



Australian

Skilled migration

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1. Welcome

I hope you find this eBook informative and helpful. I have a wealth of knowledge and experience in Australian immigration law and want to share it with you to help you with your Australian visa application and save you stress, time and money. This eBook will assist you in identifying which skilled visas are possibly suitable for you. You can then use our 'How To eBooks' to assist with your application. Please note this eBook is not substitute for professional advice and assessment.

The nature of Australian immigration law is that it is complicated, sometimes confusing and constantly changing. My aim with this eBook is to make it as clear, simple and easy to follow as possible. But please be careful that you are aware of the current requirements as at the date when you lodge your application, otherwise it may be refused and you won't get a refund of your application fee.

There are various ways in which you may be eligible now or in the future to apply for Australian permanent residence. There are 3 categories of visas listed in this eBook: temporary, provisional and permanent. If you are not yet eligible to apply for a permanent visa, then you may be eligible for a temporary or provisional visa which, depending on your eligibility, could be a pathway to permanent residence for you and your family in the future.

It is very important to know that each visa sub-class, each separate skills assessing authority and each state/territory or regional area have their own separate eligibility criteria. It is absolutely crucial to your success that you carefully check your eligibility for each stage. If you are not eligible, then your application will fail and you will not get a refund of the application fee.

If there is anything you don't understand in this eBook, if you don't fall within the general eligibility criteria, you need clarification or extra information, please call me for professional advice and assistance. Believe me, it will be worth it - my advice will assist you and save you time and probably money. I suggest you also check with me or on my website before you lodge your visa application to see if there have been any changes in law or Departmental policy affecting your eligibility, application or processing.

If you think you are eligible for any of the visas listed in this eBook, our 'HowTo eBooks' for each sub-class will assist you with easy step-by-step instructions on assessing specifically your eligibility, lodging and managing your applications.

Please note that the Australian Department of Immigration have announced that they will be changing the Skilled Occupation List and also the points test for independent skilled migration. They will announce the changes in late April 2010 and the law will come into effect sometime in the middle of the year, possibly June 2010 - however firm dates for the announcement and the new law have not yet been made.

You need to check the changes before lodging any nomination, skills assessment or visa application as the law in this book is only current as at the date you purchased it.

I wish you the best of luck and hopefully it will be "Welcome to Australia' for you and your family in the future.

Kim Hunter

Immigration Lawyer
Criminal defence lawyer
Registered Migration Agent 0533920
Law lecturer - Australian National University
(Graduate Certificate in Migration Law)
Law lecturer - Migration Institute of Australia
and Law Society of NSW
Author

2. How does it work?

The visas in this eBook are either permanent, provisional or temporary visas which are either applications for permanent residence or possible pathways for you and your family to permanent residence in Australia.

If you (and your family) satisfy all the eligibility criteria for a particular visa sub-class, provide appropriate supporting evidence and other requirements to the Australian Department of Immigration then your visa application has a good chance of success.

There is eligibility criteria for the primary applicant ie the person who is the skilled applicant. There is also separate eligibility criteria for each accompanying member of your family unit eg *partners*, children and other dependent family members.

For all Australian visas, there is:

- ‘valid application’ criteria requirements for a ‘valid’ application to be accepted by the Department and validly lodged;
- ‘time of application’ criteria criteria to be satisfied at the time you lodge your application; and
- ‘time of decision’ criteria criteria to be satisfied at the time when your case officer makes a decision.

All this criteria needs to be satisfied at the relevant time. If you don’t, your visa application will either not be accepted for lodgement, have to be withdrawn or will be refused. If you lodged your application and it is later withdrawn or refused, the Department will not refund the visa application charge.

Wherever possible you should try and satisfy ‘time of decision’ criteria at the ‘time of application’ so that you don’t risk not being able to satisfy it after your application has been lodged. You will therefore maximise your chances of success eg for a 176 visa, nomination by a state or territory government is a ‘time of decision’ criteria for this sub-class, however it would be wise to apply for and obtain this before you lodge your visa application to ensure that this requirement is satisfied. This is particularly important if you are relying on state/territory sponsorship for the lower pass mark of 100 and for the extra 10 points (for nomination) to pass the points test.

There are 'onshore' and 'offshore' visa sub-classes. This determines where the application must be made and where you and your family members physically have to be to apply and where you have to be for the grant of your visas. It also determines whether you will be granted a bridging visa when you apply. When some permanent applications are lodged, no bridging visa is granted. You need to know whether or not a bridging visa will be granted to properly manage your stay in Australia (if any) and your application generally.

At the end of this eBook I have included 27 pages of specific definitions which you'll need to refer to. I've also included relevant links for further information to assist you. Don't forget you can call me for advice and assistance.

The most important and critical change to immigration law in 2009 has been the introduction by the Minister of Immigration, Senator Chris Evans, of a *priority processing direction* to the Department of Immigration. This direction must be followed by the Department and states the order in which general skilled visa applications are to be processed ie applications are NOT processed in order of receipt. Please see the current direction in the definition section under '*priority processing direction*' for full order of applications.

What this means is that employer nominated permanent applications will be processed first and will usually be decided quickly eg usually under 6 months. Applicants with a nominated occupation on the CSL (crucial skills list) will generally be processed in 12 months. All other applications will be processed in descending order of priority with occupations not on CSL or MODL and not sponsored, estimated to take at least 3 years to process from lodgement and possibly more.

Therefore even if you are eligible for one of the visas in this eBook, it is important to know the processing time for your application as it could be up to 3 years or possibly longer. If you want to get to Australia quickly, it's important that you apply for the visa which will obtain permanent residence for you and your family as quickly as possible eg if your occupation is not on the CSL, you may be able to find an employer to nominate you in which case your application will be processed quickly.

Before you lodge your application you should check the current processing priority direction and find out the current estimated processing time. This will determine how you manage your application during processing.

Words in *italics* in this book have a definition - see definition section at 7.

3. Skilled migration sub-classes

I have included most of the skilled migration classes in this eBook for your information. I have included general eligibility criteria for:

- (a) The general skilled 'GSM' sub-classes of 175, 176, 475, 476, 485, 487, 885, 886 and 887; and
- (b) The employer nominated 'ENS' sub-classes of 856 and 121 and regional employer sponsored 'RSMS' sub-classes 857 and 119 sub-classes.

The table below summaries the onshore and offshore GSM, ENS & RSMS categories.

Offshore sub-classes - 175, 176, 475, 476, 121 and 119

| OFFSHORE | TYPE | Category | Pass mark | Pool mark | PERMANENT VISA? |
|----------|------|---|----------------|----------------|---|
| 175 | GSM | Independent skilled | 120 | 100 | Yes |
| 176 | GSM | <i>State/territory or family sponsored</i> | 100 | 80 | Yes |
| *475 | GSM | <i>Regional area, State/territory or family (designed area) sponsored</i> | 100 | 100 | No - temporary visa for 3 years. Apply for permanent residence, if and when eligible. |
| *476 | GSM | Recognised graduate (temporary) | No points test | Not applicable | No - temporary visa for 18 months. Apply for GSM if and when eligible. |
| 121 | ENS | <i>Employer nominated</i> | No points test | Not applicable | Yes. |
| 119 | RSMS | <i>Regional employer nominated</i> | No points test | Not applicable | Yes. |

4. GSM

GSM eligibility criteria generally

This section covers the general eligibility criteria relevant to all the GSM sub-classes ie both onshore and offshore sub-classes - see table above.

The GSM sub-classes are for skilled workers who want to migrate permanently to Australia who do not have an employer to nominate them.

At the end of this section I have included general eligibility criteria for each individual GSM sub-class so that you may assess your own eligibility.

For more specific eligibility criteria, information, help and step-by-step instructions on how to apply for each sub-class and manage your application through to a decision, please see our individual 'How To eBooks' for each sub-class.

Nominated occupation

You need to nominate (choose) an occupation on the skilled occupation list (SOL). This nominated occupation must match your qualifications, skills and experience because you will also need to apply for a skills assessment based on this occupation.

If you cannot nominate an occupation on the SOL as above - then you cannot apply for any GSM sub-class.

However, please note that although your nominated occupation may not be on the SOL, it may however be on the ENSOL and therefore you may be nominated by an employer for permanent residence - see ENS & RSMS below.

Age requirement

You must be under 45 years of age at the time you lodge your visa application. However, you may be 45 and over to apply for a sub-class 887 as there is no age requirement for this sub-class.

However, if you are nominated by an employer for permanent residence there is provision for you to apply if you are 45 and over. But you have to prove exceptional circumstances on age and the older you are the harder this is - see ENS & RSMS below.

English language requirement

Generally all primary applicants must have *competent* English at time of application. For the regional sub-classes all primary applicants must generally have *functional* English.

All adult members of the family unit (eg wife, partner, dependant adult children, other dependant adults) included in the application must prove they have *functional* English. If they cannot prove *functional* English then they will be required to pay the *second visa application charge* for English language tuition.

Note: some skills assessing authorities and some state/territory governments (for nomination) require a higher level of English for the primary applicant than listed above. They may also require a specific English language test eg the 'academic' version of the IELTS test. You should check these eligibility requirements before applying for your skills assessment and/or state/territory nomination.

Qualifications and work experience

You must have the relevant qualifications and work experience in your nominated occupation to obtain a positive (ie successful) skills assessment for your nominated occupation. All the various skills assessing authorities have different requirements and they change from time to time.