

## **VISAS 2023**

**Summary of various visa categories. We emphasise this not an exhaustive synopsis of each visa category and it is merely to provide an overview of certain relevant criteria of each visa referred to.**

### **Subclass 482 Temporary Skill Shortage Visa**

The TSS (subclass 482) visa requires an applicant to be sponsored by an Australian employer to work in Australia in a nominated occupation. As an applicant, you must have skills (qualifications and/or work experience) that match those required for the nominated position. Usually, you can only work for the business that sponsors you or one of its associated entities.

The subclass 482 visa employer sponsored visa involves three stages including: 1) Sponsorship by an Australian Employer; 2) Nomination of an eligible occupation on the designated list; and 3) Visa application.

Your nominated occupation must be included on:

- the Medium and Long-term Strategic Skills List (MLTSSL) which allows for a maximum four-year-term of employment under the Medium-term stream of this visa; OR
- the Regional Occupation List (ROL) and located in a regional area of Australia. This also allows for a maximum four-year term of employment under the Medium-term stream of this visa; OR
- the Short-term Skilled Occupation List (STSOL), which allows for a maximum two-year term of employment under the Short-term stream of this visa and allows you to be sponsored for one further term of 2 years while you in Australia.

It is a temporary residence visa. There is no age cap on this visa.

For the Subclass 482 visa you must:

- Prove at least 2 years relevant work experience in the nominated occupation or a related field. The period does not need to be continuous and can be equivalent part-time work (however you may need to have

at least five years of full-time experience in your nominated occupation if you do not have the formal qualifications required for the occupation).

- Have a relevant skill assessment (only if this is required for your occupation as many occupations under this visa do not require a skill assessment); and
- Meet minimum English language requirements.

Under the MLTSSL and ROL streams of this visa,

- This visa can be granted for a period of 4 years. It can also be renewed.

The Government visa costs are AUD 3,035 for the main applicant and for each dependant 18 years and over, and AUD 760 for each dependant under 18 years old.

For the Short-term stream of this visa:

- This visa can be granted for a period of 2 years and be renewed once in Australia .
- If the application is for a short-term stream visa, as an applicant you must be offshore if:
  - you have held more than one short-term stream TSS visa; and
  - they were in Australia when the application for your most recent TSS visa was made.

The Government visa costs are AUD 1,455 for the main applicant and for each dependant 18 years and over, and AUD 365 for each dependant under 18 years old.

### **Designated area migration agreements (DAMA)**

DAMA is a five-year labour agreement between the Federal Government and certain Regional Governments. DAMA has been negotiated to provide Australian employers a specific tool to sponsor skilled overseas workers in specified industries in a region that is currently experiencing critical skill and labour shortages.

The concessions available under DAMA may include:

- Broader occupation lists.
- English requirement concessions.
- Age concessions to facilitate a pathway to permanent residence.
- Lower Minimum payment.

There are currently 12 DAMAs in place. Below is a list of those DAMAs with links to the respective Designated Area Representative\* websites that contain information on how to access each DAMA as well as which regions/locations/shires are covered:

- Adelaide City Technology and Innovation Advancement, SA: [Skilled & Business Migration](#)
- East Kimberley, WA: [East Kimberley Chamber of Commerce and Industry](#)
- Far North Queensland, QLD: [Cairns Chamber of Commerce,](#)
- Goulburn Valley, VIC: [Goulburn Valley](#)
- Great South Coast, VIC: [Warrnambool City Council](#)
- Northern Territory, NT: [Northern Territory Designated Area Migration Agreement](#)
- Orana, NSW: [Regional Development Australia - Orana, NSW](#)
- Pilbara, WA: [RDA Pilbara](#)
- South Australia Regional, SA: [Skilled & Business Migration](#)
- South West, WA: [Shire of Dardanup](#)
- The Goldfields, WA: [City of Kalgoorlie Boulder](#)
- Townsville, QLD: [Townsville Enterprise Limited](#)

### **Subclass 400 Temporary Work (Short Stay Specialist) Visa**

This visa is designed for applicants to undertake short-term, non-ongoing, highly specialised work in Australia. It is commonly utilised by workers with highly specialised skills, knowledge or experience (professionals, managers, technicians and tradespeople) who can assist an Australian business, and whose skills cannot reasonably be found in the Australian labour market.

The specific terms are defined as follows:

- “Short term” – the expected normal period of stay is 3 months or less however in compelling circumstances, an additional 3 months may be granted.
- “Non-ongoing” – work that is likely to be completed within a continuous period of 6 months or less.

- “Highly Specialised” – This work typically aligns with the Australian and New Zealand Standard Classification of Occupations (ANZSCO) Major Groups 1 to 3 (Managers, professionals, technicians and trades workers) but could include otherwise highly specialised workers who cannot reasonably be sourced in Australia.

This visa requires that the applicant prove:

- A demonstrated need to be in Australia
- That they are seeking genuine temporary entry and
- Have adequate financial means to support their stay.

In order to demonstrate the above, we must provide evidence that:

- Your Australian business requires the applicant to enter Australia to perform highly specialized work;
- The applicant’s personal attributes, employment background and/or education is relevant to and consistent with the nature of proposed work with your business;
- The business must provide further evidence demonstrating how the applicant’s qualifications/competencies match up with the proposed work

In keeping with the above information, we would require the following information:

**“Short term, Non-ongoing, Highly Specialized work”**

- What is the specialized work necessary that it is to be considered non-ongoing and short term?
- What is the nature of the business?
- Are there particular activities to be carried out in the next 3-6 months?
- I would require a list of tasks that need to be completed within the next 3-6 months urgently
- How is this work highly specialized?
- What kind of tasks that only a skilled/experienced farmer can perform that any of the current workers cannot? Does the applicant have specialized knowledge that is required urgently? Have you tried recruiting for this role, and if so for how long + what was lacking in the

local labour that the employer now needs the employee to come from overseas?

- Why is it important for the business for the employee to enter Australia ASAP?
- If the employee does not perform this role, how will this impact the business?
- Who are the relevant clients and projects that need to be completed within deadlines and why do they need the specialised services?

### **“Skills cannot reasonably be found in the Australian labour market”**

- You can provide evidence of recruitment activities that the business has been unable to obtain the right skills in the Australian labor market.

The Government visa costs are AUD 405 for the main applicant and for each dependant 18 years and over, and AUD 105 for each dependant under 18 years old.

### **Subclass 866 Protection Visa**

Australia has an obligation under the Migration Act 1958 to protect individuals who can satisfy one of two criteria, broadly, a ‘well-founded fear of persecution or ‘a real risk of significant harm’ should they be returned to their country of origin.

The Migration Act provides that a non-citizen will suffer ‘significant harm’ if:

- the non-citizen will be arbitrarily deprived of his or her life; or
- the death penalty will be carried out on the non-citizen; or
- the non-citizen will be subjected to torture; or
- the non-citizen will be subjected to cruel or inhuman treatment or punishment; or
- the non-citizen will be subjected to degrading treatment or punishment.

These can be described as the complementary protection criteria.

The Subclass 866 visa is a permanent visa. A few South African are coming to Australian on tourist visas and applying for protection visas to remain in Australia (you may not return to South Africa if you applied for this visa). The protection visa applications have limited prospects of success in my opinion. However, this does allow an applicant to work or study in Australia while this visa is being processed. It can take up to 2 years with appeals to finalise. This would allow you, during the processing period and pending any appeals, to work in Australia and obtain a possible sponsored job offer. For farmers this a possible option based on the crimes against farmers in South Africa.

The Government visa costs are AUD 45.

### **Business Innovation and Investment (Provisional) visa (subclass 188) - Business Innovation stream**

This is a 5 year provisional visa. Once you have this visa for 3 years, you can apply for permanent residence through the Business Innovation and Investment (Permanent) visa (subclass 888).

For 2 out of 4 fiscal years immediately before you receive an invitation to apply, you must have had an ownership stake in 1 or 2 businesses.

As an applicant you must:

- be under 55 years of age (or obtain an age waiver);
- score at least 65 on the points test;
- for two out of the four fiscal years immediately before you are invited to apply, have had an ownership interest in an established business or businesses that had at least **AUD 750,000** turnover in each of those years
- own at least one of the following percentages of your nominated main business:
  - 51 per cent, if the business has a turnover of less than **AUD 400,000** per year

- 30 per cent, if the business has a turnover of **AUD 400,000** or more per year
- 10 per cent, if the business is a publicly listed company
- have an overall successful business career
- have a genuine desire to continuously own and maintain a management role in a business in Australia.

At the time of invitation, you must have total net business and personal assets of at least **AUD 1,250,000** that are lawfully acquired and available for legal transfer to Australia within two years of the visa being granted.

The Government visa costs are AUD 9,450 for the main applicant and AUD 4,725 for each family member 18 years and over, and AUD 2,365 for each family member under 18 years old.

### **Business Innovation and Investment (Provisional) visa (subclass 188) - Investor stream**

This is a 5 year provisional visa. Once you have this visa, you can apply for permanent residence through the Business Innovation and Investment (Permanent) visa (subclass 888).

As an applicant you must:

- be under 55 years of age (or obtain an age waiver);
- score at least 65 on the points test;

You must make (on or after the time of application for this visa), a complying significant investment of at least AUD2.5 million. You must hold complying significant investments continuously for the life of your provisional visa.

It must be invested in the following proportions:

- at least AUD500,000 in venture capital and growth private equity funds which invest in start-ups and small private companies

- at least AUD750,000 in approved managed funds. The managed funds must invest in emerging companies listed on the Australian Stock Exchange
- a 'balancing investment' of at least AUD1.25 million in managed funds

The managed funds can invest in a range of assets, including companies listed on the Australian stock exchange, Australian corporate bonds or notes, annuities and commercial real estate.

It prohibits direct investment in residential real estate.

You must not use investments as security or collateral for a loan.

Further requirements include:

- Nomination can only be made by a State/Territory government agency.
- The applicant must not have turned 55 at the time of invitation to apply for the visa or satisfies the exception of contributing exceptional economic benefit to the State or Territory.
- The applicant meets the minimum of 65 points of **the Business and Innovation and Investment point test**.
- The applicant has had a successful record of eligible investment activity or qualifying business activity.
- The applicant has had a total of at least 1 year of the last 5 years' experience of direct involvement in managing one or more qualifying business or eligible investment.
- The applicant has demonstrated a high level of management skill in relation to the eligible investment or qualifying business activity.
- For at least 1 of the last 5 fiscal years before time of the invitation an applicant and the spouse had either a qualifying interest of at least 10% of the total value of the qualifying business or together hold a total net value of the eligible investments of at least **AUD 2,500,000**.
- For 2 fiscal years before the time of the invitation to apply for the visa, the business or personal assets of the applicant, the applicant's spouse or together had a net value of at least **AUD 2,500,000**.
- You must meet Functional English language requirements at the time of application.



The Government visa costs are AUD 9,450 for the main applicant and AUD 4,725 for each family member 18 years and over, and AUD 2,365 for each family member under 18 years old.

**Business Innovation and Investment (Provisional) visa (subclass 188) - Significant Investor stream (there is no age cap on this visa)**

Applicants are required to invest at least **AUD 5 million** in complying investments for 5 years, which must include:

- at least **AUD1 million** in venture capital and growth private equity funds which invest in start-ups and small private companies
- at least **AUD1.5 million** in approved managed funds. The managed funds must invest in emerging companies listed on the Australian Stock Exchange
- a 'balancing investment' of at least **AUD2.5 million** in managed funds

The Government visa costs are AUD 13,860 for the main applicant and AUD 6,930 for each family member 18 years and over, and AUD 3,470 for each family member under 18 years old.

**(Subclass 189) Skilled Independent Visa**

This is a permanent resident visa, which allows highly skilled workers who are not sponsored by an employer, State or Territory of Australia, or family member to live and work permanently in Australia.

As an applicant you must:

- Have an occupation on the relevant list of eligible skilled occupations;
- Obtain a positive skills assessment from the relevant Australian assessing authority in your nominated occupation;
- Be under the age of 45 at the time of application;
- Meet English language requirements at the time of application;

- Meet the points test pass mark of 65 points;
- Lodge an Expression of Interest (EOI). If this is successful, you will be invited to lodge a visa application; and
- Be invited to apply for the visa.

The Government visa costs are AUD 4,640 for the main applicant and AUD 2,320 for each family member 18 years and over, and AUD 1,160 for each family member under 18 years old.

### **Subclass 190 Skilled Nominated Visa**

This is a permanent resident visa, which allows highly skilled workers to live and work permanently in Australia.

As an applicant you must:

- Have an occupation on the relevant list of eligible skilled occupations
- Have a positive skills assessment from the Australian assessing authority in your nominated occupation.
- Be under 45 years of age at the time of application;
- Have at least Competent English;
- Have a points test result of 65 or higher;
- Be nominated by a state or territory government to apply for this visa (each state has its own separate occupation list)
- Lodge an Expression of Interest (EOI). If this is successful, you will be invited to lodge a 491 visa application; and
- Be invited to apply for the visa.

The Government visa costs are AUD 4,640 for the main applicant and AUD 2,320 for each family member 18 years and over, and AUD 1,160 for each family member under 18 years old.

### **Subclass 491 Skilled Work Regional (Provisional) Visa:**

This new regional subclass 491 visa came into effect on 16 November 2019. The subclass 491 visa is a provisional visa valid for 5 years. There is a pathway to permanent residence under the Permanent Residence Regional (subclass 191) visa, after you have lived, worked and studied in a designated regional area for at least 3 years on the 491 visa.

However, while you are on a 491 visa, you will not be able to apply for any other permanent visas until you have held the 491 for at least 3 years. (This includes the 186, 189, 190 visas).

As an applicant you must:

- Have an occupation on the relevant list of eligible skilled occupations
- Have a positive skills assessment from the Australian assessing authority in your nominated occupation;
- Be under 45 years of age at the time of application;
- Have at least Competent English;
- Have a points test result of 65 or higher;
- Lodge an Expression of Interest (EOI). If this is successful, you will be invited to lodge a 491 visa application; and
- Be invited to apply for the visa;

You must either be nominated by a state or territory government to apply for this visa (each state has its own occupation list) or sponsored by an Eligible relative living in a Regional area.

The requirements of family sponsorship under the 491 visa are:

- The sponsor must be over 18 years old and is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- The sponsor is usually resident in a designated area (this generally is 2 years continuous residence).
- The sponsor is related to the primary applicant or the primary applicant's spouse /de facto partner who is also an applicant for the 491.
- The sponsor is sponsoring each family member applying for the 491.

Some of the benefits of a 491 visa include:

- Priority processing of regional visas.
- As a holder of a 491 visa, you will be covered under Medicare (private health insurance is not required).

The Government fees for the 491 are:

- Primary visa applicant = AUD4,640
- Subsequent visa applicant over 18 years = AUD2,320
- AUD 1,160 for each family member under 18 years old.

### **Subclass 500 Student Visa**

For a student visa, an applicant must be enrolled in a course of study that is registered on the Commonwealth Register of Institutions and courses for Overseas for Overseas Students (CRICOS). If you are applying from outside Australia, you must include a Confirmation of Enrolment (CoE) for each intended course of study with your visa application. I can assist you in searching for an appropriate course. At the time of this visa application, you and your family members must have and maintain adequate health insurance, Overseas Student Health Cover (OSHC), for the period of intended stay in Australia.

For those who is under 18 years of age and intend to apply for a student visa, you must have adequate welfare arrangements in place while you are in Australia.

You might be required to provide evidence of English language proficiency while the visa application being processed unless exempt.

In addition, a primary applicant needs to have access to sufficient funds to cover travel expenses, living costs and expenses, tuition fees as well as costs required for any dependents included in the application. Current standard of annual living costs for those who intends to stay in Australia for a period of 12 months or more is AUD 21,041, and AUD 7,362 for a spouse or de facto partner, and AUD 3,152 for a dependent child. The accurate amount of

financial support will be calculated case by case as per the requirement prescribed by the Department of Home Affairs.

With this visa, you can work up to 48 hours every 2-week period during your course of study or training is in session, and for your initial visa only commence work once your course has commenced.

Your family member also can work under the same restriction once your course starts. However, your family members can work unrestricted hours if you are students studying a masters or a doctorate degree.

The Government visa costs are AUD 710 for the main applicant and AUD 530 for each family member 18 years and over, and AUD 175 for each family member under 18 years old.

### **Subclass 485 Temporary Graduate Visa**

There are two streams under the Temporary Graduate Visa, which are the Graduate Work stream and Post-Study Work stream.

For a temporary graduate visa under Post-Study Work stream, an applicant must be under 50 years of age, being the main holder of a current student visa or held a student visa within the past 6 months before your application.

An applicant under Post-Study Work stream must hold an eligible Australian qualification at degree-level or above, regardless of field of study and meet the 2 academic years study requirement, which equals 92 weeks that contribute towards 1 or more acceptable qualification.

For a temporary graduate visa under Graduate Work stream, an applicant must be under 50 years of age, being the main holder of a current student visa or held a student visa within the past 6 months before your application.

An applicant under Graduate Work stream must nominate 1 occupation on the Medium and Long-term Strategic Skills List (MLTSSL), have a degree, diploma or trade qualification closely related to that occupation and be assessed by a relevant assessing authority as having skills suitable for that occupation, and also meet the 2 academic years study requirement.

English proficiency needs to be proved if you do not hold a valid passport from the United Kingdom, the United States of America, Canada, New Zealand or the Republic of Ireland. English test result in the last 3 years before the time of your application is accepted. You will be required to prove overall score of at least 6 with no band less than 5 for IELTS, or equivalent results for the other English tests.

Health insurance for overseas visitors must be arranged and maintained for the whole of your stay to be granted this visa.

With this visa, you can stay in Australia for between 2 to 4 years under Post-Study Work stream with no restriction on travel, work and study in Australia during your stay. The length of your stay in Australia will depend on the level of your Australian study qualification. You will be allowed to stay in Australia for 2 years if you have completed a bachelor's degree or masters by coursework, and 3 years for master by research, and 4 years for doctoral degree. An applicant under Graduate Work stream can stay in Australia usually for 18 months.

The Government visa costs are AUD 1,895 for the main applicant and AUD 950 for each family member 18 years and over, and AUD 475 for each family member under 18 years old.

### **Subclass 494 Skilled Employer Sponsored Regional (Provisional) visa**

The new subclass 494 visa came into effect in 16 November 2019, aimed at encouraging migrants to commit to working and residing in designated regional areas in Australia. The subclass 494 visa is a provisional 5-year visa.

There is a pathway to permanent residence under the Permanent Residence (Skilled Regional) visa (subclass 191), after you have lived, worked and studied in a designated regional area for at least 3 years on the 494 visa.

The subclass 494 visa is a regional employer sponsored visa that will involve three stages including: 1) Sponsorship by an Australian Employer; 2) Nomination of an eligible occupation on the designated list; and 3) Visa application.

- The position must be located in a designated regional area of Australia;
- The occupation must be on the relevant occupation list or the Labour Agreement;
- The position must be genuine; and
- The position must be full-time.

As for 494 visa applicants, an applicant must:

- Be under 45 years of age at time of application;
- Hold a successful skills assessment assessment from the Australian assessing authority in your nominated occupation at time of application;
- Have a genuine intention to perform the occupation;
- Have at least three years full-time relevant work experience in the nominated occupation or a related field at the same level of skill;
- Have Competent English skills at the time of application; and
- Meet the health and character requirements of the visa.

The Government visa costs are AUD 4,640 for the main applicant and AUD 2,320 for each family member 18 years and over, and AUD 1,160 for each family member under 18 years old.

### **Subclass 186 Employer Nomination Scheme visa**

This visa applies where you have been nominated for permanent residence under this visa by an Australian employer to work in Australia in an occupation on the relevant list of eligible skilled occupations.

The subclass 186 visa will be applicable to applicant's seeking employment in Australia and applying for permanent residence as follows:

- You must be under the age of 45 at the time of application
- You must meet English language requirements
- You must meet the required skills and qualification requirements.
- You must have at least three years of full-time experience in your nominated occupation.

Under the recent visa changes, you will be required to work for your sponsoring employer for 2 years on the **Subclass 482 Temporary Skill Shortage Visa** before being sponsored for permanent residence under the subclass 186 visa.

You can apply for this visa without working for your sponsoring employer for 2 years (Direct Entry stream) if you have a positive skills assessment from the relevant Australian assessing authority in your nominated occupation unless you are exempt.

The Government visa costs are AUD 4,640 for the main applicant and AUD 2,320 for each family member 18 years and over, and AUD 1,160 for each family member under 18 years old.

### **English requirements**

For any visa you must meet English language requirements and will be required to do one of the recognised English tests. The next step is for you to undertake the English test. (You are exempt from this requirement if you are a citizen of and hold a valid passport issued by the United Kingdom, the United States of America, Canada, New Zealand or the Republic of Ireland).

### **Subclass 482 Temporary Skill Shortage Visa**

- For the Medium-term stream of the subclass 482 visa, you would be required an overall score of at least 5 with a score at least 5 in each of



the bands (reading, writing, listening and speaking) in the General version of the International English Language Testing System (IELTS) or an overall score of at least 36 with a score of at least 36 in each of the bands in the PTE Academic.

- For the Short-term stream of the subclass 482 visa, you would be required an overall score of at least 5 with a score at least 4.5 in each of the bands (reading, writing, listening and speaking) in the General version of the International English Language Testing System (IELTS) or an overall score of at least 36 with a score of at least 30 in each of the bands in the PTE Academic.

### **Subclass 188 Business Innovation and Investment (Provisional) Visa**

You must attempt to obtain a high score to increase your points for one of the Business Innovation and Investment (Provisional) visas. Although the threshold requirement is lower (Functional English), obtaining at least a **Vocational** level of English will give you a score of 5 points. **Vocational** English requires a score of at least 5 for each of the bands (reading, writing, listening and speaking) in the General version of the International English Language Testing System (IELTS) or at least at least 36 for each of the bands in the PTE Academic.

Obtaining a **Proficient** level of English will give you a score of 10 points.

**Proficient** English requires a score of at least 7 for each of the bands (reading, writing, listening and speaking) in the General version of the International English Language Testing System (IELTS) or at least 65 for each of the bands in the PTE Academic.

### **Subclass 186, 189,190, 491 and 494 visas**

- You must have at least **Competent** English. **Competent** English requires an overall score of at least 6 for each of the bands (reading, writing, listening and speaking) in the General version of the International English Language Testing System (IELTS) or at least 50 for each of the bands in the PTE Academic.

- You must attempt to obtain a high score to increase your points for one of the skilled visas. Although the threshold requirement is lower (**Competent** English), obtaining at least a **proficient** level of English will give you a score of 10 points. **Proficient** English requires a score of at least 7 for each of the bands (reading, writing, listening and speaking) in the General version of the International English Language Testing System (IELTS) or at least 65 for each of the bands in the PTE Academic. Obtaining a **Superior** level of English will give you a score of 20 points. **Superior** English requires a score of at least 8 for each of the bands (reading, writing, listening and speaking) in the General version of the International English Language Testing System (IELTS) or at least 79 for each of the bands in the PTE Academic.

**Phillip Silver & Associates**

**Phillip Silver | Solicitor**

**T: 02 9708 5954**

**M: 0406 115 895**

**W: [www.phillipsilver.com.au](http://www.phillipsilver.com.au)**

**Sydney CBD: Level 1, 822 George Street, Sydney NSW 2008**



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