

SKILLED MIGRATION TO AUSTRALIA'S SOUTH WEST

Information for Business Operators and Skilled Migrants on Regional Skilled Migration Programs

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INTRODUCTION

The South West Development Commission works with local businesses to attract skilled migrants to the South West Region of Western Australia. Those people with qualifications and skills that are in demand in the region could be eligible to apply for one of the following two regional employer-sponsored visa schemes:

- * Regional Sponsored Migration Scheme (RSMS)
- * Long-stay Temporary Business Visa (Regional 457)

In order to apply for Australian residency under one of these visa schemes the skilled migrant need to have received a job offer for skilled and full-time employment with a South West business. The prospective employer needs to prove that they have been unable to find a suitable candidate on the local labour market before offering the position to a skilled migrant.

The South West Development Commission offers the following assistance to skilled migrants and local businesses:

- Advice on the migrant's eligibility for regional employer sponsored migration.
- Guidance in the migrant's research into business and employment opportunities.
- Assistance to local employers in finding suitable candidates for skilled vacancies.
- Assistance to the prospective employer with paperwork involved in the sponsorship process under the Regional Sponsored Migration Scheme or the Long-stay Temporary Business Visa.
- Information on and material for applying for residence under the Regional Sponsored Migration Scheme and the Long-stay Temporary Business Visa.
- A wealth of information on living and working in the South West.

For further details or assistance please contact us.

South West Development Commission

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REGIONAL SPONSORED MIGRATION SCHEME

Permanent Migration to the South West

The information in this brochure should be read in conjunction with the Department of Immigration and Multicultural and Indigenous Affairs' (DIMIA) booklet 5 - *Employer Sponsored Migration*. All forms and booklets can be found on DIMIA's website at www.immi.gov.au/forms_booklets.

Introduction

The Regional Sponsored Migration Scheme (RSMS) assists employers in regional and low population growth areas of Australia, who are unable to find suitable Australian residents or citizens to fill skilled vacancies.

The employer can nominate a person from overseas, or a temporary resident in Australia, to fill a full-time, permanent vacancy. The vacancy should require either a trade certificate or a diploma level qualification or higher.

Nominees are expected to have adequate formal qualifications, have functional English and be under 45 years of age at the time of the visa application. Under certain circumstances exceptions on the grounds of qualification, language ability or age might be considered.

Any employer in the South West Region of Western Australia can participate in the scheme free of charge. The migrant pays a visa application fee to DIMIA. Information on charges for various visa schemes can be accessed through DIMIA's website (www.immi.gov.au).

The South West Development Commission (SWDC) is gazetted by DIMIA to act as a Certifying Body for the RSMS in the South West Region of Western Australia. This means the employer has to seek certification from the SWDC prior to lodging its sponsorship application with DIMIA.

This information sheet outlines the RSMS process and specifies the guidelines used by the South West Development Commission when assessing nominations for certification.

Should you require any assistance with the application process, please contact Maaïke van der Zon or Geraldine Wilson on +61 (0)8 9792 2000. Alternatively send an e-mail to mvanderzon@swdc.wa.gov.au or gwilson@swdc.wa.gov.au.

The Application Process

The Regional Sponsored Migration Scheme process consists of three stages:

Stage 1 - Certification of nomination by SWDC (form 1054)

Stage 2 - Assessment of sponsorship by DIMIA (form 1054)

Stage 3 - Nominee's Application for Permanent Residency (form 47ES)

STAGE 1 - CERTIFICATION OF NOMINATION BY SWDC

In the first stage of the application process the employer nominates the vacancy.

The South West Development Commission, as the Certifying Body for the South West Region, assesses the employer's nomination against a number of criteria. These criteria are outlined below:

- Complete application form 1054.

The employer completes and signs form 1054. A copy of this form can be downloaded from the website www.immi.gov.au/allforms/pdf/1054.pdf. Alternatively, ask us for a copy.

- Demonstrate that the position is a genuine full-time vacancy. Include an employment contract or letter of offer of employment that specifies the hours worked per week/fortnight. A full-time position is generally regarded as at least 35 hours work per week.

- Demonstrate that the position requires qualifications equivalent to at least the Australian diploma level.

The Australian Standard Classification of Occupations (ASCO) specifies the qualifications and experience required to act in a specific profession. Trade certificates are considered to be at least at diploma level. Ask us for the relevant ASCO code and required qualifications.

- Demonstrate that the position cannot be filled from the local labour market

The employer needs to demonstrate that sufficient effort was undertaken to find a person on the local labour market. As a general guideline, SWDC requires placement of at least one advertisement in the six months prior to lodging the nomination. Depending on the status of the local labour market regarding the profession to be nominated, the advertisement has to be placed in the West Australian, South Western Times and/or a local paper.

Contact the Commission prior to lodging an application for advertisement requirements specific to a particular vacancy.

- Demonstrate that the position is available for at least two years.

The minimum period of employment of two years needs to be clearly specified in a signed employment contract between the employer and nominee or in a signed letter of offer of employment.

- Demonstrate that employment and remuneration are in accordance with Australian industrial laws.

Provide sufficient information on employment conditions and remuneration in the employment contract, letter of offer of employment or another legal document.

- Demonstrate that an employment contract has or will be made between the employer and the nominee for appointment to the position.

If an employment contract has not yet been signed between the two parties, enclose an offer of employment, signed by the employer.

STAGE 2 - ASSESSMENT OF SPONSORSHIP BY DIMIA

In the second stage of the application process, form 1054 and all supporting documentation is to be forwarded to:

Department of Immigration and Multicultural and Indigenous Affairs
Perth Business Centre
Locked Bag 7
Northbridge WA 6865
Australia

DIMIA needs to be satisfied that the nomination has been certified by the South West Development Commission. They will assess the employer's nomination against the relevant Migration Regulations applicable to RSMS.

If the employer's nomination is approved by DIMIA a letter will be sent to the employer. This letter is to be included in the nominee's application for permanent residency.

STAGE 3 - NOMINEE'S APPLICATION FOR PERMANENT RESIDENCY

If DIMIA has approved the employer's nomination, the person nominated by the regional business can apply for permanent residency. The nominee must complete and lodge application form 47ES with the appropriate DIMIA office within six months of approval of the employer's nomination.

In general terms, the visa application will be assessed by DIMIA against the following criteria:

- The nominee has the relevant qualifications equivalent to at least an Australian diploma. Assessment of qualifications might be required;
- The nominee is able to satisfy any mandatory licensing, registration or professional membership requirements;
- The position is for a fixed term of at least two years (supported by evidence of a contract);
- The nominee is less than 45 years of age;
- The nominee has functional English language ability;
- The nominee and all family unit members meet mandatory health and character requirements.

LONG-STAY TEMPORARY BUSINESS VISA

Temporary Migration to the South West

The information in this brochure should be read in conjunction with the Department of Immigration and Multicultural and Indigenous Affairs' (DIMIA) booklet 11 - *Sponsoring a Temporary Overseas Employee to Australia*. All booklets and forms can be found on DIMIA's website at www.immi.gov.au/forms_booklets.

Introduction

The Long-stay Temporary Business visa (subclass Regional 457) allows approved businesses to sponsor overseas employees to come to Australia to fill positions that meet minimum skill and salary levels. The sponsorship takes place on a temporary basis, for a period ranging from three months up to four years.

The Regional 457 visa aims to encourage a stronger dispersal of skilled migrants, with abilities that are in demand, across regional Australia. It also provides support for regional development projects in the form of improved access to temporary labour.

Any employer in the South West Region of Western Australia can participate in the scheme for a fee set by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA). The migrant also pays a visa application fee to DIMIA. Information on charges for various visa schemes can be accessed through DIMIA's website (www.immi.gov.au).

The South West Development Commission (SWDC) is gazetted by DIMIA to act as the Certifying Body for the Regional 457 visa in the South West Region of Western Australia. In some cases the employer has to seek certification from SWDC prior to lodging its sponsorship application with DIMIA.

This information sheet outlines the application process and specifies the guidelines used by the South West Development Commission when assessing nominations for certification.

Should you require any assistance with the application process, please contact Maaïke van der Zon or Geraldine Wilson on +61 (0)8 9792 2000. Alternatively send an e-mail to mvanderzon@swdc.wa.gov.au or gwilson@swdc.wa.gov.au.

The Application Process

Obtaining a Regional 457 visa involves three stages, which entail the sequential assessment of:

Stage 1 - Assessment of sponsorship application by DIMIA (Part A form 1196)

Stage 2 - Assessment of nomination by DIMIA and SWDC (Part B form 1196)

Stage 3 - Assessment of nominee's visa application by DIMIA (form 1066)

Electronic Lodgement

All applications related to the Regional 457 sub-class can be lodged electronically. The processing of an electronically lodged application is given priority over an application lodged on a paper form.

For further information on electronic lodgement please visit www.immi.gov.au/e_visa/business.htm.

STAGE 1- BUSINESS SPONSOR APPLICATION

If a business wants to sponsor a temporary business entrant to work in Australia on a long-stay temporary basis, the employer lodges part A of form 1196 with DIMIA.

DIMIA must be satisfied that the business is able to meet specific sponsorship undertakings in relation to all its sponsored temporary business entrants and their accompanying family members.

For a business sponsorship to be approved, the prospective employer:

- must be an employer of good standing with an actively and lawfully operating business.
- must be able to demonstrate that the recruitment of overseas workers will provide some benefit to Australia (such as the expansion of trade or enhanced competitiveness).
- is required to demonstrate that they have a satisfactory commitment to training Australian residents or that they will introduce or utilise new or improved technology or business skills.
- must be able to meet their undertakings as an employer, such as paying at least award-level wages, meeting obligations to the Commonwealth in relation to taxation and social security, and assuming responsibility for medical costs incurred by sponsored persons and their dependants.

STAGE 2 - NOMINATION APPLICATION

Businesses need to nominate a position they wish to fill with a temporary business entrant by using part B of form 1196.

Minimum skill and salary levels apply to positions nominated. The salary is the gross salary paid. Other benefits will not count towards the minimum salary threshold.

As per March 2005 the gazetted salary level is \$39,100. The gazetted skill threshold is specified per ASCO (Australian Standard Classification of Occupation) code. Before lodging a nomination application, please check the current gazetted skill and salary thresholds, available on DIMIA's website www.immi.gov.au. Alternatively ask us for assistance.

Exemption to skill and salary threshold

Businesses seeking exemption from the minimum skill and/or salary threshold must seek certification of the nomination by the South West Development Commission, using Part B of form 1196.

The South West Development Commission requires the employer to demonstrate that the nomination meets the following criteria:

□ The employer operates in the South West Region of Western Australia. The South West Region includes the local government areas of the City of Bunbury and the shires of Harvey, Dardanup, Capel, Busselton, Augusta-Margaret River, Nannup, Donnybrook-Balingup, Collie, Bridgetown-Greenbushes, Boyup Brook, and Manjimup.

□ The nominated occupation is a certifiable position. Eligible occupations under the regional 457 visa should meet a minimum skill level as stated in DIMIA's Gazette Notice, available on www.immi.gov.au.

□ The position is genuine and full-time. A full-time position is generally regarded as at least 35 hours work per week.

□ The position is necessary to the operations of the business. The South West Development Commission will determine the importance of the position to the business on the basis of information provided on the sponsorship form.

□ The position can not reasonably be filled locally. The South West Development Commission may ask for evidence of the employer's efforts to fill the position from the local labour market.

□ The individual will be paid the level specified in the nomination. The salary specified on form 1196 is the gross salary paid. The minimum salary level represents gross salary and cannot include salary-packaged items, such as superannuation, vehicles, bonuses or other allowances.

□ The proposed employment conditions and remuneration are in accordance with Australian legislation and awards.

STAGE 3 - APPLICATION FOR A LONG-STAY TEMPORARY BUSINESS VISA

The individual nominated to perform the position submits a visa application (form 1066) in Australia.

The visa application is assessed by DIMIA, after the assessment of the sponsorship and nomination. It is to be ensured that:

- The applicant is the subject of an approved nomination.
- The applicant possesses relevant skills, qualifications and experience to perform the duties of the nominated position.

Applicants for the regional 457 visa are sponsored to fill positions that are consistent with their previous work history and qualifications. A tertiary qualification in a field related to the occupation would, generally, be suitable evidence of an applicant's ability to perform the duties of the nominated position. Where there is doubt, DIMIA may ask the applicant to provide suitable evidence, such as references from a previous employer or a statement from their sponsor.

- The applicant will be paid at the level specified in the nomination and at least at a level that is commensurate with relevant awards and standards.
- The applicant will be able to satisfy any mandatory licensing, registration or professional membership requirements relevant to the position.
- The applicant will meet health and character requirements.

DIMIA makes a decision on the visa application once a sponsorship and nomination (form 1196) have been approved. Visa are generally granted for the length of the job offer.

THE SKILLED INDEPENDENT REGIONAL VISA SCHEME

For skilled migrants who wish to explore lifestyle and work opportunities in Australia there is a temporary visa available under the state sponsored Skilled Independent Regional Visa (SIR) scheme.

This visa was developed in consultation with state and territory governments and is designed to assist regional areas attract and retain skilled migrants to fill skill shortages and boost development in regional communities.

SIR visa holders are allowed to stay in the South West for a three-year period during which they have to live and work in the region. After having lived in the region for at least 2 years and having worked for a minimum of 12 months, the SIR visa holder can apply for permanent residency through a range of existing visa schemes. One of these visa schemes is the Regional Sponsored Migration Scheme.

To apply for a SIR visa the skilled migrant does not need an employment offer. However, State Government sponsorship is required.

THE STATE/TERRITORY NOMINATED INDEPENDENT (STNI) SCHEME

The recently announced State/Territory Nominated Independent (STNI) Visa in Western Australia will be limited to the following areas:

- Granting of a permanent visa for skilled migrants meeting the residency and work requirements under a Skilled Independent Regional (SIR) visa
- Chronic shortages in key skills that have persisted despite increases in local training
- Skills in demand where in spite of extensive campaigns to recruit locally, there is a need to mount recruitment campaigns overseas.

To find out more about the SIR and STNI visa schemes please contact:

Skills Migration Unit (skills@migration.wa.gov.au)

Claire English (claire.english@doir.wa.gov.au)

Skilled Independent Regional (SIR) visa enquiries

Phone: +61 8 9222 0413

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State/Territory Nominated Independent (STNI) visa enquiries

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