



Employer Nominated Migration

Under what is known as the Employer Nomination Scheme it is possible for Australian employers to recruit and nominate skilled people to fill positions that cannot be filled from the Australian labour market or through their own staff training. Visa applicants can either be in or outside Australia at the time of visa application.

The objectives of the Employer Nomination Scheme are to: enhance Australia's ability to compete globally; remedy shortages in the Australian labour market for highly skilled people to fill highly skilled positions; maximise employment and training opportunities for Australian residents; and increase the benefit to the Australian workforce by developing new skills through transfer of specialised knowledge and skills.

The Employer Nomination Scheme is not to be viewed as a means of obtaining cheap labour quickly, and as part of the application process it is necessary to demonstrate that the nominating business gives priority to Australians for job positions and that they have training programs to meet their needs from the Australian labour market. It is also necessary to show that the employment of workers from overseas will not have an adverse impact on the Australian workforce, workplace conditions or the Australian commitment to training.

In order to proceed with an Employer Nomination application, it is first necessary for the employer to apply for approval of a nominated position as an "approved appointment". As part of this process it is necessary for the organisation to provide evidence regarding its financial capacity and comprehensive details of its training programs.

Once the Nomination is approved, the nominee may then apply for a visa. In this step it is necessary to demonstrate that the nominee has all of the attributes and skills required of the nominated position.

The scheme only applies to highly skilled positions. The Department of Immigration publishes a list of occupations approved for Employer Nomination purposes and before making an application it is necessary to refer to that list to make sure that the occupation which needs to be filled is on it.

It is also necessary for the employer to satisfy the Department of Immigration that the appointment will be a fulltime position for at least three years and that there is no exclusion upon extending the appointment at the end of that term.

Generally speaking visa applicants must be under the age of 45 and have what is known as “vocational English” (a score of at least 5 for each of the four test components of the International English Language Testing System). If a nominee’s first language is English and they have a current passport from the United Kingdom, United States, Canada, New Zealand or The Republic of Ireland, English language testing is not necessary.

As mentioned at the outset, it is possible for visa applicants to apply under the Employer Nomination Scheme whilst still in Australia. It is important however to ensure that they hold an acceptable visa which permits this application to be made – for example, persons in Australia on Electronic Travel Authorities and Visitor visas, including Business Visitor visas, are not eligible to apply for the onshore visa. However, it is still possible for them to make an “offshore” application whilst in Australia and then make arrangements to leave the country when the Department of Immigration is in a position to make a visa grant. Offshore applications carry no Bridging visa rights whereas onshore applications do entitle the visa applicant to remain in Australia while the application is being processed in the event that their substantive visa expires.

As the visa application is for a Permanent Australian Visa, applicants must apply for full medical reports and obtain police clearances from all countries in which they have lived for at least twelve months during the period of the past ten years prior to the making of the application.

This document has been prepared by Nevett Ford Lawyers, a full service law firm which includes Immigration Law amongst its specialised areas of practice.

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