible investments;
- For at least one of the 5 fiscal years immediately before the application is made:
 - you have maintained direct involvement in either managing a qualifying business in which you (or you and your spouse or de facto partner together) had an ownership interest of at least 10% of the total value of the business; or
 - you maintained direct involvement in managing your (or your and your spouse or de facto partner's combined) eligible investments, the total value of which was at least AUD1,500,000;
- For the 2 fiscal years immediately before the application is made, the net value of your (or your and your spouse or de facto partner's combined) assets was at least AUD2,250,000;
- You have demonstrated a high level of management skill in relation to an eligible investment or qualifying business activity;
- At the time of decision, you have made a Designated Investment of AUD1,500,000;
- You are aged less than 45 years at time of application;
- You have vocational English;
- Neither you nor your spouse or de facto partner have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia;
- You have notified the appropriate regional authority of a state or territory of your business history and intentions to develop a business in that state or territory;
- You have a realistic commitment to continue to maintain a business or investment activity in Australia after the designated investment has matured;
- You have signed a declaration that you understand your obligations as the holder of an Investor (Provisional) visa.

Designated Investment (for the Investor categories)

Making a Designated Investment

The Designated Investments offered by State/Territory Treasury Corporations are:

- primary-issue government securities with a maturity of no less than 4 years from the date of purchase;
- limited to investments of:
 - AUD750,000 if you are applying under the State/Territory Sponsored Investor category; or
 - AUD1,500,000 if you are applying under the Investor category with interest paid every 6 months;
- non-transferable and non-redeemable (that is, the security cannot be sold to another investor or sold back to the issuing authority before maturity).

Repayment of principal on maturity is guaranteed by the state/territory government issuing the security.

Taxation obligations

The Australian Taxation Office (ATO) has advised that income you earn from your investment in Australia is subject to tax under Australian taxation law. For further information see www.ato.gov.au

When and how to make a Designated Investment

If you are applying under State/Territory Sponsored Investor categories you must lodge a Designated Investment with the Treasury Corporation of the state/territory that is sponsoring you. If you are applying for the non-sponsored Investor visa you make any authorised Designated investment.

Prior to applying for a visa in the investor category you should contact at least one State/Territory Treasury Corporation. At the initial enquiry stage, the Treasury Corporation can only indicate the likely rate of return on a proposed investment. The actual rate of return on your investment will be set when you deposit your funds in the Designated Investment. Interest rates change regularly and may differ between State/Territory Treasury Corporation.

Note: You should not make a Designated Investment until you are advised in writing to do so by the office processing your application.

(The letter of advice will also include form 1031 *Declaration*, Part A, which will have been completed by the department's officer assessing your application. You should submit form 1031 to the selected agency.) You should select only one of the listed agencies.

The next step is to complete the investment application form and Part B of form 1031. Both forms should then be sent to the postal address of the relevant Treasury Corporation.

Your Designated Investment must be made in time for you to enter Australia before expiry of your health and character clearances. Information on health and character clearances may be obtained from the office processing your application.

Note: Funds used to finance your Designated Investment must be personally owned and unencumbered and must have been legally accumulated as a result of your business and/or investment activities.

Individual state/territory agencies will provide advice on procedures to transfer your funds to the Designated Investment. The funds must be in Australian dollars.

On receiving your funds, the stock issuing authority will send you a letter or certificate to acknowledge receipt. That agency will also complete Part C of form 1031 and send it to the office processing your application. Funds can be deposited in a Designated Investment in your name or in your name and the name of your spouse or de facto partner. Once the investment is made, funds cannot be withdrawn before the 4-year term has expired, except under exceptional circumstances approved by the Minister.

The Minister for Immigration and Citizenship may cancel any visas held by you and members of your family if the funds are withdrawn from the Designated Investment before the date of maturity.

Disclaimer

This information is for general only. The Australian Government does not endorse specific Designated Investments and does not accept liability for any loss suffered or taxation liability incurred as a result of you making an investment.

Further requirements

Please refer to the department's website www.immi.gov.au/allforms/ for additional forms required under the Investor and State/Territory Sponsored Investor subclasses.

- Form 1214 – *Bank confirmation of account details: Investor and State/Territory Sponsored Investor categories.*
- Form 1031 – *Declaration-Investor and State/Territory Sponsored Investor categories (Designated Investment).*

Please fill in and submit form 1214 with your application for an Investor or State/Territory Sponsored Investor visa.

State/Territory Treasury Corporations

For further information on how and where to make a Designated Investment, please refer to the contact details for State/Territory Treasury Corporations, available under the visa sponsorship options for business people www.immi.gov.au/skilled/

PART 3

Permanent visa categories

Established Business in Australia category

To be eligible

You need to show that:

- You are the holder of a temporary substantive visa that entitles you to work in Australia other than a special purpose, border, diplomatic, domestic worker or transit visa;
- You have been in Australia for a minimum of 9 months cumulatively in the 12 months before the date of application;
- You have held an ownership interest of at least 10% in up to 2 main businesses in Australia for at least 18 months immediately before applying;
- Your (or your and your spouse or de facto partner's) total net assets in Australia for the 12 months prior to application were greater than AUD250,000;
- Your (or your and your spouse or de facto partner's) net assets in your main business(es) in Australia in the 12 months prior to application were greater than AUD100,000;
- You have been actively involved in, and directly responsible for, the day to day management and overall performance of your main business(es);
- You have an overall successful business career;
- You have not been involved in business or investment activities considered unacceptable in Australia; and
- In addition to meeting all the other criteria, you must score at least 105 points in the established business in Australia points test (points are awarded for age, English language ability, net assets in Australia and business attributes). You will need to demonstrate that, throughout the 12 months immediately prior to application, your main business(es):
 - employed at least 3 full-time (or equivalent) Australian permanent residents, Australian citizens or eligible New Zealand citizens (who are non-family members); and
 - had a minimum annual turnover of AUD200,000 OR exports of at least AUD100,000 a year.

Regional Established Business in Australia category

To be eligible

You need to show that:

- You are the holder of a Business (Long Stay) visa;
- You have been in Australia as a temporary resident for at least 12 months cumulatively out of the last 24 months before the date of application;
- You have held an ownership interest of at least 10% in up to 2 main businesses in a designated area of Australia for at least 2 years immediately before applying and continue to have an interest of that kind;
- In each of the 2 years immediately prior to application, the main business(es) have had a turnover of at least AUD200,000 or exports of at least AUD100,000;
- Your (or your and your spouse or de facto partner's) total net assets in Australia for the 2 years prior to application were at least AUD200,000;
- Your (or your and your spouse or de facto partner's) net assets in your main business(es) in a designated area of Australia in the 24 months prior to application were no less than AUD75,000;
- You have been actively involved in, and directly responsible for, the day to day management and overall performance of your main business(es) for the 24 months before application;
- You have an overall successful business career;
- You have not been involved in business or investment activities considered unacceptable in Australia;
- You have been sponsored by the relevant state/territory government business agency; and
- In addition to meeting all the other criteria, you must score at least 105 points in the regional established business in Australia points test unless this requirement has been waived by the state/territory agency due to exceptional circumstances.

State/Territory Sponsored Business Owner (Residence) category

To be eligible

You need to show that:

- You have been sponsored by an appropriate regional authority of a state or territory government;
- You are the holder of a Business Owner (Provisional), a State/Territory Sponsored Business Owner (Provisional), a Senior Executive (Provisional), a State/Territory Sponsored Senior Executive (Provisional) visa, an Investor (Provisional), a State/Territory Sponsored Investor (Provisional), a Business (Long Stay) Independent Executive visa or a Skilled-Independent Regional (Provisional) visa;
- You have had, and continue to have, an ownership interest and direct and continuous management, in up to 2 actively operating main businesses in Australia for at least 2 years immediately before the application is made; and
- For each of these businesses an Australian Business Number has been obtained and all Business Activity Statements required by the Australian Taxation Office for that period have been submitted to the Australian Taxation Office and are included in the application;
- Unless the appropriate regional authority has determined that there are exceptional circumstances, you meet at least 2 of the following 3 requirements:
 - Throughout the 12 months immediately before the application is made, your (or your and your spouse or de facto partner's) main business or main businesses employed at least the equivalent of one full-time employee who is an Australian citizen, Australian permanent resident or New Zealand passport holder, and who is not a member of your family unit;
 - Throughout the 12 months immediately before the application is made, the net value of your (or your and your spouse or de facto partner's combined) personal and business assets in Australia has been at least AUD250,000;
 - Throughout the 12 months immediately before the application is made the net value of your (or your and your spouse or de facto partner's combined) assets in the main business or main businesses in Australia is at least AUD75,000;
- In the 12 months immediately before the application is made, your main business or main businesses together, had a turnover of at least AUD200,000, unless the appropriate regional authority has determined that there are exceptional circumstances, and you meet at least 2 of the above 3 requirements, and your principal business and usual place of residence are located in regional Australia (see Part 9 Terms you need to know for a definition of regional Australia);
- Neither you nor your spouse or de facto partner have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia;
- You have been in Australia as the holder of one of the qualifying visas for a total of at least one year in the 2 years immediately before the application is made.

Business Owner (Residence) category

To be eligible

You need to show that:

- You are the holder of a Business Owner (Provisional), a State/Territory Sponsored Business Owner (Provisional), a Senior Executive (Provisional), a State/Territory Sponsored Senior Executive (Provisional) visa, an Investor (Provisional) or a State/Territory Sponsored Investor (Provisional) visa;
- You have had, and continue to have, an ownership interest and direct and continuous management, in up to 2 actively operating main businesses in Australia for at least 2 years immediately before the application is made; and
- For each of these businesses, an Australian Business Number has been obtained and all Business Activity Statements required by the Australian Taxation Office for that period have been submitted to the Australian Taxation Office and certified copies of these are included in the application;
- Throughout the 12 months immediately before the application is made, the net value of your (or your and your spouse or de facto partner's combined) assets in the main business or main businesses in Australia is at least AUD100,000;
- In the 12 months immediately before the application is made, your main business or main businesses together, had a turnover of at least AUD300,000;
- Throughout the 12 months immediately before the application is made, your (or your and your spouse or de facto partner's) main business or main businesses employed at least the equivalent of 2 full-time employees who are Australian citizens, Australian permanent residents or New Zealand passport holders and who are not members of your family unit;
- Throughout the 12 months immediately before the application is made, the net value of your (or your and your spouse or de facto partner's combined) personal and business assets in Australia has been at least AUD250,000;
- Neither you nor your spouse or de facto partner have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia;
- You have been in Australia as the holder of one of the qualifying visas for a total of at least one year in the 2 years immediately before the application is made.

State/Territory Sponsored Investor (Residence) category

To be eligible

You need to show that:

- You have been sponsored by an appropriate regional authority of a state or territory government;
- You are the holder of a State/Territory Sponsored Investor (Provisional) visa;
- Neither you nor your spouse or de facto partner have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia;
- You have been resident, as the holder of a State/Territory Sponsored Investor (Provisional) visa, in the state or territory in which the sponsoring regional authority is located for a total of at least 2 years in the 4 years immediately before the application is made;
- You genuinely have a realistic commitment to continue to maintain a business or investment activity in Australia;
- At time of decision, the designated investment made by and held in the names of you (or you and your spouse or de facto partner together) has been held continuously for at least 4 years.

Investor (Residence) category

To be eligible

You need to show that:

- You are the holder of an Investor (Provisional) visa;
- Neither you nor your spouse or de facto partner have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia;
- You have been in Australia as the holder of an Investor (Provisional) visa for a total of at least 2 years in the 4 years immediately before the application is made;
- You genuinely have a realistic commitment to continue to maintain a business or investment activity in Australia;
- At time of decision, the designated investment made by and held in the names of you (or you and your spouse or de facto partner together) has been held continuously for at least 4 years.

Business Talent (Migrant) category

To be eligible

You need to show that:

- You have been sponsored by a state or territory government;
- You have had an overall successful business career;
- For at least 2 of the 4 fiscal years immediately before the application is made, you (or you and your spouse or de facto partner together) had net assets in a qualifying business, in which you had an ownership interest, of at least AUD400,000;
- For at least 2 of the 4 fiscal years immediately before the application is made, your main business, or main businesses together, had an annual turnover of at least AUD3,000,000;
- Your (or your and your spouse or de facto partner's combined) business and personal assets have a net value of at least AUD1,500,000, which are lawfully acquired and available for transfer and capable of being transferred to Australia within 2 years after the grant of a Business Talent (Migrant) visa;
- You are aged less than 55 years or you are proposing to establish or participate in a business that your sponsoring state or territory has determined is of exceptional economic benefit to the state or territory;
- Neither you nor your spouse or de facto partner has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia;
- You have a realistic commitment to establish or participate in a qualifying business in Australia and maintain a substantial ownership and direct and continuous involvement in the management of that business;
- You sign a declaration acknowledging your obligations as the holder of a Business Talent visa.

PART 4

Health and character

Health

Health standards

You and all members of your family unit must meet strict health standards designed to protect Australia from high health risks and costs, and overuse of scarce health resources such as organs for transplant.

Medical examination

You will be asked to undertake an examination by a doctor, selected by Australian authorities. Usually, a chest x-ray, medical examination and possibly some laboratory or specialist tests and referral to Medical Officers of the Commonwealth for final decision will be required. This can be a lengthy process and costs will be your responsibility. All members of your immediate family must meet the standards for your application to be successful. Dependents who are not planning to migrate must also be examined.

Forms for your medical examination, together with directions to listed doctors, will be provided by staff processing your application. If you are pregnant, you are advised not to be x-rayed until after the birth of your baby, meaning that your application may not be finished until then. Alternatively, although not preferred by the Australian Government, you may care to discuss with your radiologist the use of a lead shielded x-ray.

Health conditions of concern

In view of the World Health Organisation's declaration of a global epidemic of tuberculosis, particular care is taken to screen for this disease including stringent treatment recommendations where signs of earlier infection, however small or old, are apparent.

Australia has one of the lowest rates of tuberculosis in the world and maintains one of the strictest regimes for screening and treatment. Detection of the disease does not lead to automatic rejection, but your application may only continue after recommended treatment and successful retesting.

Other health conditions of concern are those where a person is assessed by Australian authorities as requiring treatment, support or assistance which are considered to be in short supply, or which cost a significant amount.

Doctors

Doctors may charge you fees in accordance with their usual practice. They may recommend you undertake other treatment or specialist consultations. This may be in your own interest because listed doctors know what is required for the assessment of your examination results in Australia. Doctors must complete the examination form in English.

Basis for decision

A decision is made on, first, any detection of tuberculosis, however small or old, and then, of medical conditions which are likely to result in significant health treatment and community services costs in Australia, or which may use treatment or services in short supply. Some allowance is made for normal health and welfare costs (calculated as a multiple of average annual costs for an Australian). When the Medical Officer of the Commonwealth is of the opinion that an applicant's costs are beyond these and are therefore significant, this generally leads to refusal. The cost assessment takes no regard of whether a person has or intends to take private health insurance or make other financial or nursing arrangements to lessen the claim on public funds.

It is not the doctor who examines you who determines whether you meet the health requirement, but Australian authorities.

Character

To enter Australia, applicants must be of good character.

In order for the Australian Government to determine whether you are of good character, you may be asked to provide police certificates for each country you have resided in for 12 months or more over the last 10 years. In some instances, applicants may also be required to provide personal details to enable additional character checks to be undertaken.

You do not have to provide this information when you apply. You will be advised when it is required.

PART 5

English language

English language ability

Business Owner (Provisional), Senior Executive (Provisional) and Investor (Provisional) visa applicants

It is a requirement that applicants for these visas have vocational English. To satisfy this requirement, you must have a reasonable command of the English language. You must be able to read, write, understand and speak English well enough to communicate effectively for most purposes and in your own field of business.

To ensure streamlined processing of your application you should provide solid proof of your English language ability. This could be demonstrated by one or more of the following methods:

- provide evidence that you are a native English speaker; and/or
- undertake the International English Language Testing System (IELTS) test. IELTS has an academic test and a general training test – you need only take the general training test. For vocational English you must achieve a band score of at least 5, from a maximum of 9, for all 4 components of the test, speaking, reading, listening and writing; and/or
- hold a NAATI accreditation in English.

Notwithstanding the provision of evidence of English language ability outlined above, if there is any doubt about your ability in the English language and you have not undertaken an IELTS test, we may ask you to do so.

You should include evidence of your ability in the English language with your application. IELTS test results must not be more than 12 months old at time of application.

It is your responsibility to contact an IELTS centre to make arrangements for testing. You do not need a letter of introduction or referral to take the IELTS test. For the most up to date list of IELTS test centres in Australia and offshore you should view the IELTS website www.ielts.org, or refer to form 1220i *IELTS Test Centres* available from www.immi.gov.au/allforms/

State/Territory Sponsored Business Owner (Provisional), State/Territory Sponsored Senior Executive (Provisional) and State/Territory Investor (Provisional) visa applicants

Applicants for these visas are not required to satisfy a vocational level of English, however, any applicant aged 18 years or more at the time of application who is assessed as not having 'functional English' must pay the second instalment of the Visa Application Charge.

Business Talent visa applicants

Applicants for this visa are not required to satisfy a vocational level of English, however, any applicant aged 18 years or more at the time of application who is assessed as not having 'functional English' must pay the second instalment of the Visa Application Charge.

Business Owner (Residence), Investor (Residence), State/Territory Sponsored Business Owner (Residence) and State/Territory Investor (Residence) visa applicants

Applicants for these visas are not required to satisfy a vocational level of English. They are also not required to pay the second instalment of the Visa Application Charge providing that, where necessary, they have done so at the provisional stage.

Functional English language

If you have functional English you:

- can read and understand English texts about familiar topics;
- write English well enough to communicate ideas or information for a variety of purposes but make some errors;
- understand spoken English about familiar topics; and
- you speak English well enough to handle everyday communication adequately, despite some errors.

If you or members of your family aged over 18 years who are included in your application have less than functional English and require English tuition, you may be liable to pay the second instalment of the Visa Application Charge.

You may be regarded as having functional English if you provide evidence that you:

- are a native English speaker and hold a current passport from the United Kingdom, Canada, New Zealand, the United States of America or the Republic of Ireland;
- have an IELTS score of at least 4.5 on each of the 4 components of the test – speaking, reading, writing or listening, OR equivalent standard in a specified test;
- have successfully completed within Australia at least one year full-time or equivalent study towards a diploma or higher qualification at an institution where all instruction was conducted in English;
- hold a degree, higher degree, diploma or trade certificate that required at least 2 years full-time study or training and all instruction for that award was conducted in English;
- have completed all years of primary education and at least 3 years of secondary education at educational institutions in which all instruction was conducted in English; or
- have completed at least 5 years of secondary education at educational institutions in which all instruction was conducted in English.

PART 6

Preparing your application

Forms

Provisional visa application

Note: all forms including those included with this booklet are available from the department's website www.immi.gov.au/allforms/

- form 47BT *Application for a Business Skills (Provisional) visa*
- the appropriate Business Skills (Provisional) profile form
- if you are sponsored by a state or territory business development agency, form 949 *State/Territory sponsorship: Business Skills class*
- if you are unsponsored, form 927 *State/Territory notification: Business Skills class*
- if you are applying for the Investor or State/Territory Sponsored Investor visa, forms 1031 *Declaration – Investor and State/Territory Sponsored Investor Categories* and 1214 *Bank Confirmation of account details – Investor and State/Territory Sponsored Investor categories* (available from the department's website www.immi.gov.au/allforms/)
- if you are using a migration agent or exempt agent or authorised recipient, form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*

Note: Other forms may be required and will be provided by the department at the appropriate time.

Forms may change from time to time and applicants should check when lodging their application that the most recent form has been used.

Permanent visa application

- form 47BU *Application for Business Skills (Permanent) visa*
- if you are applying for the Business Owner or State/Territory Sponsored Business Owner visa, form 1217 *Business Skills profile: Business Owner (Residence)* (available from the department's website www.immi.gov.au/allforms/)
- if you are sponsored by a state or territory business development agency, form 949 *State/Territory sponsorship: Business Skills class*
- if you are sponsored by a state or territory and are applying for a Business Talent visa, form 1224 *State/Territory sponsorship: Business Talent subclass* (available from the department's website www.immi.gov.au/allforms/)

- if you are unsponsored, form 927 *State/Territory notification: Business Skills class*
- if you are using a migration agent or exempt agent or authorised recipient, form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*

Involving state/territory governments

Most business skills visas require you to notify or attain sponsorship from the business development agency in a state or territory in which to intend to go into business or where you have established your business. You must contact the relevant state or territory government prior to applying for a visa and attach confirmation of notification or sponsorship to your visa application. See Part 8 for further details.

Please note that Business Skills provisional visa entrants are expected to establish an eligible business and/or maintain investment activity in the state or territory of sponsorship. Any changes to your intended business or investment activities may impact on your ability to attain sponsorship when you are ready to apply for permanent residency.

Application charge

- Charges are listed in form 990i *Charges* which is available from the department's website www.immi.gov.au/allforms/990i.htm

Other documents

Other documents you must provide

Other documents you must provide are listed in the following pages.

It is in your interest to provide all the documents requested with your valid application. Failure to do so may result in the processing of your application being delayed, or increased likelihood of a decision being made to refuse to grant the visa.

Certified copies

Do not supply original documents with your application. If we require an original document at any stage, we will ask for it.

You should provide 'certified copies' of original documents.

- In Australia, this means a copy which is authorised as a true copy by a person before whom a Statutory Declaration may be made. Such authorised persons include the following: a magistrate, Justice of the Peace, Commissioner for Declarations, Commissioner for Affidavits, a person before whom a Statutory Declaration may be made under the law of the state in which the Declaration is made, a solicitor, registered medical practitioner, bank manager, postal manager, Australian Postal Corporation Officer with 5 years service.
- If you are applying outside Australia, you should ask at your nearest Australian mission for information on who is authorised to certify documents as true copies.

English translations

Documents in languages other than English must be accompanied by an English translation.

- In Australia completed by a translator accredited by the National Accreditation Authority for Translators and Interpreters (NAATI). You should ask at your nearest office of the department for further information about how to get your documents translated.
- If you are applying outside Australia, your nearest Australian mission can provide further information on how to get your documents translated.

Document checklists

You must provide the following personal documents with your completed application forms. We suggest you check off each of the following documents as you attach it to your application to ensure you include all necessary documents.

- Certified copies of the personal details pages of the passports or travel documents of all persons included in the application.
- 4 recent passport sized photographs (45mm x 35mm) of yourself and any other person included in the application. These should be of the head and shoulders only against a plain background. You should print the name of the person on the back of each photograph.
- If you or anyone included in the application is or has been married, certified copies of the marriage certificate(s).
- If anyone included in the application has been divorced or widowed, a certified copy of the divorce decree absolute or the death certificate of the deceased spouse or de facto partner (as appropriate).
- If anyone included in the application has changed his or her name (for example by marriage or deed poll), a certified copy of evidence of the name change.
- Certified copies of birth certificates or the family book, showing names of both parents, for all persons included in the application.
- Certified copies of documents to verify custody and access arrangements for children under 18 years of age unless both parents of the child are included in the application.
- If any child included in the application is adopted, certified copies of the adoption papers.
- If you have served in the armed forces of any country, certified copies of military service record or discharge papers.
- If you are using a migration agent or exempt agent or authorised recipient, form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*.

Further information on applying for visas, including document checklists, to assist you in lodging a complete application can be found under the visa options from the department's website www.immi.gov.au/skilled/

Please check these lists carefully and provide as many documents included on the checklist that you believe are relevant to supporting your application. You are not restricted to only supplying documents on the checklist but may also choose to supply additional documents that you have determined will also support your application.

It is important for you to understand that it is the responsibility of the applicant, and not the decision maker, to ensure that all relevant information in support of an application is before a decision maker. If an applicant fails to lodge all relevant information with the application, or to respond in the prescribed time to a reasonable request to provide further information, or to attend an interview, the decision maker will be lawfully entitled to proceed to make the decision without further communication with the applicant.

Lodging your application

If you are applying outside Australia

If you are applying outside Australia for a Business Skills (Provisional) visa, or are applying outside Australia for a Business Talent visa and:

- you usually live in the People's Republic of China, including Hong Kong and Macau, you must lodge your application at the Australian Consulate General in Hong Kong.

Hong Kong

Australian Consulate General

24th Floor
Harbour Centre
25 Harbour Road
WANCHAI
HONG KONG

Telephone: 8522585 4139

Fax: 8522585 4459

E-mail: dima-hong_kong-business_centre@dfat.gov.au

- you usually live in Taiwan, you must lodge your application at the Australian Commerce and Industry Office (ACIO) in Taipei.

Taipei

Australian Commerce and Industry Office

27F, 9–11 Song Gao Road
TAIPEI 110
TAIWAN

Telephone: 886 28725 4250

Fax: 886 28789 9560

E-mail: immigration.taipei@dfat.gov.au

- you do not usually live in The People's Republic of China (including Hong Kong and Macau), or Taiwan, you must send your application to the Perth Business Skills Processing Centre.

Perth

Perth Business Skills Processing Centre

Locked Bag 7
NORTHBRIDGE WA 6865
AUSTRALIA

Telephone: 131 881

Fax: (08) 9415 9291

E-mail: wa.business.skills.pc@immi.gov.au

Any application lodged in any other office will not be a valid application and will not be processed.

If you have any enquiries:

- Go to the department's website – www.immi.gov.au; or
- **Inside Australia** – telephone **131 881** (for the cost of a local call); or
- **Outside Australia** – contact the nearest Australian mission.

If you are applying in Australia

All applications for Business Skills (Residence) visas must be made in Australia. If you are applying in Australia for a Business Talent visa, please lodge your application at Perth Business Skills Processing Centre (details on the previous page). If you are applying in Australia for a Business Skills (Residence) visa, the preferred method of lodgement is by mailing your application to the Adelaide Onshore Business Skills Processing Centre.

By mail:

Adelaide Onshore Business Skills Processing Centre
Department of Immigration and Citizenship
GPO Box 2399
ADELAIDE SA 5001

By courier:

Adelaide Onshore Business Skills Processing Centre
Department of Immigration and Citizenship
Level 3
55 Currie Street
ADELAIDE SA 5000

If you have any enquiries

Website: www.immi.gov.au/skilled/
E-mail: business.skills.adelaide@immi.gov.au
Telephone: 131 881 (a local call in Australia)
Fax: (08) 7421 7612

PART 7

Processing visa applications

You must have a visa to travel to and stay in Australia

This section explains how to make visa applications and how they are processed.

It is important that you read this information

It is important that you read this information – it may affect whether you are granted a visa or have your visa cancelled.

You should read all information and instructions about the class of visa you want. If you do not think you can qualify for a visa, you may wish to reconsider whether to apply because any visa charge paid will not be refunded if you are unsuccessful.

Where to get information

In Australia, you can get information about visas, charges and forms at offices of the department or you can call **131 881** (for the cost of a local call), or you can go to **www.immi.gov.au**. Outside Australia, you should go to **www.immi.gov.au**

How to apply for a visa

To make a valid application, you must:

- indicate the class of visa that you want;
- use the correct form;
- lodge an application;
- provide your residential address;
- pay the required charge;
- satisfy any other requirements (for example, you may have to be outside Australia to apply for the visa);
- send or deliver your application to the department's office/Australian mission as advised on the department's website (refer to pages 34 – 35 of this booklet for details).

You must also:

- complete the application in English;
- answer all questions truthfully – if you provide incorrect information or documents, your visa may not be granted;
- provide originals or certified copies of any required documents unless the department advises otherwise.

Internet applications

Certain visas can be applied for via the internet. Further information is available from the department's website **www.immi.gov.au/e_visa/**

Family members

For most visas, family members (spouse or de facto partner, dependent children or dependent relatives) who apply at the same time can apply on the same form and pay one charge. A child who is born after an application is made (but before it is decided) will be automatically included in the parent's application, once the department is notified of the details of the newborn child. In some circumstances, a spouse or de facto partner or dependent child can be added to an application.

Limitations on applications

If you are in Australia, you may be prevented from making further applications if, for example:

- you do not hold a substantive visa (which is any visa other than a bridging visa, a criminal justice visa or an enforcement visa) and have had a visa cancelled or refused since you last arrived in Australia;
- your last visa was granted on the condition that you would not be granted a substantive visa while you remain in Australia;
- you hold a sponsored visitor visa;
- you are in immigration detention;
- you have previously applied for a protection visa.

In these cases, the department can provide you with information about which visas, if any, you can apply for.

More than one application

If you apply for more than one visa, the visa granted last will generally be the visa you have (and the visa granted first will no longer be valid). You can get advice about your situation from any of the department's offices or nearest Australian mission.

Communicating with the department

Communication with the department about your application should generally be in writing. You should send the communication to the office where you applied unless the department notifies you of another address.

Communication via e-mail is now the preferred option, and the provision of a direct e-mail address (for the principal applicant) can assist with quicker and more effective communication.

Withdrawal of applications

You can withdraw your application by advising the department in writing at any time before a decision is made. Any charges that you paid at time of application are usually not refunded.

You must correctly identify yourself

If you communicate with the department about your application, you must:

- include your name (as in your application);
- include your date of birth;
- include the department client number if it has been given to you, or if you do not have a client number, the department file number, or the application receipt number;
- if your application is made outside Australia, include the name of the office where you applied.

Let the department know if you change your address

If you change your residential address for more than 14 days while your application is being processed, you must tell the department your new address and how long you will be there. The department will send communication about your application to the latest address for correspondence you have provided.

Communication about your application can be sent to another person that you have authorised, but you will be taken to have received the communication that the department sends to that person. The department must be informed (in writing) of any address change for either you or your authorised person.

Extra information about your application

Additional information can be provided (in writing) at any time, until a decision is made on your application. All relevant information is taken into account.

If you are invited to give additional information or comment on information, you will be given a date by which to do so. After that date, the department can continue processing your application. You cannot delay a decision by saying that you may or will give more information later.

Interviews

If you are invited to attend an interview, you must attend on the date and time agreed with the department. If you do not, the department can process your application and make a decision on the basis of the information it already has.

Invitation to comment

If another person gives the department information that could result in you being refused a visa, the department will generally give you an opportunity to comment on the information. You will need to comment by a set date.

Advise the department if your circumstances change

If any of your circumstances change, such that any answer in your application or information given to the department is no longer correct, you must inform the department (in writing) as soon as practicable.

You must continue to do this until a decision is made on your application (or, in the case of a visa granted outside Australia, until you travel to Australia and are cleared by immigration). Your visa may be cancelled if you give incorrect information or fail to advise the department that some information is no longer correct. However, if you advise the department of the correct information before your visa is granted (or in the case of a visa granted outside Australia, before you are immigration cleared), your visa cannot later be cancelled on the basis of that incorrect information.

Visa decisions

Processing times vary between offices. You will be notified by the department when a decision has been made on your application.

If you are refused a visa, you will be notified why you were refused and, if applicable, where you can apply for merits review of the decision. You will be notified of your time to seek review or your time to depart Australia.

When the department advises you, or a person you have authorised to act and receive communication on your behalf, of the decision on your visa application, you will be taken to have received the notification:

- 7 working days after the date of the letter (if sent in Australia); or
- 21 days after the date of the letter (if sent outside Australia).

If the notification is handed to you, you will be taken to have been notified at that moment.

If the notification is faxed or e-mailed to you, you will be taken to have been notified at the end of that day.

You must abide by all conditions on your visa

If your visa is granted subject to conditions you must abide by those conditions or your visa may be cancelled. If you wish to change those conditions, contact the department for information about how to do this.

Note: Additional change of address requirement for business skills visa holders.

You must notify the department of your residential address within 6 months of your initial entry to Australia. Further, for 3 years after your initial entry to Australia you must notify the department of any subsequent changes in your residential address within 28 days after you change your address, including any residential address you may have outside Australia.

If you wish to leave Australia while your application is being processed, check with the department before you leave

You should inform the department if you travel (either to or from Australia) during processing of your application. This is because your application may be refused if you are in the 'wrong place' when a decision is made:

- for most visas applied for in Australia, you must be in Australia when a decision is made; and
- for most visas applied for overseas, you must be outside Australia when a decision is made.

In addition, if you have applied in Australia you must ensure before you leave Australia that you have a visa to return. Otherwise you may not be able to return to Australia and, if your application is refused, you may not have a right of review.

Bridging visas

If you apply for a visa in Australia, you will usually be granted a bridging visa to keep you lawful, in case your previous visa ceases before a decision is made on your application. It will also keep you lawful if your visa is refused and you seek merits review of that decision.

However, if you wish to travel overseas, you will need to apply for a specific bridging visa to allow you to return to Australia (unless you already have another visa which allows you to return to Australia).

Options for receiving written communications

You may authorise another person to receive all communications, both written and electronic, about your application with the department. You will be taken to have received any documents sent to that person as if they had been sent to you.

To do this you will need to complete the section on the application form with the heading *Options for receiving written communications* and form 956 *Appointment of a migration agent or exempt agent or other authorised recipient*. For an explanation of what a migration agent or exempt agent or authorised recipient can do please read the sections below.

Authorised recipient information

An authorised recipient is someone you appoint to receive written communications about your application with the department.

All written communication about your application will be sent to your authorised recipient, unless you indicate that you wish to have health and/or character information sent directly to you.

The department will communicate with the most recently appointed authorised recipient as you may only appoint one authorised recipient at any time for a particular application.

Migration agent information

A migration agent is someone who can:

- advise you on the visa that may best suit you;
- tell you the documents you need to submit with your application;
- help you fill in the application and submit it; and
- communicate with the department on your behalf.

If you appoint a migration agent, the department will assume that the migration agent will be your authorised recipient, unless you indicate otherwise.

Your migration agent will be the person with whom the department will discuss your application and from whom it will seek further information when required.

Exempt agent information

The following people do not have to be a registered migration agent in order to provide immigration assistance, but they must not charge a fee for their service:

- a close family member (spouse, de facto partner, child, parent, brother or sister);
- a sponsor or nominator for this visa application;
- a member of parliament or their staff;
- an official whose duties include providing immigration assistance (eg. a Legal Aid provider);
- a member of a diplomatic mission, consular post or international organisation.

Consent to communicate electronically

The department may use a range of means to communicate with you. However, electronic means such as fax or e-mail will only be used if you indicate your agreement to receiving communication in this way.

To process your application the department may need to communicate with you about sensitive information, for example, health, police checks, financial viability and personal relationships. Electronic communications, unless adequately encrypted, are not secure and may be viewed by others or interfered with. If you agree to the department communicating with you by electronic means, the details you provide will only be used by the department for the purpose for which you have provided them, unless there is a legal obligation or necessity to use them for another purpose, or you have consented to use for another purpose. They will not be added to any mailing list.

The Australian Government accepts no responsibility for the security or integrity of any information sent to the department over the internet or by other electronic means.

PART 8

Business Development Agencies

State/Territory government departments

Prior to lodging an application under the Business Owner, Senior Executive or Investor categories, you must send a completed notification form 927 *State/Territory notification: Business Skills class* to the appropriate state/territory authority. A representative will sign, stamp and return the form, which must be attached to your visa application.

Prior to lodging an application under the State/Territory Sponsored Business Owner, State/Territory Sponsored Senior Executive or State/Territory Sponsored Investor categories you must send a completed sponsorship form 949 *State/Territory sponsorship: Business Skills class* to the appropriate state/territory authority.

Prior to lodging an application for a Business Talent visa you must send a completed sponsorship form 1224 *State/Territory sponsorship: Business Talent subclass* to the state or territory in which you intend to do business.

If sponsorship is approved, a representative of state/territory government will sign, stamp and return the form, which must be attached to your visa application.

State and territory governments have their own criteria for deciding who to sponsor. It is important to check the sponsorship requirements of the state/territory authority prior to applying for sponsorship to ensure all relevant information is provided with your sponsorship application.

State/Territory agency contact details

Australian Capital Territory

Chief Minister's Department
Website: www.business.act.gov.au
E-mail: businessmigration@act.gov.au
Telephone: +61 2 6207 1957

New South Wales

Department of State and Regional Development
Website: www.business.nsw.gov.au
E-mail: bizmigration@business.nsw.gov.au
Telephone: +61 2 9338 6600

Northern Territory

Department of Business, Economic and Regional Development
Website: www.migration.nt.gov.au
E-mail: migration.dberd@nt.gov.au
Telephone: +61 8 8999 5264

Queensland

Department of Tourism, Regional Development and Industry
Website: www.migration.qld.gov.au
E-mail: workliveplay@qld.gov.au
Telephone: +61 7 3405 6512

South Australia

Immigration South Australia
Website: www.immigration.sa.gov.au
E-mail: refer to website for an online form
Telephone: +61 8 8204 9246

Tasmania

Department of Economic Development and Tourism
Website: www.development.tas.gov.au
E-mail: businessmigration@development.tas.gov.au
Telephone: +61 3 9938 0562

Victoria

State Government of Victoria
Website: www.liveinvictoria.vic.gov.au
E-mail: businessmigration@liveinvictoria.vic.gov.au
Telephone: +61 3 9938 0562

Western Australia

Small Business Development Corporation
Website: www.businessmigration.sbdc.com.au
E-mail: information@migration.wa.gov.au
Telephone: +61 8 9220 0254 or
+61 8 9220 0279

Contact details of state/territory government business development agencies are also available from the department's website www.immi.gov.au/skilled/

PART 9

Terms you need to know

Applicant	The applicant is the person (or persons) applying for a visa to remain temporarily or permanently in Australia.
Appropriate Regional Authority	'Appropriate regional authority' means a department or authority of a state or territory that is specified by Gazette Notice in relation to the grant of a Business Skills visa.
AUD	'AUD' means the Australian Dollar equivalent value on the basis of the buying rate: <ul style="list-style-type: none">• in the local currency for Australian dollars on the last day of the fiscal year in which the business reported; and• published by any bank holding an Australian banking License; and• published on an approved currency conversion website.
Australian mission	An Australian Embassy, High Commission, Consulate or Consulate-General or Australian Trade Commission.
Child	Child (when used in relation to another person) means: <ul style="list-style-type: none">• a natural (biological) child; or• an adopted child within the meaning of the <i>Migration Act 1958</i>; or• a child conceived through an artificial conception procedure (ACP); or• a child born under surrogacy arrangements, where parentage has been transferred by court order under a prescribed state or territory law.
De facto partner	A person is the de facto partner of another person (whether of the same sex or a different sex) if the person is in a de facto relationship with the other person.

De facto relationship

A person is in a de facto relationship with another person if:

- they are not in a married relationship (for the purposes of the *Migration Act 1958*) with each other;
- they are not related by family;
- they have a mutual commitment to a shared life to the exclusion of all others;
- the relationship between them is genuine and continuing;
- they live together or do not live separately and apart on a permanent basis; and
- the relationship has continued for the period of 12 months immediately preceding the date of application.

Note: The 12-month relationship requirement at time of application lodgement does not apply if you can establish that there are compelling and compassionate circumstances for the grant of the visa.

Department

Department of Immigration and Citizenship.

Designated Investment

‘Designated investment’ means investment in a security issued by an Australian state or territory government authority which is specified by the Minister by Gazette Notice for the purposes of Investor and State/Territory Sponsored Investor visa subclasses.

Eligible Investment

‘Eligible investment’ in relation to a person means:

- (a) an ownership interest in a business; or
- (b) a loan to a business; or
- (c) cash on deposit; or
- (d) stocks and bonds; or
- (e) real estate; or
- (f) gold or silver bullion

that is owned by the person for the purposes of producing a return by way of income or capital gain and is not held for personal use.

Fiscal Year

‘Fiscal year’ in relation to a business or investment means:

- (a) if there is applicable to the business or investment by law an accounting period of 12 months – that period; or
- (b) in any other case – a period of 12 months accepted as applying to that business for taxation or reporting purposes by the authorities in the country in which the business operates and reports.

Main Business

A business is a 'main business' in relation to the applicant if:

- (a) the applicant has, or has had, an ownership interest in the business; and
- (b) the applicant maintains, or has maintained, direct and continuous involvement in management of the business from day to day and in making decisions affecting the overall direction and performance of the business; and
- (c) the value of the applicant's ownership interest, or the total value of the ownership interests of the applicant and the applicant's spouse or de facto partner, in the business is or was at least 10% of the total value of the business; and
- (d) the business is a qualifying business.

If an applicant has, or has had an ownership interest in more than one qualifying business, the applicant must not nominate more than 2 of those qualifying businesses as main businesses.

Major Business

For the Senior Executive (Provisional) category, 'Major business' means a business (other than a government business enterprise) the annual turnover of which was not less than the equivalent of AUD50,000,000 in each of any 2 of the 4 fiscal years immediately preceding the making of the application.

For the State/Territory Sponsored Senior Executive (Provisional) category, 'Major business' means a business (other than a government business enterprise) the annual turnover of which was not less than the equivalent of AUD10,000,000 in each of any 2 of the 4 fiscal years immediately preceding the making of the application.

Married relationship

Persons are in a married relationship if:

- they are married to each other under a marriage that is valid for the purposes of the *Migration Act 1958*;
- they have a mutual commitment to a shared life as husband and wife to the exclusion of all others;
- the relationship between them is genuine and continuing; and
- they live together or do not live separately and apart on a permanent basis.

Net Assets

The 'net assets' of a business is the amount attributable to the owners or shareholders of the business after deducting financial claims upon the business by third parties from total assets (ie. Net assets = total assets – liabilities).

Office of the department

A regional office of the Department of Immigration and Citizenship in Australia.

Ownership Interest

'Ownership interest' in relation to a business, means an interest in the business as:

- (a) a shareholder in a company that carries on the business; or
- (b) a partner in a partnership that carries on the business; or
- (c) the sole proprietor of the business, including such an interest held indirectly through one or more interposed companies, partnerships or trusts.

Partner	A spouse or de facto partner.
Provisional	A provisional visa under the Business Skills Category means a temporary 4 year visa.
Qualifying Business	<p>'Qualifying business' means an enterprise that:</p> <ul style="list-style-type: none">(a) is operated for the purpose of making profit through the provision of goods, services, or goods and services (other than the provision of rental property) to the public; and(b) is not operated primarily or substantially for the purpose of speculative or passive investment.
Regional Australia	<p>'Regional Australia' for State/Territory Sponsored Business (Residence) category, means the same areas and postcodes comprising regional Australia (including low population growth metropolitan areas) for the purposes of General Skilled Migration. Where applicable, information on regional Australia is available under the visa options for business people on the department's website www.immi.gov.au/skilled/</p>
Senior manager	<p>A 'senior manager' is defined to be a person who:</p> <ul style="list-style-type: none">(a) Has:<ul style="list-style-type: none">(i) at least a 3 year appropriate formal qualification or 5 years appropriate experience; and(ii) at least 3 years employment in the kind of work for which they were trained or experienced; and(iii) where required under relevant Australian law, appropriate registration and/or licensing; and(b) Has a sound and continuous employment record for 3 out of the last 5 years in a position, or positions, in a 'qualifying business', or businesses, requiring the occupant to:<ul style="list-style-type: none">(i) make decisions about how the whole or a substantial part of the activities of that business were to be managed or organised; and(ii) take responsibility for the day to day running of the business or a part of the business; and(iii) if appropriate to the structure of the relevant business, have management responsibilities over other functional managers.
Spouse	A person is the spouse of another person if they are in a married relationship.
Vocational English	'Vocational English' in relation to an applicant means that the applicant can read and understand a variety of texts in English with reasonably good comprehension; the applicant can write English well enough to communicate effectively for most purposes; the applicant can understand spoken English quite competently in a range of situations; the applicant can speak English fairly fluently and accurately in a range of contexts.

Australian Government websites

The following websites contain information on other visa options, Australia Skills Recognition Information (ASRI), business practices, taxation and investment in Australia. They also provide important links to other organisations of interest including Australian missions overseas, Australian Government websites, bilateral business and trade associations, and other useful business contacts. Information specific to Australia's regions is available from state and territory government websites.

Australian Government

Department of Immigration and Citizenship

www.immi.gov.au

Australian Skills Recognition Information

www.immi.gov.au/asri

Business Entry Point

www.business.gov.au

Australian Taxation Office

www.ato.gov.au

Foreign Investment Review Board

www.firb.gov.au

State/Territory Governments

Australian Capital Territory

ACT Government

www.business.act.gov.au

New South Wales

Department of State and Regional Development

www.business.nsw.gov.au

Northern Territory

Department of Business, Economic and Regional Development

www.migration.nt.gov.au

Queensland

Department of Tourism, Regional Development and Industry

www.migration.qld.gov.au

South Australia

Immigration South Australia

www.immigration.sa.gov.au

Tasmania

Department of Economic Development

www.development.tas.gov.au

Victoria

State Government of Victoria

www.liveinvictoria.vic.gov.au

Western Australia

Small Business Development Corporation

www.businessmigration.sbdc.com.au

Business Skills Entry

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www.immi.gov.au

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