



Frequently Asked Questions



Information for Australian Businesses Seeking to Engage a Medical Practitioner under the Subclass 457 Visa Program

1. What are the requirements to become an approved standard business sponsor under the Subclass 457 visa program?

People seeking approval as a standard business sponsor under the Subclass 457 visa program must to meet a number of legislative requirements including demonstrating that they have a lawfully operating business and have a strong record of, and ongoing commitment to, the training of Australian citizens and permanent residents.

Employers must also attest to having a strong record of, and ongoing commitment to, the employment of local labour and non-discriminatory employment practices.

See: <http://www.immi.gov.au/skilled/skilled-workers/sbs/eligibility-employer.htm>

2. What are the requirements for the nomination process?

Once approved as a standard business sponsor, employers are required to nominate the proposed overseas worker for an occupation listed on the 457 Gazetted List of Approved Occupations. Sponsors are also required to demonstrate that the nominated person will be paid the market salary rate for the nominated occupation.

More information regarding the nomination process, including the full list of eligible occupations for this program and information regarding market salary rates, is available..

See: <http://www.immi.gov.au/skilled/skilled-workers/sbs/eligibility-nomination.htm>

3. How can a small private clinic meet the Training Benchmark requirement to become an approved standard business sponsor?

All Australian businesses who are seeking approval as a standard business sponsor under the Subclass 457 visa program must demonstrate their commitment to the training of Australian workers by meeting the training benchmarks.

To meet these training benchmarks, you may provide the department with evidence of training you provide to your own workforce or make a contribution to an external training body such as a university. Newly established businesses can provide the department with an auditable plan of how they will contribute to training in the future.

Small clinics must meet this mandatory requirement of contributing to the training of Australian workers. Self-employed medical practitioners seeking to become sponsors may demonstrate to the department their involvement and contribution to a local education institution or training undertaken to grow their business. They may also make a contribution of two per cent of payroll to an education institution or recognised scholarship fund for Australians.

4. What are the sponsorship obligations?

There are nine sponsorship obligations that sponsors of Subclass 457 visa holders must comply with:

- obligation to cooperate with inspectors
- obligation to ensure equivalent terms and conditions of employment
- obligation to pay travel costs to enable sponsored persons to leave Australia
- obligation to pay costs incurred by the Commonwealth to locate and remove unlawful non-citizen
- obligation to keep records
- obligation to provide records and information to the Minister
- obligation to provide information to Immigration when certain events occur
- obligation to ensure primary sponsored person does not work in an occupation other than an approved occupation
- obligation not to recover certain costs from a primary sponsored person or secondary sponsored person

Full details pertaining to the sponsorship obligations are available.

See: <http://www.immi.gov.au/skilled/skilled-workers/sbs/obligations.htm>

5. Why are the sponsorship obligations a mandatory requirement under the Subclass 457 visa program?

The sponsorship obligations were brought into effect under the *Migration Legislation Amendment (Worker Protection) Act 2008* (and associated regulations) on 14 September 2009 and act as an operation of law.

There is no ability to waive the requirements of the sponsorship obligations.

6. At the nomination stage of the Subclass 457 application process, I am required to certify that the nominated medical practitioner occupation matches the duties and tasks as specified within the relevant occupational dictionary. This was not a requirement under the Subclass 422 application process so why am I required to provide this information?

Under the Subclass 457 visa program, approved standard business sponsors can nominate overseas skilled workers in a number of different eligible occupations.

Under the Subclass 457 visa program, there is no generic occupational code or job description available (such as 'Medical Practitioner') which covers the range of duties in which an overseas trained doctor may undertake during their course of engagement in Australia.

By certifying that the occupation you are nominating is a skilled occupation, you are helping us to ensure that overseas skilled workers are only engaged to fill genuine skilled positions in Australia.

7. How do we demonstrate that a doctor we are sponsoring will be paid the market salary rate if part of their remuneration includes Medicare rebates?

For a nomination for the Subclass 457 visa program to be approved, the Department must be satisfied that the terms and conditions of employment, including salary, will be no less favourable than those provided to an Australian medical practitioner at the same location. That is, the person you are seeking to employ must be paid the market salary rate for the occupation.

At the nomination stage, as an approved sponsor, you must advise the department:

- what the guaranteed earnings will be
- what an equivalent Australian worker is being paid.

This enables the case officer to assess whether you will be paying the market salary rate.

Only payments that are guaranteed can be considered as part of the assessment of the nominated salary. As an approved sponsor, you should specify in your nomination the earnings you are prepared to guarantee that you will pay the person you are seeking to employ. You should advise the department what the 'retainer', or 'guaranteed annual earnings' received will be and how this is comparable to an equivalent Australian worker.

When the overseas skilled worker commences work in Australia, as an approved sponsor, you will need to ensure that the employee is paid no less than the salary specified in the nomination.

8. The Subclass 457 visa will allow the doctor we sponsor to work for more than one employer. Is there any way to prevent this from happening?

Medical practitioners on Subclass 457 visas may work for multiple employers, either simultaneously or consecutively. They may also be engaged as an independent contractor by their sponsor or an associated entity of the sponsor.

Provided the visa holder is working in, and continues to work in, the occupation for which they were nominated, they do not need to obtain a new approved nomination each time they work for a different employer.

To enable you to comply with the sponsorship obligations, the visa holder you are sponsoring should provide you with the following information to you on a regular basis:

- details of employers they are currently working for (other than their approved sponsor)
- hours which they are working on a weekly/fortnightly/monthly basis
- salaries they are receiving from other employers on a weekly/fortnightly/monthly basis

As an approved standard business sponsor, you are required to keep records and provide information to the department regarding certain events, including any changes to the work duties carried out by the person approved in the nomination. The above information will assist you in complying with this obligation.

If you are not supportive of the working arrangements engaged in by the visa holder you have sponsored, you may wish to counsel the visa holder and suggest that they seek to be nominated by another employer.

9. Is a doctor we sponsor required to work full time hours?

The Subclass 457 visa program is designed to enable employers to meet genuine skill needs where there is no Australian worker available. As such, it is expected that occupations nominated for the program are performed on a full time basis.

What is considered full-time can vary for different occupations. There is no specification of a minimum number of hours that a medical practitioner should work. Visa holders must, however, be paid no less than the salary that was approved by the department at nomination stage.