



Australian Government

Department of Immigration
and Citizenship

Independent executives and permanent residence

Form

1215i

The Independent Executive category is for individuals who wish to:

- establish a new business or purchase an interest in an existing business in Australia; and
- actively manage that business on a day to day basis.

The Independent Executive category is part of the Business (Long Stay) visa (subclass 457). The Business (Long Stay) visa provides the holder with temporary residence in Australia for up to 4 years.

Since 1 March 2003 people are no longer able to lodge an application for a 4 year Independent Executive visa offshore.

Independent Executive further application onshore

Holders of a 457 Independent Executive visa who are in Australia and in business may be eligible to apply for a further Independent Executive visa in Australia. Where an applicant meets the criteria they will be granted a 2 year visa to remain in Australia and continue their business.

To be eligible you need to show that:

- you are the holder of a valid 457 Independent Executive visa;
- you have been operating a business in Australia for at least 15 months as a principal; OR
- where you have been in business as a principal for less than 15 months, provide a letter from the appropriate regional authority endorsing the business as being beneficial to that state/territory;
- you have direct and continuous involvement in the business and make decisions affecting the overall direction and performance of the business from day to day;
- you have net assets of AUD250,000 available to conduct the business. Your net assets are the value of your assets after deducting any liabilities. Both your personal and business assets can be used including the net assets of your spouse or de facto partner (if you have one). It is a requirement that the applicant legally owns any assets used for this calculation;
- you need to remain temporarily in Australia to maintain your business.

You must complete form 1066 *Application for a Subclass 457 – Business (Long Stay) visa*. To assist you in lodging a complete application, document checklists are available under the provisional business development visa options at www.immi.gov.au/skilled/

All members of your family unit, including those who are not in Australia, need to undertake a medical examination. You should contact the regional office where you will lodge your application to find out when and how to initiate this process. If you or a member of your family unit does not meet the health requirement you will not be able to be granted a visa.

Applying for permanent residence

The Business (Long Stay) visa as an independent executive is used by some people to start a business in Australia and later apply for permanent residence on the basis of that business. Australia welcomes applications for permanent residence from Independent Executives.

Note: Permanent residence is not automatic and starting or buying a business in Australia with a certain amount of money does not guarantee eligibility.

To remain in Australia permanently, Independent Executive visa holders must apply for a permanent residence visa and meet all relevant criteria at that time.

Options for permanent residence

Temporary residents with a proven record as successful business owners in Australia may apply for permanent residence. The most appropriate permanent visa categories for independent executives who have established a business in Australia are the Established Business in Australia (EBA), the Regional Established Business in Australia (REBA) categories and the State/Territory Sponsored Business Owner (Residence) category.

The EBA category enables visa holders who have established a business in Australia while here on a temporary basis to settle permanently.

The REBA and the State/Territory Sponsored Business Owner (Residence) categories meet specific needs of regional Australia. Both require state/territory government support, and concessions in visa criteria apply.

Note: Criteria for permanent residence under EBA, REBA and the State/Territory Sponsored Business Owner (Residence) categories are different from criteria for independent executives.

Independent Executive visa holders seeking permanent residence in Australia are encouraged to look closely at the criteria for a permanent visa. They will need to plan ahead so that they set up their business activities in Australia in a way that is acceptable under immigration legislation. They will also need to think carefully about how their businesses are structured as there are certain kinds of business structures that are not acceptable under immigration guidelines.

Important information for business owners

Applicants who choose to start or purchase a business in Australia as a temporary resident need to manage the risk that, if their business fails and they are not granted permanent residence, they may have to leave Australia.

A high number of businesses in Australia fail in the first year of operation because the owners:

- did not have enough of their own money to keep the business going until it became established; or
- did not do enough research or planning and therefore the costs or time needed to get the business started were more than expected.

Home page www.immi.gov.au

General enquiry line
Telephone **131 881** during business hours in Australia to speak to an operator (recorded information available outside these hours).
If you are outside Australia, please contact your nearest Australian mission.

Established Business in Australia category

To be eligible you need to show that:

- you are the holder of a temporary substantive visa – that is, a visitor, student or temporary resident visa 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's 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's 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 (the Department of Immigration and Citizenship (the department) will work out your points score from the information you give in your application).

You must complete form 47BU *Application for a Business Skills (Permanent) visa* and form 1138 *Business Skills profile: Established Business in Australia*.

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

Obligations

All applicants for a Business Skills visa are required to sign a declaration that they agree to meet certain obligations after arrival in Australia.

The obligations for owners of an established business in Australia are that they:

- intend to maintain their ownership interest in an eligible business in Australia;
- will keep the department informed of their current address for 3 years; and
- will participate in monitoring surveys conducted by the department.

Self test

If you think you satisfy all the criteria and are willing to meet the obligations for this category, you can complete the following self test to make a preliminary assessment of your points score. If you would like further information you may ask for an appointment with an immigration officer at the office of the department nearest to you.

Age

Your age at the time of application:	POINTS	
• 20–29	20	YOUR SCORE <input type="text"/>
• 30–44	30	
• 45–49	25	
• 50–54	10	
• under 20 or 55 and over	0	

Language ability

Language ability at decision:	POINTS	
• better than functional English	30	YOUR SCORE <input type="text"/>
• functional English	20	
• bilingual in non-English languages	10	
• limited English	10	
• no English	0	

Business attributes

	POINTS	
Throughout the 12 months immediately prior to application your main business(es):	60	YOUR SCORE <input type="text"/>
<ul style="list-style-type: none"> • 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 had exports of at least AUD100,000 a year 		

Net assets

If your (or your and your spouse's or de facto partner's) total net assets in Australia, or available for transfer to Australia within 2 years, are:	POINTS	
• at least AUD2,500,000	15	YOUR SCORE <input type="text"/>
• at least AUD1,500,000	10	
• at least AUD500,000	5	
• less than AUD500,000	0	

Your total points score

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's 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's 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 there are exceptional circumstances (the department will work out your points score from the information you give in your application).

REBA applicants who do not meet the points test may still be eligible for permanent residence if there are exceptional circumstances put forward by their sponsoring state/territory government and their business meets certain threshold requirements.

You must complete form 47BU *Application for a Business Skills (Permanent) visa*, form 1138 *Business Skills profile: Established Business in Australia* and form 949 *State/Territory sponsorship: Business Skills class*.

It is in your interests 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 a decision being made to refuse to grant the visa.

Obligations

All applicants for a Business Skills visa are required to sign a declaration that they agree to meet certain obligations after arrival in Australia.

The obligations for owners of a Regional Established Business in Australia are that they:

- intend to maintain their ownership interest in an eligible business in Australia;
- will keep the department informed of their current address for 3 years; and
- will participate in monitoring surveys conducted by the department.

Self test

If you think you satisfy all the criteria and are willing to meet the obligations for this category, you can complete the following self test to make a preliminary assessment of your points score. If you would like further information you may ask for an appointment with the migration officer at the office of the department nearest to you.

Age

Your age at the time of application:	POINTS	YOUR SCORE <input type="text"/>
• 20–29	20	
• 30–44	30	
• 45–49	25	
• 50–54	10	
• under 20 or 55 and over	0	

Language ability

Language ability at decision:	POINTS	YOUR SCORE <input type="text"/>
• better than functional English	30	
• functional English	20	
• bilingual in non-English languages	10	
• limited English	10	
• no English	0	

Business attributes

If for the 2 years prior to application your main business(es) employed:	POINTS	YOUR SCORE <input type="text"/>
• at least 3 full-time (or equivalent) Australian permanent residents, Australian citizens or eligible New Zealand citizens (who are non-family members)	60	
• at least 2 full-time (or equivalent) Australian permanent residents, Australian citizens or eligible New Zealand citizens (who are non-family members)	40	

Net assets

If your (or your and your spouse's or de facto partner's) total net assets in Australia, or available for transfer to Australia within 2 years, are:	POINTS	YOUR SCORE <input type="text"/>
• at least AUD2,500,000	15	
• at least AUD1,500,000	10	
• at least AUD500,000	5	
• less than AUD500,000	0	

Sponsorship

For sponsorship by an authorised Australian state/territory business development agency:	YOUR SCORE 15
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Your total points score

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) visa, an Investor (Provisional), a State/Territory Sponsored Investor (Provisional) or a Business (Long Stay) Independent Executive visa;
- you have had, and continue to have, an ownership interest 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 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's 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's or de facto partner's together) 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's or de facto partner's combined) assets in the main business or main businesses in Australia has been 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;
- 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.

You must complete form 47BU *Application for a Business Skills (Permanent) visa*, form 1217 *Business Skills profile: Business Owner (Residence)* and form 949 *State/Territory sponsorship: Business Skills class*.

These forms and further information on the State/Territory Sponsored Business Owner visa are available in booklet 7, *Business Skills Entry*.

There is no points test for this category.

It is in your interests 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 a decision being made to refuse to grant the visa.

Document checklist

To assist you in lodging a complete application, document checklists for each of the above Business Skills categories are available under the permanent business development visa options at www.immi.gov.au/skilled/

GLOSSARY

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 class visas.

AUD

'AUD' means the Australian dollar equivalent value on the basis of the buying rate:

- 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 Licence; and
- published on an approved currency conversion internet site.

If the exchange rates published by that bank have varied by more than 5% in the 3 month period immediately preceding the reporting day of the fiscal year, the applicant may use the most favourable published buying rate within that 3 month period.

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
 - 51% where the business turnover is less than AUD400,000; or
 - 30% where the business turnover is AUD400,000 or more; or
 - 10% where the business is a publicly listed company¹; 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.

¹ A transitional provision will apply to onshore visa applicants who have purchased a business in Australia prior to 19 April 2010 and are applying for a permanent onshore business owner visa (subclass 845, 846, 890, 892).

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).

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.

Qualifying Business

'Qualifying Business' means an enterprise that:

- (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.

To apply in Australia

All applications for Business Skills (Residence) visas must be made in Australia. 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 Skill 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

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

State/Territory government agencies

Contact details for state/territory government agencies that can help you with information about sponsorship, business and lifestyle are available under the visa options for business people at www.immi.gov.au/skilled/

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, located with information about sponsorship under the visa options for business people at www.immi.gov.au/skilled/