



Standard Business Sponsorship & Temporary Business (Long Stay) - Subclass 457 Visas

(Core CPD)
CPD Item No. 20268
Distance Learning

Legal Training Australia

Copyright



CPD Distance Learning Module

This distance learning paper is published by Legal Training Australia Pty Ltd (LTA) who retain the copyright to the intellectual property created herein.

Scope

The scope of this paper is to provide a CPD distance learning format for Registered Migration Agents (RMA's) in respect of the Core subject Temporary Business Sponsorship.

Copyright

The proprietors of LTA retain all rights with respect to the relevant intellectual property irrespective of the authorship of the paper. The reproduction of Commonwealth legislation and or Department of Immigration and Citizenship (DIAC) policy is on the basis of "fair use" and is limited for the purposes of conveying education outcomes to RMA's. All legislation reproduced is not an authorised nor does it purport to be the version current beyond the date of creation.

Disclaimer

Extracts of legislation and policy as well as the relevant commentary are not intended to constitute legal advice. Any persons seeking to rely on the contents of these papers should not do so without seeking professional and independent legal advice. The proprietors of LTA do not accept any liability in respect of the contents of this paper other than in the context of CPD activities on the LTA website.

Currency

The information contained in this module is current as at July 2012.



Business Sponsorship & Subclass 457 Visas

ACTIVITY LEARNING OUTCOMES

Learning Outcomes

The agent will demonstrate a thorough knowledge and understanding of the legal criteria relating to Business Sponsorship and Temporary Business (Long Stay) - Subclass 457 Visa application. The agent will also demonstrate a thorough knowledge and understanding of the Policy which does influence the interpretation of the legal criteria.

Content Outline

Part A - Business Sponsorship Application

- Reg 2.59 Criteria for approval as a Standard Business Sponsor (whether overseas or Australian Business)
- Reg 2.61 Application for approval as a Sponsor
- Reg 2.63 Terms of Approval of a Standard Business Sponsor
- Length of Sponsorship
- 457 Accreditation Scheme
- Policy Interpretation of Regulations
- Forms and Lodgement
- Division 2.19 Sponsorship Obligations
- Sanctions for Breach of Sponsorship Obligations

Part B - Nomination Application for Temporary Business (Long Stay) - Subclass 457 Visa

- Reg 2.72 Criteria for approval of nomination — Subclass 457 (Business (Long Stay)) visa
- Gazetted list of Occupations and ANZSCO
- Associated Entity
- Terms of Employment and Market Rates Requirement
- Definition of 'Base Rate of Pay' and 'Earnings'



- Validity period of Nomination Approval
- Policy Interpretation
- Forms and lodgement

Part C - Visa Application for Temporary Business (Long Stay) - Subclass 457 Visa

- Schedule 1 Requirements
- Schedule 2 Time of Application Requirements - Primary Applicant
- Schedule 2 Time of Decision Requirements - Primary Applicant
- Policy Interpretation
- MFU Requirements
- Mandatory Condition 8107 and Policy Interpretation



Table of Contents

Overview	7
Business Sponsorship Application.....	9
Accredited Status	10
Criteria for Approval - Standard Business Sponsor - Regulation 2.59	12
The onus is on the applicant to evidence that it meets the criteria for approval as follows:	12
i. The Applicant is lawfully operating a business (whether in or outside Australia) (Regulation 2.59(c));	12
ii. No Adverse Information or reasonable to disregard	14
iii. Overseas Businesses.....	14
iv. Commitment By Australian Businesses to Local Labour & Non Discriminatory Employment Practices	15
v. Training Benchmarks for Australian Businesses.....	15
vi. If traded for 12 months or more the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing (Regulation 2.59 (d));	16
Benchmark A - Industry Training Fund	18
Benchmark B - Actual Expenditure on Training Australian employees	19
vi. Training Benchmark for Start- Up Businesses: If traded for less than 12 months the applicant has an auditable plan to meet the benchmarks specified in the Instrument (Regulation 2.59 (e))	22
Business Sponsorship Obligations.....	22
How is the Application Made and Where is the Application Lodged	26
The Subclass 457 Nomination Application	26
Equivalent Terms and Conditions & Market Rates Requirements	27
The Subclass 457 Visa Application	34
Skills Requirement	34
English Language Requirements	37
Health Requirements	37
Health Insurance Requirements	38
Character Requirements	39
Family Members	39
Visa Period	39
Mandatory Condition 8107 - Work Limitation.....	40
Annexure A - Training Benchmarks.....	41



Specification of training benchmarks (Subregulations 2.59(d) and 2.68(e)) **Error! Bookmark not defined.**

Annexure B - Direction 52 - Accredited Status 45

Direction No. 52 - Priority processing for standard business sponsors with accredited status 45

Annexure C - LIST OF OCCUPATIONS 47

Annexure D: TEMPORARY SKILLED MIGRATION INCOME THRESHOLD (TSMIT) 81

Annexure E - MARKET RATES 83

Specification of method to determine terms and conditions of employment that would be provided to an Australian citizen or an Australian permanent resident to perform equivalent work in the same workplace at the same location (Subregulation 2.72(10AA)) 83

Annexure F - ENGLISH LANGUAGE..... 85

Level of salary and exemptions to the English language requirement for Subclass 457 (Business (Long Stay)) Visas (Paragraph 457.223(6)(a) and Subclause 457.223(11)) 85



Business Sponsorship and Temporary Business (Long Stay) - Subclass 457 Visa

Overview

The Business Sponsorship and Temporary Business (Long Stay) - Subclass 457 Visa is a framework that permits businesses to employ foreign employees for skilled, full time work on a long term basis (up to 4 years). It is designed to enable businesses to find skills overseas. This framework works alongside Labour Agreement facilities, EMAs¹ and others, to assist the skills/ labour shortage in Australia.

In order for businesses to arrange for foreign employees to work in Australia, it must meet certain legislative criteria. The rules are there, inter alia, to protect Australia's labour market, regulate business' activities in relation to their relationship with foreign workers, as well as to be an effective and relatively quick solution to remedying specific skills shortages in the Australian labour force.

The legal framework is quite rigorous. The Business seeking to employ foreign employees is first required to make themselves known to the Department of Immigration. Its innards, so to speak, are exposed for the approval of the Department. The Business is required to, inter alia, evidence to the Department that it is a lawful and operating Business of good financial standing, of good corporate stature and has a good record or regard to Australian laws, not exclusive to Immigration Laws. It is also required to evidence that it has not neglected the Australian workforce in that it has trained its existing Australian employees, or, more broadly, future Australian workforce. The specific criterion is set out in Regulation 2.59, and we will shortly review these requirements in detail. This is known as the Business Sponsorship Application and once approved, affords the Business the ability to sponsor foreign workers for a 3 or 6 year period.

It is pertinent to note at this time, that the criteria and rules apply to all businesses of varying operational activity, sizes and financial capacity - from the small business perhaps solely owned to large conglomerates of corporate groups. All are required to meet the

¹ EMA is an Enterprise Migration Agreement. It is a project-wide labour agreement, custom designed for a particular resource project. Our paper will not deal with EMAs however we reference it so you are made aware of that it can be available in certain circumstances. More information about EMAs can be found on the Department of Immigration's website.



same criteria and the limitations of the framework do become apparent. You will find that when you visit Policy, that the Policy is very concerned about regulating the activities of the small business. In my opinion, it is because they are keen to maintain the integrity of the program to prevent small businesses being set up inexpensively to take advantage of the 457 program to bring in non-genuine employees for non-genuine vacancies in their business. The trouble with that is that those rules do not necessarily translate well into a corporate environment, and we will see examples of those limitations later in this paper.

Once a Business Sponsorship Application is approved, the Business enters into a relationship with the Department and with all its foreign sponsored workers, and their dependent family members. Their relationship can be monitored by the Department and any non-compliance can attract sanctions. The relationship duration is dictated by law and extend to periods beyond the period of business sponsorship approval. These are known as the Business Sponsorship Obligations. A Business should always be made aware of their obligations and obtain a clear appreciation of what they entail, as a finding of non-compliance can affect their business operations heavily.

A Business Sponsor is permitted to sponsor an unlimited number of foreign employees under its sponsorship facility on a Temporary Business (Long Stay) - Subclass 457 Visa. An Australian business who obtains sponsorship approval has the benefit of s.50AAA of the Corporation Act (Cth)² concerning associated entities, so that the sponsorship approval will permit the sponsor and any of its associated entities pursuant to s.50AAA to sponsor foreign employees. The life of the sponsorship is determined with reference to whether the sponsor obtains the status of an 'Accredited' sponsor or not. The rules in relation to a valid application for such a Subclass 457 visa are outlined in the Regulations (eg Regulation 2.72) and Schedule 1 and Schedule 2.

In summary then, before a Business can employ foreign skilled employees on a long term basis, it is required to undertake the following steps:

² 2001 (Cth).



- i. **Business Sponsorship Application.** The Business is to obtain Business Sponsorship Status. This is status given by the Department of Immigration & Citizenship (DIAC) to the Business in order for the Business to sponsor employees on a Subclass 457 visa.
- ii. **Nomination Application.** This application is submitted on behalf of the Business and details the terms of the position to be filled.
- iii. **Visa Application.** This application is submitted on behalf of the applicant and dependent family members and addresses the skill, health, character and English language criteria.

Item i. once established will only need to be renewed on its expiry, ie every 3 or 6 years, whichever is applicable. Items ii. and iii. need to be completed each time a business wishes to employ a skilled foreign employee on a full time, long term basis.

The purpose of this paper is to describe the components of the above framework.

The framework is available to both Australian and Overseas Businesses.

Business Sponsorship Application

A standard business sponsor is defined in Regulation 1.03 as:

"a person who:

(a) is an approved sponsor; and

(b) is approved as a sponsor in relation to the standard business sponsor class by the Minister under subsection 140E(1) of the Act."

Subsection 5(1) of the Act provides a definition for 'Approved Sponsor'.

Regulation 2.59 outlines the criteria for approval as a Standard Business Sponsor. The Business must demonstrate that:



- i. The Applicant is lawfully operating a business (whether in or outside Australia) (Regulation 2.59(c)); and
- ii. Either: (i) there is no adverse information known to Immigration about the applicant or a person associated with the applicant; or (ii) it is reasonable to disregard any adverse information known to Immigration about the applicant or a person associated with the applicant (Regulation 2.59 (g)); and
- iii. If the applicant is lawfully operating a business outside Australia and does not lawfully operate a business in Australia — the applicant is seeking to be approved as a standard business sponsor in relation to a holder of, or an applicant or a proposed applicant (the visa applicant) for, a Subclass 457 (Business (Long Stay)) visa, and the applicant intends for the visa holder or visa applicant to: (i) establish, or assist in establishing, on behalf of the applicant, a business operation in Australia with overseas connections; or (ii) fulfil, or assist in fulfilling, a contractual obligation of the applicant (Regulation 2.59 (h))
- iv. If the applicant is lawfully operating a business in Australia — the applicant has attested, in writing, that the applicant has a strong record of, or a demonstrated commitment to: (i) employing local labour; and (ii) non-discriminatory employment practices (Regulation 2.59 (f)) and
- v. If the applicant is lawfully operating a business in Australia, and has traded in Australia for 12 months or more — the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing (Regulation 2.59 (d)); and
- vi. If the applicant is lawfully operating a business in Australia, and has traded in Australia for less than 12 months — the applicant has an auditable plan to meet the benchmarks specified in the instrument (Regulation 2.59 (e)).

Accredited Status

If the Business seeks 'Accredited' status, it will need to meet additional criteria, as per Ministerial Direction 52 pursuant to s.499 of the Act. The Direction was implemented 7 November 2011, so is fairly recent and untested, so we cannot provide our comments in relation to its effectiveness. However, the Direction does provide that the intention of the



scheme is to provide priority processing to businesses who frequently utilise the 457 visa program and who historically have had good dealings with the Department. The Direction states as a preamble the following: *"The scheme recognises that certain Australian public or private businesses or government agencies have a long history of good dealings with the Department of Immigration and Citizenship, including lodging a high volume of good quality, decision-ready applications and an excellent record of compliance with relevant laws"*³.

The Direction is extracted at Annexure B for your ease of reference.

Once obtained, Accredited Status will offer the business a Sponsorship Agreement for 6 years, as opposed to 3 years for standard business sponsors. It will more importantly allow such sponsor to receive priority processing of all future nomination applications and visa applications for the length of the Sponsorship Agreement. Priority processing will allow sponsors with Accredited Status to have their nomination and visa applications processed ahead of other applications from sponsors without Accredited Status.

Criteria to obtain Accredited Status is to be outlined in Policy (PAM3), however as at the time of writing this paper, the PAMs were not yet updated. A taste of the requirements can be extracted instead from the Department's website which describes the criteria as follows:

- be a government agency, a publicly-listed company, or a private company, with a minimum of \$4 million turnover per year for the last three years
- have been an active subclass 457 visa sponsor for the past three years (with a break of no more than six months, not due to any sanction)
- have no adverse information known about them based on Department of Immigration and Citizenship and Department of Education, Employment and Workplace Relation monitoring, including formal warnings and sanctions
- have had at least 30 primary subclass 457 visa holders granted in the previous 12 months
- have lodged a high level of decision-ready applications over the previous two years
- have a non-approval rate of less than three per cent for the previous three years

³ Direction No. 52 - Priority processing for standard business sponsors with accredited status, 14 October 2011.



- have Australian workers comprising at least 75 per cent of their workforce in Australia and a commitment to maintain this level.

Applicants for Accredited Status will also be required to meet the standard requirements set out in Regulation 2.59.

Criteria for Approval - Standard Business Sponsor - Regulation 2.59

The onus is on the applicant to evidence that it meets the criteria for approval as follows:

i. The Applicant is lawfully operating a business (whether in or outside Australia) (Regulation 2.59(c));

This criteria contains three elements. The Applicant must be "lawful", "operating" and "a business". The onus is on the Applicant to demonstrate to the Department that it is a business which is lawful and operating, irrespective of whether the business operation is in or outside Australia. The rationale for this rule is to prevent shelf companies which do not operate a business from being able to become a standard business sponsor. This is an example of Policy being concerned about preventing non-genuine business being set-up to exploit the 457 program for non-genuine employee vacancies.

A 'business' is not defined in any one piece of legislation. There is a variety of legislation that governs "business" structures, such as the Partnership Act of various states, Corporations Act (Cth), Tax legislation.

If a Business is an Australian business, then it is the usual documentation to set-up a lawful business in Australia that is required to evidence the component of "lawful" pursuant to the relevant governing legislation for that particular business structure. There are a variety of legal structures for businesses - sole trader, partnerships, Trust, incorporated entity, unincorporated entity - and the documents required to be presented to the Department in support of the Application will need to correlate to the business structure. A guideline as to the documentation required is provided in Policy, and extracted below for your ease of reference. It is a shortcut to familiarising yourselves with the various legislation for the above-mentioned business structures:



	<i>Sole trader</i>	<i>Partnership</i>	<i>Company</i>	<i>Incorporated Association</i>	<i>Unincorporated Association</i>
<i>ABN registration</i>	Yes	Yes	Yes	Yes	Yes
<i>Evidence of business name registration</i>	Yes	Yes	Yes	Yes	Yes
<i>Evidence of incorporation (ACN/ ARBN)</i>	No	No	Yes ACN for Australian company; ARBN for a foreign company or registrable Australian body.	No	No
<i>Evidence of incorporation of Association</i>	No	No	No	Yes	No

The same principle applies to Overseas Business - the Department will require overseas businesses to prove their lawfulness by producing documentation required by local laws relating to set-up of lawful business. While this paper and the writer do not profess to cover overseas business law, it is sufficient to say that most overseas business structures are similar to the structures we are familiar with in Australia. If there is a business structure unfamiliar to the practitioner, the practitioner should make efforts to familiarise themselves and get to know their business client.

An operating business is one that has been actively and recently engaging with the public and undertaking business activities. The types of evidence that can be supplied to support this element will vary according to the size, structure and age of the business. Some examples of evidence acceptable by the Department are as follows:

- Balance Sheet or Statement of Position for the most recently concluded fiscal year (with comparative figures for previous fiscal year).
- Profit and Loss statement for the most recently concluded fiscal year, with comparative figures for the previous fiscal year.
- Business tax returns for the most recently concluded fiscal year.



- Where the fiscal period to which the financial statements or tax returns submitted relate ended more than three months before the application was lodged - a business activity statement (BAS) for each complete quarter between the end of the fiscal period and the date of application lodgement
- Detailed business plan
- Contract of sale relating to the purchase of the business
- Lease agreement relating to business premises
- Evidence of lease or purchase of machinery, equipment, furniture etc.
- Contracts to provide services
- Evidence of employment of staff
- Business bank statement covering the period of operation
- Annual report
- Letter of support from Accountant

ii. No Adverse Information or reasonable to disregard

Regulation 2.59(g)(i) requires decision-makers to be satisfied that there is no adverse information known to immigration about the business sponsor applicant, or a person associated with the applicant. There is provision under Regulation 2.49(g)(ii) that any adverse information known to immigration may be disregarded if the decision maker is satisfied that it is reasonable to do so.

In accordance with regulation 2.57(3), adverse information may include, but is not limited to, information about a person (in the previous three years) becoming insolvent, or contravening (or allegedly contravening) a Commonwealth, State/Territory law relating to discrimination, immigration, industrial relations, occupational health and safety, people smuggling and related offences, slavery, sexual servitude and deceptive recruiting, taxation, terrorism or, trafficking in persons and debt bondage.

iii. Overseas Businesses

An Overseas Business can obtain approval to sponsor Subclass 457 visa holders so long as it can establish that it has a need to do so for either two reasons. One - to assist in establishing



the business in Australia; or two - to assist the Overseas Business to fulfil a contractual obligation in Australia.

The Overseas Business is not required to meet training benchmarks in its application for approval as a Standard Business Sponsor.

The Overseas Business does not have access to the "Associated Entity" extension, as defined in S.50AAA of the Corporations Act, that an Australian business has.

iv. Commitment By Australian Businesses to Local Labour & Non Discriminatory Employment Practices

Policy provides that by the applicant signing the application form at time of lodgement, or e-lodging the application, the Department are to satisfied without further query, that the business has a commitment to recruit from the local labour market and has non-discriminatory employment practices.

v. Training Benchmarks for Australian Businesses

If the applicant is lawfully operating a business in Australia, it is required to evidence an expenditure and commitment towards training its Australian employees and, Australian employees, generally.

The rationale for the training commitment is, broadly speaking, to ensure businesses are not neglecting their Australian employees, as well as the Australian economy. By businesses investing in the training of their Australian employee population and more generally, Australian employees, including prospective employees, businesses are up-skilling 'Australia' with a view to build skills onshore. There are a myriad of other benefits of training, which are not the purposes of this paper, however suffice to say that such strategies are being widely accepted and incorporated by businesses as part of their human resources, employee engagement, and employee retention strategies, and in this instance the benefits of ensuring Australian skilled employees stay in skilled jobs, is also a key benefit to the Australian economy.



The legislation does differentiate the training requirement according to the "trading age" of the business. If the business has been trading for more than 12 months, it will be required to evidence its actual expenditure. If the business is less than 12 months, it will be required to evidence how it intends to meet the benchmark in the following periods. Policy does provide some assistance as to how to determine the "trading age" of the business, and as a result, which legislative criteria will the business is required to meet. It states as follows, "*A business is considered to have started trading at the point at which it commences engaging with the public and/or its customers/clients. That is, the date trading is considered to have started is the date the business undertakes any activity to make the public aware of the goods and/or services that they can or may provide.*"

This may be different from the date on which the business was registered.

Indicia of trading can include:

- date on which the business commenced advertising its goods /services
- the first sale of goods or first provision of services
- opening of premises or business platform for customers to utilise its goods/services
- the date on which the business commences responding to expressions of interest
- delivering presentations to prospective clients

vi. If traded for 12 months or more the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing (Regulation 2.59 (d));

If it is determined that the business has traded in Australia for 12 months or more, the business is required to meet training benchmarks for the training of Australian citizens and Australian permanent residents as set out in the legislative instrument. The current legislative instrument is that which came into effect 14 September 2009⁴, alongside a raft of legislative changes that came into effect relating to the 457 visa program. It is extracted for your ease of reference at Annexure 'A'. The legislative instrument lists interim training requirements. The training benchmarks are yet to be developed by the Department of

⁴ Federal Register of Legislative Instruments, F2009L03512, 11 September 2009, IMMI 09/107.



Education, Employment and Workplace Relations and agreed by government after consultation with key stakeholder groups.

The legislative instrument makes it clear that the business, *"is not required to demonstrate that they are an industry leader in training"* but rather that *"[T]raining that has been, and continues to be, provided to employees who are Australian citizens and Australian permanent residents is related to the purpose of the business."*

There are two benchmarks described in the Instrument - Benchmark A and Benchmark B. The applicant is only required to meet one of the standards.

Both benchmarks refer to the concept of "recent" and "payroll". Both terms are not defined in the legalisation but rather in Policy.

Policy provides that the term "recent" is given the meaning of the most immediate 12 months prior to decision. Policy states that assessment is a time of decision criteria, and it is appropriate because, *"...the training requirement is a criterion to be satisfied for approval of the standard business sponsor application, not a criterion for making the application."*

What you will find then with the current policy, is a sort of flexibility by the Department to switch between how an applicant seeks to meet the training criteria. Similar, the tables can be turned on your business applicant client, who at the time of application is less than 12 months however due to processing times, "comes of age" and will then need to meet the training requirement for an older business.

The policy definition of "payroll" is a clear example of the same law having to mean a lot of different things depending on the circumstances. Currently policy has defined payroll as, *"the amount of money an employer pays in wages to their employees...Payroll expenditure includes any wages, remuneration, salary, commission, bonuses, allowances, superannuation contributions (mandatory or otherwise) or eligible termination payments that are defined as wages in the Act relating to payroll tax in the relevant State/Territory."* Think of a large corporation which has 100+ employees, Australian and non-Australian. Think of the tiers of management in that company and the payments in addition to wages it would be required to make as a result.



Policy goes further to describe the definition of "payroll" for other business set-ups:

- If a sole trader with no employees in the preceding 12 months, "payroll" will be taken to mean the wage that the person draws for the business;
- If a sole trader with no employees in the preceding 12 months, and a wage has not been drawn, then the actual profit for that period will be taken to be "payroll";
- If a business has contractors / sub-contractors, their wages will only be included in the payroll figure if the legislation in the State or Territory dictates that those payments attract payroll tax.

The cheekiness of the legislation and policy is that the business is only permitted to evidence their training expenditure relating to Australians, however their payroll will include wages for both Australians and non-Australians.

Benchmark A - Industry Training Fund

Benchmark A is that the business is required to show that it has "recent expenditure" to the equivalent of at least 2% of the payroll, in payments allocated to an industry training fund, and a commitment, by the business, to maintain expenditure in each fiscal year, to that level, for the term of approval as a sponsor.

Industry training funds are statutory bodies which generally provide training for entry level and existing workers (including unemployed people who usually work in the industry and injured workers seeking to return to the industry). Allocation of funds is assessed against priorities determined by the Industry Fund. The can also provide financial incentives to employers and group training organisations to assist them in employing apprentices and trainees in areas of special skills shortages.

The purpose of Benchmark A is for businesses who have not invested in training their Australian workforce (or have no Australian workforce) to have contributed to the training of the workforce in general. There is no requirement that the contribution directly benefit the applicant's business or employees.



If an applicant seeks to meet the training criteria through Benchmark A, they are expected to have made a contribution to a training fund relevant to their business. If there is no such training fund, then the business can make the contribution to a recognised scholarship fund that supports education or training for Australian citizens or permanent residents in a university or TAFE course related to the business of the applicant.

Benchmark A is usually demonstrated by business applicants where they cannot demonstrate the required expenditure for Benchmark B, or have been operating for less than 12 months and is a good way to meet the legislative requirement of evidencing a training plan, or for businesses that have no Australian employees.

Benchmark B - Actual Expenditure on Training Australian employees

Benchmark B requires the business to evidence "recent" expenditure to the equivalent of at least 1% of the payroll of the business, in the provision of training to Australian employees of the business, and a commitment, by the business, to maintain expenditure in each fiscal year, to that level, for the term of approval as a sponsor.

The legislative instrument goes on to describe acceptable training initiatives and clarifies what cannot be credited towards the 1%.

Acceptable training initiatives listed include:

- paying for a formal course of study for the business's employees who are Australian citizens and Australian permanent residents or for TAFE or University students, as part of the organisational training strategy;
- funding a scholarship in a formal course of study approved under the Australian Qualifications Framework for the business's employees who are Australian citizens and Australian permanent residents or, for TAFE or University students, as part of the organisational training strategy;
- employment of apprentices, trainees or recent graduates on an ongoing basis in numbers proportionate to the size of the business
- employment of a person who trains the business' Australian employees who are Australian citizens and Australian permanent residents as a key part of their job;



- evidence of payment of external providers to deliver training for Australian employees;
- on-the-job training that is structured with a timeframe and clearly identified increase in the skills at each stage, and demonstrating:
 - the learning outcomes of the employee at each stage;
 - how the progress of the employee will be monitored and assessed;
 - how the program will provide additional and enhanced skills;
 - the use of qualified trainers to develop the program and set assessments;
 - and
 - the number of people participating and their skill/occupation

Expenditure that cannot be credited are as follows:

- delivered on-the-job, other than on the job training which meets the requirements outlined above;
- confined to only one or a few aspects of the businesses broader operations, unless the training is in the primary business activity;
- only undertaken by persons who are not Australian citizens or permanent residents;
- only relating to a very low skill level having regard to the characteristic and size of the business; and
- only undertaken by persons who are principals in the business or their family members.

The last item you can see is clearly directed at the small business unit and another example of the legislation being concerned about regulating small business' use of the business sponsorship and 457 visa program.

Policy does provide some clarification as to putting the "numbers" next to the items, as the business is required to evidence actual dollars spent towards the 1% benchmark. It provides its' interpretation of what proportion of an apprentices', trainees' or graduates' salary can be credited, for example, as well as whether costs incidental to provision of training can be credited.



Recent policy updates (01/07/ 2012) have attempted to be more useful and provide the following:

- Training that is only undertaken by persons who are principals in the business or their family members, can be credited to benchmark B so long as its total amount is not more than 40% of the total value of the business' training expenditure. Only 40% of the expenditure can be credited to the benchmark.
- Conferences, Trade Shows and Expos. Conference fees may only be counted towards training benchmark B where there is clear evidence that the conference provided a professional development opportunity to the attendee. Networking opportunities are not considered to be professional development, nor are the costs associated with hiring a booth at a trade show, conference or expo.
- Books, Journals & Subscriptions. The cost of purchasing books for employee use can be counted towards training benchmark B where the books are related to self-development such as self-study guides and self-paced training kits. Expenditure on journals and magazine subscriptions should only be counted where the content relates to the activities of the business
- Online training courses, eLearning packages and software. Costs to participate in or access an online training course can be counted towards training benchmark B. Expenditure associated with purchasing an eLearning platform and/or customising the course content may be counted. Expenditure on the purchase of standalone training software may be counted.
- Costs associated with training such as travel, facility hire, equipment hire, printing and logistics can be counted as expenditure towards training benchmark B if the costs are “reasonable and necessary”. To be considered “reasonable and necessary”, policy states that these costs should represent a minor proportion of the expenditure counted towards the training benchmark.
- Wages paid to staff for the time spent attending training cannot be counted towards the benchmark, except where the staff are apprentices, trainees or recent graduates.



- Membership fees. The fees paid for membership of professional associations are generally not acceptable, however where it is clearly evidenced that a specific percentage of the membership fee entitles the member to attend professional development seminars conducted by the organisation, that percentage of the fee (only) may be counted towards training benchmark B. Registration or licensing fees cannot be counted as expenditure towards training benchmark B.
- Sole traders who do not employ any other workers can demonstrate expenditure on training that is aimed at developing the business, namely expenditure on the business owner in a related course of study or conference.

Consider the last bullet point and how it may conflict with the first, whereby applicants seeking to evidence meeting training on the basis of business development could face issues as they also are the principals of the business.

vi. Training Benchmark for Start- Up Businesses: If traded for less than 12 months the applicant has an auditable plan to meet the benchmarks specified in the Instrument (Regulation 2.59 (e))

Start-Up businesses are required to meet the legislative criteria for training, but because of its tender age, is only required to evidence how it intends to meet either Benchmark A or B.

As such, it is Policy that such business are audited by the Department for compliance with their training plan. The business applicant should also expect to be monitored in relation to their business sponsorship obligations as well.

Business Sponsorship Obligations

The Act was amended in 2003⁵ to codify the sponsor's undertakings in the Regulations. Businesses who applied for approval as a sponsor on or after 1 July 2004 were required to agree to certain undertakings and were subject to barring and cancelling sanction action if they breached the undertakings.

⁵ *Migration Legislation Amendment (Sponsorship Measures) Act (Cth)*, 2003.



Further amendments were made in 2008⁶, which took effect on 14 September 2009 to further strengthen the framework. The new framework under Division 3A of Part 2 of the Act reformed the 457 visa program and was expanded to cover additional temporary work visas, previously administered under Division 1.4A of Part 1 of the Regulations.

The current sponsorship framework seeks to ensure the:

- working conditions of sponsored visa holders meet Australian standards; and
- standardises the obligations and requirements all sponsors must meet.

The worker protection laws also provide greater protection to ensure that foreign workers are not exploited.

Sponsorship obligations now apply to sponsors by operation of law. This contrasts with the previous framework where an applicant for approval as a sponsor was required to undertake to meet the sponsorship undertakings.

Division 2.19 details the Sponsorship Obligations applicable to Standard Business Sponsors. They can be classified in 3 categories: General Obligations, Notification Obligations and Record Keeping Obligations.

Below is a table that lists the obligations as well as provides details as to when they come into effect and when they cease. This table has been extracted from the Department of Immigration's website and is a useful resource to refer business clients.

Employer Obligation	Explanation	Duration of obligation
Obligation to cooperate with inspectors	Must cooperate with inspectors appointed under the <i>Migration Act 1958</i> .	<ul style="list-style-type: none"> ▪ Commences from the time a sponsor is approved. ▪ Ceases five years after the sponsorship ceases.
Obligation to ensure equivalent terms and conditions of employment	Must ensure that the terms and conditions of employment provided to a primary sponsored person are no less favourable than the terms and conditions the person provides, or would provide, to an Australian citizen or Australian permanent resident to perform work in an equivalent position in the person's workplace at	<ul style="list-style-type: none"> ▪ If the nominated person holds a visa, this obligation commences from the time the nomination is approved. ▪ If the nominated person does not hold a visa, this obligation commences from the time the visa is granted. ▪ This obligation ceases when the

⁶ *Migration Legislation Amendment (Worker Protection Act)*, Cth, 2008.



<p>Obligation to pay travel costs to enable sponsored persons to leave Australia</p>	<p>the same location.</p> <p>Must pay reasonable and necessary travel costs to enable the sponsored persons to leave Australia <i>if the costs have been requested</i> in writing by the sponsored persons, or the department and the costs have not already been paid by the sponsor in accordance with this obligation.</p> <p>The costs will be considered reasonable and necessary provided they:</p> <ul style="list-style-type: none"> ▪ include travel from the primary sponsored person's usual place of residence in Australia to the place of departure from Australia; ▪ include travel from Australia to the country (for which the person holds a passport) specified in the request to pay travel costs; and ▪ are paid within 30 days of receiving the request; and are for economy class air travel or, where unavailable, a reasonable equivalent. 	<p>primary sponsored person ceases employment, or is granted a further substantive visa.</p> <ul style="list-style-type: none"> ▪ If the nominated person holds a visa, this obligation commences from the time the nomination is approved. ▪ If the nominated person does not hold a visa, this obligation commences from the time the visa granted. ▪ This obligation ceases when another nomination is approved, a further substantive visa is granted or when the visa holder has left Australia and no longer holds the Subclass 457 visa.
<p>Obligation to pay costs incurred by the Commonwealth to locate and remove unlawful non-citizen</p>	<p>Must pay costs incurred by the Commonwealth in locating and/or removing the primary or secondary sponsored persons from Australia, if the Minister has requested the payment by written notice. The sponsor is liable to pay the Commonwealth the difference between the actual costs incurred by the Commonwealth (up to a maximum of \$10 000) less any amount already paid under the obligation to pay travel costs to enable sponsored persons to leave Australia.</p>	<ul style="list-style-type: none"> ▪ In relation to a primary visa holder, this obligation starts to apply on the day on which the primary sponsored person becomes an unlawful non-citizen; and ceases five years after the primary sponsored person leaves Australia. ▪ In relation to a secondary visa holder, this obligation starts to apply on the day on which the secondary sponsored person becomes an unlawful non-citizen; and ceases five years after the secondary sponsored person leaves Australia.
<p>Obligation to keep records</p>	<p>Must keep records of its compliance with the other obligations. All of the records must be reproducible and some must be capable of verification by an independent person.</p>	<ul style="list-style-type: none"> ▪ This obligation commences from the time a sponsor is approved. ▪ This obligation ceases two years after the last sponsored person ceases with the sponsor.
<p>Obligation to provide records and information to the Minister</p>	<p>Must provide records or information that goes to determining whether:</p> <ul style="list-style-type: none"> ▪ a sponsorship obligation is being, or has been, complied with; and ▪ other circumstances, in which the Minister may take administrative action, exist or have existed ▪ on request and in the manner and 	<ul style="list-style-type: none"> ▪ This obligation commences from the time a sponsor is approved. ▪ This obligation ceases two years after the last sponsored person ceases with the sponsor.



	timeframe requested by the Minister.	
Obligation to provide information to Immigration when certain events occur	Must provide certain information to the department when certain events occur. This information must be provided by registered post or electronic mail, to a specified address and within certain timeframes of the event occurring.	<ul style="list-style-type: none"> ▪ This obligation commences from the time a sponsor is approved. ▪ This obligation ceases when the sponsorship ceases, and where the employer is no longer sponsoring a visa holder.
Obligation to ensure primary sponsored person does not work in an occupation other than an approved occupation	<p>Must ensure that the primary sponsored person does not work in an occupation other than the occupation that is the subject of the most recent approved nomination for the person. If a sponsor wants to employ a primary sponsored person in a different occupation, the sponsor must lodge a new nomination in respect of that occupation for the primary sponsored person.</p> <p>Must also ensure that they do not engage the primary sponsored person's services other than as an employee.</p>	<ul style="list-style-type: none"> ▪ If the nominated person holds a visa, this obligation commences from the time the nomination is approved. ▪ If the nominated person does not hold a visa, this obligation commences from the time the visa granted. ▪ This obligation ceases when another nomination is approved, a further substantive visa is granted or when the visa holder has left Australia and no longer holds the Subclass 457 visa
Obligation not to recover certain costs from a primary sponsored person or secondary sponsored person	<p>Must not recover, or seek to recover, from the primary or secondary sponsored person, all or part of the costs (including migration agent costs):</p> <ul style="list-style-type: none"> • that relate specifically to the recruitment of the primary sponsored person • associated with becoming or being a sponsor or former approved sponsor. 	<ul style="list-style-type: none"> ▪ This obligation ceases on the concurrence of the following two events: ▪ the approved sponsorship ceases; and ▪ there are no sponsored persons in relation to the sponsor.

A business can be monitored by the Department of Immigration for its compliance with these obligations. Not every business sponsor is monitored, but rather the Department at the present time applies a "targeted" monitoring approach to monitor businesses that are in risk industries (such as construction or hospitality) or have been doxed in for non-compliance.

Findings of non-compliance can attract penalties and sanctions. Division 2.20 - 2.22A describes the circumstances and process in which a business sponsor may be barred or have its facility cancelled. In 2008, the laws were further strengthened with *The Migration Amendment (Worker Protection) Act*⁷ and with the revision on 14 September 2009, which introduced civil penalty provisions. The laws mean the department may apply to a court for

⁷ 2008 (Cth)



a civil penalty order or, alternatively, serve an infringement notice where a sponsor is believed to have contravened a civil penalty provision.

How is the Application Made and Where is the Application Lodged

Regulation 2.61 specifies that if the Business is located in Australia, then the application can be completed electronically. If the Business is an overseas business, then application must be a paper application and is to be lodged with the nearest Immigration office outside Australia. All subsequent 457 visa applications will be processed by the office which processed the business sponsorship application.

The Subclass 457 Nomination Application

The Nomination Application is concerned primarily with outlining the role to be filled, and the terms of employment. The main interest is to confirm that the foreign employee will be treated “no less favourably” than an Australian executing a similar role in the same location.

The application can be lodged electronically for Australian business sponsors or by Form 1196N for overseas business sponsors.

The Nomination once approved is valid for 12 months from date of approval. There is provision for approved Nominations to remain valid after a Standard Business Sponsorship ceases - in such cases, the Nomination is valid for 3 months after the day on which the sponsor’s approval as a standard business sponsor ceases.

The criteria for approval of a Nomination is set out in Regulation 2.72. Regulation 2.72 concerns itself with Nominations made prior to and following 1 July 2010. Our paper will focus on the provisions relating to Nominations made following 1 July 2010.

The Nomination must name the nominee (*ie* prospective employee or visa applicant) and dependent family members included in the application (Regulation 2.72 (5)(6))



The Nomination must nominate a role that is on the gazetted list of occupations with reference to its ANZSCO code and specify the skills required for the nominee to fill that role (Regulation 2.72(8A)). The instrument has been amended July 2012.

The current Instruments are - IMMI 12/022 - Specification of occupations for nominations in relation to Subclass 457 (Business (Long Stay)) and Subclass 442 (Occupational Trainee) visas for nominations made on or after 01/07/2010 and 01/07/2012; and IMMI 12/039 - Specification of occupations, a person or body, a country or countries - Sch 1 Skilled Occupation List - Sch 2 Consolidated Sponsored Occupation List, for nominations made on or after 01/07/2012 and are extracted at Annexure C for your ease of reference. The occupations listed are those which are identified as skilled and those that Australia has been experiencing labour market shortages, and as such can, and will, change from time to time.

The nominated role must be in the business or, if the Business Sponsor is an Australian business sponsor, a associated entity of the sponsor pursuant to s.50AAA of the Corporations Act (Regulation 2.72 (10)(e)(ii)(iii)). You should note that there are certain exemptions to this requirement for specific occupations, namely medical professionals, and as specified in the Legislative Instrument⁸.

The business sponsor is required to certify that the tasks of the position include a significant majority of the tasks of the nominated occupation listed in the ANZSCO (Regulation 2.72(10)(e)(i)), and that the nominee has the qualifications and experience commensurate with the qualifications and experience specified for the occupation (Regulation 2.72(11)).

The Nomination must state the location of the proposed employment (Regulation 2.72 8A(d)).

Equivalent Terms and Conditions & Market Rates Requirements

Arguably, the most significant change to the 457 framework was the introduction of the "no less favourable test". The test extends to the terms and conditions of employment as well as the pay offered to the Nominee. The rationale behind the test was to ensure that

⁸ Federal Register of Legislative Instruments, F2010L01412, 22 June 2010, IMMI 10/030, Commonwealth of Australia, Migration Regulations 1994.



businesses were not favouring overseas labour markets ahead of Australian labour market on the basis of lower costs. The new way of assessing pay in the applications was to ensure that foreign employees would be paid "no less favourably" than an Australian executing a similar role in the same location. thereby ensuring that businesses would be recruiting offshore due to a genuine need in their business, as opposed to cost cutting. The rules also function as an additional mechanism to protect the foreign worker from exploitation.

Regulation 2.72(10)(c)-(cc) states that the Nomination must show that the *"terms and conditions of employment of the person identified in the nomination will be no less favourable than the terms and conditions that: (i) are provided; or (ii) would be provided; to an Australian citizen or an Australian permanent resident for performing equivalent work in the person's workplace at the same location; (cc) the base rate of pay, under the terms and conditions of employment mentioned in paragraph (c), that: (i) are provided; or (ii) would be provided; to an Australian citizen or an Australian permanent resident, will be greater than the temporary skilled migration income threshold specified by the Minister in an instrument in writing for this paragraph."* (emphasis added)

It is important to note that the above rule does not apply where the annual earnings offered to the nominee is equal to or above an amount specified in the Legislative Instrument, which is presently \$180,000⁹ (Regulation 2.72(10)(AB)) (the "high income earners exemption"). Further there is scope in the legislation to argue an exemption to the above rules, where the Minister considers it reasonable to do so (Regulation 2.72(10)(A)).

Let us now proceed to dissect the above. First, legislation defines the following words and terms:

"less favourable" in Regulation 2.57 (3A) as follows:

⁹ Federal Register of Legislative Instruments, F2010L01137, 22 June 2011, IMMI 11/041, Commonwealth of Australia, Migration Regulations 1994.



(3A) In this Part, a set of terms and conditions of employment for a person (the first set) is less favourable than another set of terms and conditions of employment for a person if:

(a) the earnings provided for in the first set are less than the earnings provided for in the other set; and

(b) there is no substantial contrary evidence that the first set is not less favourable than the other set.

"earnings" in Regulation 2.57A:

(1) In this Part, a person's earnings include:

(a) the person's wages; and

(b) amounts applied or dealt with in any way on the person's behalf or as the person directs; and

(c) the agreed money value of non-monetary benefits.

(2) However, an employee's earnings do not include the following:

(a) payments the amount of which cannot be determined in advance;

(b) reimbursements;

(c) contributions to a superannuation fund to the extent that they are contributions to which subregulation (4) applies.

Note Some examples of payments covered by paragraph (a) are commissions, incentive-based payments and bonuses, and overtime (unless the overtime is guaranteed).

(3) Non-monetary benefits are benefits other than an entitlement to a payment of money:

(a) to which the employee is entitled in return for the performance of work; and

(b) for which a reasonable money value has been agreed by the employee and the employer.

(4) This subregulation applies to contributions that the employer makes to a superannuation fund to the extent that 1 or more of the following applies:

(a) the employer would have been liable to pay a superannuation guarantee charge under the Superannuation Guarantee Charge Act 1992 in relation to the person if the amounts had not been so contributed;



(b) the employer is required to contribute to the fund for the employee's benefit in relation to a defined benefit interest (within the meaning of section 292-175 of the Income Tax Assessment Act 1997) of the employee;

(c) the employer is required to contribute to the fund for the employee's benefit under a law of the Commonwealth, or of a State or a Territory.

Note This definition is based on the definition of earnings in section 332 of the Fair Work Act 2009. [Act No. 28 of 2009 - LEGEND note]

"base rate of pay" as defined in Regulation 2.57:

base rate of pay means the rate of pay payable to an employee for his or her ordinary hours of work, but not including any of the following:

(a) incentive-based payments and bonuses;

(b) loadings;

(c) monetary allowances;

(d) overtime or penalty rates;

(e) any other separately identifiable amounts.

Note This definition is based on the definition of base rate of pay in section 16 of the Fair Work Act 2009. [Act No. 28 of 2009 - LEGEND NOTE]

The temporary skilled migration income threshold (TSMIT) is defined in a Gazette Notice and increased on 1 July 2012 to \$51,400 pa. The Gazette Notice is extracted at Annexure D for your ease of reference.

The terms **"equivalent"** and **"same location"** are not defined in legislation.

The method to determine market rates where businesses do not employ an Australian in a similar role at the same location is specified in a Legislative Instrument¹⁰. It extracted at

¹⁰ Federal Register of Legislative Instruments, F2009L03515, 11 September 2009, IMMI 09/113, Commonwealth of Australia, Migration Regulations 1994 *SPECIFICATION OF METHOD TO DETERMINE TERMS AND CONDITIONS OF EMPLOYMENT THAT WOULD BE PROVIDED TO AN AUSTRALIAN CITIZEN OR AN AUSTRALIAN PERMANENT RESIDENT TO PERFORM EQUIVALENT WORK IN THE SAME WORKPLACE AT THE SAME LOCATION (SUBREGULATION 2.72(10AA)*



Annexure E for your ease of reference. It contains further defined terms such as "**relevant information**".

The methodology provides that where a business employs an Australian in a similar role at the same location, the salary (guaranteed earnings) of the Australian forms the benchmark for the proposed salary (guaranteed earnings) of the nominee. If the business does not have an Australian in a similar role at the same location, then the methodology in the legislative instrument will prevail. In nutshell, the Instrument states that in these cases, the relevant Industrial Instrument that would apply (such as an Award or EBA or other instrument) is the benchmark, and if there is no applicable Industrial instrument that would apply, then broader market evidence ("relevant information") can be supplied and will form the benchmark.

The onus is on the nominating employer to satisfy the Department that the proposed terms and conditions meet market salary requirements.

It is important to note that the legislation does permit salary packaging and it is the guaranteed or fixed components of a package that form a person's earnings. Components which are not fixed or cannot be quantified are elements such as overtime, meal allowances or other allowances.

The Policy does list several examples to assist to clarify the above rules, and we excerpt some of those examples below to provide a flavour as to how the Department is interpreting the above rules:

High Salary Exemption Example:

Anthony is nominated for the position of senior business analyst by the Australian branch of a multinational financial investment company. The sponsor provides a copy of Anthony's employment contract, which specifies that Anthony's proposed terms and conditions of employment include an annual salary of AUD 165 000, plus a car package with an annual value of AUD 40 000.

Although Anthony's base rate of pay of AUD 165 000 is below the high income threshold specified by the legislative instrument, his guaranteed earnings of AUD 205 000 (AUD 165 000 + AUD 40



000) are well above the threshold. It is reasonable and acceptable to include the agreed value of the car in calculating Anthony's guaranteed earnings because the car falls under the category of 'the agreed monetary value of non-monetary benefits' within the meaning of 'earnings' in regulation 2.75A.

Therefore, the nomination of senior business analyst for Anthony can be approved without assessments of the 'market salary rate' and TSMIT, if all other relevant nomination criteria are also satisfied.

TSMIT example:

John has been nominated by XYZ Pty Ltd, which already has a number of Australian employees in its workplace who perform the same work as that which John will undertake. XYZ Pty Ltd currently pays these Australian employees AUD 42 000 annually as per the industrial award which applies in that workplace (therefore AUD 42 000 is the applicable 'market salary rate').

In this situation, the nomination would be refused on the basis that it does not meet the requirement of regulation 2.72(10)(cc) because the 'market salary rate' (and by inference the base rate of pay for the 'market salary rate') is below the TSMIT. Even if XYZ Pty Ltd offers John a salary of AUD 50 000, the nomination would still not meet regulation 2.72(10)(cc), as it is the base rate of pay under the 'market salary rate' that is compared to the TSMIT, not John's proposed salary.

Collective Agreement / EBA example which is pertinent also to illustrate the application of 'earnings' concept:

Rigby's Retirement Village in Bendigo, Victoria is an approved standard business sponsor. They submit a nomination application to the department indicating they wish to nominate Eleanor as a Registered Nurse (Aged care).

Rigby's indicates that they have Australian workers in their workplace doing the same role that Eleanor will undertake. They indicate that the Australian workers' terms and conditions of employment are covered by a collective agreement (CAUN061281665) and the relevant classification/level of the equivalent Australian worker is Registered Nurse Grade 3B Year 2.

The terms and conditions of employment that will apply to Eleanor will be drawn from this collective agreement.

Rigby's claims that the registered collective agreement showing the relevant salary for a Registered Nurse Grade 3B Year 2 states that the base weekly rate of pay for a Registered Nurse 3B, Year 2 is AUD 1 076.50. The nomination form shows that Eleanor's annual base salary will be AUD 55 978. The processing officer notes that this level of income and the collective agreement are above the TSMIT.

Rigby's also provides information from the collective agreement that shows nurses are entitled to a "qualifications allowance". The agreement states that if a registered nurse has a postgraduate certificate or a degree they will be paid an additional 6.5% on top of their base rate of pay. Eleanor has a nursing degree from Bristol University and should receive the qualifications allowance. Rigby's proposed guaranteed annual remuneration for Eleanor is therefore AUD 59 616.57 (AUD 55 978 + (0.065 x AUD 55 978)). The processing officer notes that this is more than AUD 10 000 above the TSMIT.

Rigby's provides a copy of the employment contract that they will give to Eleanor that references the collective agreement. This outlines her terms and conditions of employment including her



salary (highlighting that she will receive the qualifications allowance), hours of work, and additional allowances and penalty rates that may apply to her depending on the nature of her shifts. As these penalty rates and allowances are contingent upon Eleanor's working patterns, Rigby's did not include them in calculating Eleanor's proposed earnings in the nomination form.

Rigby's has provided all the correct documentation to support its claims that Eleanor's proposed terms and conditions of employment are no less favourable than the 'market salary rate' and the nomination is approved.

Common Law Contract - Australian Employee distinguished as not equivalent

Maxwell's Constructions in Perth, WA is an approved standard business sponsor and has used 457 visa workers for specialist positions in the past. Maxwell's submits the nomination application form to the department indicating that they wish to nominate Valerie as a Civil Engineer.

Maxwell's indicates that there is an Australian civil engineer working at their workplace who is employed on a common law contract. However, Maxwell's also indicates that they will not be providing Valerie identical terms and conditions of employment because their Australian worker has a privately negotiated common law contract that is reflective of their contribution to the overall growth of the company for the last 20 years. Valerie on the other hand does not have the same level of experience or company knowledge. These two employees are not deemed equivalent by Maxwell's. Maxwell's indicates that the terms and conditions of employment for Valerie have been determined with reference to the Association of Professional Engineers, Scientists and Managers Australia (APESMA) annual remuneration survey for civil engineers and tailored to the specific circumstances and skill set of Valerie. Maxwell's includes with the nomination application a copy of the relevant section of APESMA's survey.

Maxwell's proposed annual base rate of pay for Valerie is AUD 85 000. The processing officer notes that, according to the APESMA remuneration survey, this is well above the average base salary of AUD 70 000 for a civil engineer of Valerie's experience (10 to 15 years). It is also above the TSMIT.

Maxwell's proposed guaranteed annual earnings for Valerie is AUD 105 000. The processing officer notes that Valerie's common law contract includes provision of a car to an agreed value of AUD 20 000. The processing officer realises that this is why the guaranteed total earnings for Valerie is AUD 20 000 higher than her nominated base salary. The processing officer compares the guaranteed total earnings to the APESMA remuneration survey and notes this is above the average total package of AUD 90 296 for a civil engineer of Valerie's experience.

The nomination is approved as all the other nomination criteria are also met.

Some of the issues to be aware of are the following:

1. Most Award Rates are lower than TSMIT so care is needed when utilising an Award as the benchmark, as the Nomination may fail on this basis of failing TSMIT.
2. If the application requires broader market evidence, such evidence can include job advertisements on common job search engines such as seek.com, careerone.com; as well as remuneration surveys. You may find inconsistent data and there is room here to select the data most favourable to the application.



3. Job Outlook (www.joboutlook.gov.au) , a government initiative, is specifically named in the Legislative Instrument as a credible mechanism for market salary rates, as is the Australian Bureau of Statistics (www.abs.gov.au)

The Subclass 457 Visa Application

This application is concerned with the visa holder evidencing they have the skills to complete the nominated position, as outlined in the Nomination. It also addresses English language requirements, together with health and character criteria for the primary applicant and any dependent family members.

Schedule 1 provides that the applicant can be either in or outside Australia at time of application. Schedule 2 provides that the applicant can be either in or outside at time of decision (Regulation 457.411). Applications can be lodged electronically, or paper based by form 1066 where the applicant is being sponsored by an overseas business. Schedule 1 also specifies that a paper application is required were the applicant does not hold a substantive visa.

Skills Requirement

The applicant is required to evidence that they have the necessary skills to perform the nomination occupation. This is known as the "skills threshold". Regulation 457.223(4) goes further to specify that the application would need to satisfy registration or licensing requirements if mandatory for the role.

A starting point for assessing the skills and registration or licensing requirement is that which is specified in the ANZSCO dictionary. ANZSCO provides an explanation of its skill level system in its introduction¹¹, as follows:

SKILL LEVEL 1

Occupations at Skill Level 1 have a level of skill commensurate with a bachelor degree or higher qualification. At least five years of relevant experience may substitute for the formal qualification. In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.

SKILL LEVEL 2

¹¹ Pages 3 -5



Occupations at Skill Level 2 have a level of skill commensurate with one of the following:

- *NZ Register Diploma or*
- *AQF Associate Degree, Advanced Diploma or Diploma.*

At least three years of relevant experience may substitute for the formal qualifications listed above. In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.

SKILL LEVEL 3

Occupations at Skill Level 3 have a level of skill commensurate with one of the following:

- *NZ Register Level 4 qualification*
- *AQF Certificate IV or*
- *AQF Certificate III including at least two years of on-the-job training.*

You can see that the skill level is related to qualification and/or experience.

Registration and licensing requirements may vary depending on location of employment, so the next resource to refer to is the Australian Skills Recognition Information (ASRI). ASRI provides a referral point to relevant state or territory bodies that regulate registration and licensing for specific occupations.

The onus is on the application to evidence they have the necessary skills to execute the role, as specified in the ANZSCO and ASRI, if relevant.

Policy provides that if registration or licensing is mandatory, the applicant need only to evidence that they would be eligible for registration/licensing upon arrival in Australia. It is not necessary that the visa applicant actually hold this registration or licensing at the time of visa application or grant.

Policy provides that the Department will require persons of particular passport nominated to a specified occupation, to obtain a 457 Skills Assessment from Trades Recognition Australia (TRA) to meet Regulation 457.223.

Currently, the Nominated Countries assessed by TRA under the 457 Skills Assessment Program are:

Brazil	Philippines
China (including Hong Kong and Macau)	South Africa
Fiji	Thailand



India	Vietnam
Papua New Guinea	Zimbabwe

Currently, the Nominated Occupations [ANZSCO Code] assessed by TRA under the 457 Skills Assessment Program are:

Automotive Electrician [321111]	Joiner [331213]
Baker [351111]	Metal Fabricator [322311]
Cabinetmaker [394111]	Metal Machinist (First Class) [323214]
Carpenter [331212]	Metal Machinists & Fabricators (not elsewhere classified) [323299]
Carpenter and Joiner [331211]	Motorcycle Mechanic [321213]
Chef [351311]	Motor Mechanic (General) [321211]
Cook [351411]	Panel Beater [324111]
Diesel Motor Mechanic [321212]	Pastrycook [351112]
Driller [712211]	Pressure Welder [322312]
Electrical Linesworker [342211]	Sheetmetal Trades Worker [322211]
Electrician (General) [341111]	Small Engine Mechanic [321214]
Electrician (Special Class) [341112]	Toolmaker [323412]
Fitter (General) [323211]	Vehicle Body Builder [324211]
Fitter and Turner [323212]	Vehicle Painter [324311]
Welder (First Class) [322313]	Fitter-Welder [323213]
Aircraft Maintenance Engineer (Mechanical) [323112]	

Policy provides an exemption to the skills assessment requirement in cases where mandatory registration or license has been obtained. In these cases where an applicant has obtained or has evidence that they are eligible to obtain the relevant registration or licensing, this would remove the requirement to provide a 457 visa skills assessment.

Policy also provides that the Department can request any applicant to provide a skills assessment to evidence their skills. This can be when the Department is not satisfied in relation to the documentation already supplied or has integrity concerns.

Where the role is an intra-company transfer, ie the applicant works for an overseas branch of the Australian company in a similar role, then the skills requirement is relaxed so that normally the basic skills threshold as specified in ANZSCO and ASRI would be sufficient. The policy behind this is the recognition that the company has 'tested' the employees' skills in that occupation.



English Language Requirements

If registration or licensing is required for the nominated occupation, the applicant must evidence their English language ability to the level of 5 in the IELTS examination on all four components (Regulation 457.223(4)(ea)). The applicant is required to evidence their English language ability, unless certain exemptions apply (Regulation 457.223). The exemptions are provided in a legislative instrument¹² which is extracted at Annexure F for your ease of reference

There exemptions in summary are as follows:

1. The Applicant holds a passport from UK, Ireland, USA, New Zealand or Canada
2. The base rate of pay of the applicant are more than the threshold specified in the Legislative Instrument, which is presently \$92,000
3. The nominated occupation is highly skilled - ANSZCO Major Groups 1, 2, 4, 5,6, Sub-Major Group 31 or Unit Group 3993
4. If the applicant can evidence completing at least 5 consecutive years of full-time study in a secondary and/or higher education institution where the instruction was delivered in English.

Health Requirements

The applicant and any accompanying dependent family members must meet the health requirement.

The applicant/s are only required to undertake health examinations according to the health matrix. The health matrix can be accessed via the Department of Immigration's website.

¹² Federal Register of Legislative Instruments, F2012L01275, IMMI 12/048, Commonwealth of Australia, Migration Regulations 1994, *LEVEL OF SALARY AND EXEMPTIONS TO THE ENGLISH LANGUAGE REQUIREMENT FOR SUBCLASS 457 (BUSINESS (LONG STAY)) VISAS*



There is a waiver provision for Public Interest Criteria in PIC 4006A available to business sponsors. In some cases where a health abnormality is detected, the health requirements may be waived if the sponsoring employer gives the Department a written undertaking that the employer will meet all costs related to the disease or condition that causes the applicant to fail to meet PIC 4006A(1)(c) requirements. Policy provides that there is no scope to apply the waiver if the health abnormality might result in a risk to public health.

Health Insurance Requirements

Following 14 September 2009, health costs shifted to the responsibility of the employee.

Regulation 457.324D requires the applicant/s to have adequate health insurance in place at time of visa application. It is also a mandatory condition 8501.

The type and level of health insurance required is specified in the Department's template letter accessible via their website: <http://www.immi.gov.au/skilled/457-health-insurance-faq-visa-holder.htm>

Applicants are required to evidence health insurance in place as per above minimum requirements or evidence satisfaction of Regulation 457.324D in the following ways:

1. a written letter or cover note from an acceptable health insurance provider certifying that the main applicant and any accompanying family members are, or will be immediately upon visa grant or their arrival in Australia, covered by health insurance that is at least as comprehensive as the minimum level of insurance or
2. evidence that the visa applicant has lawfully enrolled with Medicare ; or
3. evidence that the main applicant and any accompanying family members are, or will be immediately upon visa grant or their arrival in Australia, covered by insurance (including travel insurance) that is at least as comprehensive as the minimum level of insurance, with the understanding that the applicants will either enrol with Medicare under RHCA arrangements or enrol in a private health insurance arrangement after arrival; or
4. evidence that the main applicant and any accompanying family members are, or will be immediately upon visa grant or their arrival in Australia, covered by a



- corporate policy held by the sponsoring employer that is at least as comprehensive as the minimum level of insurance; or
5. for citizens from the Republic of Ireland, evidence that they hold an Irish passport.

Character Requirements

All applicants will be required to pass the character test for the visa. Penal clearances are generally not required, unless there is a character issue.

The main applicant and adult family members must sign the declarations at the end of the form 1066, 1066 (Internet) or 1066S pertaining to their character.

Family Members

Members of the primary applicant's family unit are permitted to be secondary applicants to the visa application. This generally includes partners (whether same sex, defacto or married partners) children, and other dependent persons, pursuant to the definition of dependency. All applicants must satisfy the health and character requirements, and have adequate health insurance arrangements.

The secondary applicants are to be named in the Nomination lodged by the sponsor.

If the application is made subsequent to the primary applicant being visaed first, then the employer is to provide a letter of support.

Children born to 457 visa holders are at law, pursuant to s.78 of the Act, holders of the most favourable visa held by the parent. Despite this, the Department has a policy that requires newborns to be registered with DIAC as 457 visa holders.

This is an administrative activity in order to notify DIAC of a new 457 visa holder and presently there is no application fee - as it is not an application - with this process.

Visa Period



The visa can be granted for up to 4 years, as requested in the Nomination and Visa Application.

Mandatory Condition 8107 - Work Limitation

There is imposed on the primary visa applicant, mandatory work condition 8107. It requires the visa holder to work only in the approved nominated position with the sponsor, or if the sponsor is an Australian sponsor, an associated entity of the Sponsor.

Its effect was to allow persons to change sponsors and commence work with the new sponsor, on grant of the Nomination without the need to obtain a new 457 visa.

It also permitted Australian business sponsors to have employees move between the businesses in the approved nominated role.

Should a visa holder change occupations, even though with the same sponsor, condition 8107 would require a new Nomination to be lodged and approved before the employee could commence in the new role, otherwise risk being in breach of condition 8107, and the employer, its sponsorship obligations.

Author: Marsha Bassily, Solicitor & Registered Migration Agent

Managing Partner, MB Lawyers

MBLs.com.au



Annexure A - Training Benchmarks

Federal Register of Legislative Instruments

F2012L01311

IMMI 12/062

[in effect on and from 01/07/2012 - LEGEND note]

Commonwealth of Australia

Migration Regulations 1994

SPECIFICATION OF TRAINING BENCHMARKS

(Paragraphs 2.29(d) and 2.68(e) and sub-sub-subparagraphs 5.19(4)(h)(i)(B)(I) and 5.19(4)(h)(i)(B)(II))

I, CHRIS BOWEN, Minister for Immigration and Citizenship, acting under regulations 2.59, 2.68 and 5.19 of the Migration Regulations 1994 ('the Regulations'):

1. REVOKE instrument IMMI 09/107 signed on 10 September 2009 specifying the benchmarks for the training of Australian citizens and Australian permanent residents, for the purposes of paragraphs 2.59(d) and 2.68(e) of the Regulations: AND

2. SPECIFY for the purposes of paragraphs 2.59(d) and 2.68(e) and sub-sub-subparagraphs 5.19(4)(h)(i)(B)(I) and 5.19(4)(h)(i)(B)(II) of the Regulations that the benchmarks for the training of Australian citizens and Australian permanent residents are those listed at Schedule A.

This Instrument, IMMI 12/062, commences on 1 July 2012 immediately after the commencement of the *Migration Amendment Regulation 2012 (No. 2)*.

Dated 12 June 2012

CHRIS BOWEN

Minister for Immigration and Citizenship



NOTE 1: Paragraph 2.59(d) of the Regulations provides that if an applicant is lawfully operating a business in Australia and has traded in Australia for 12 months or more - the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing made for that paragraph.

NOTE 2: Paragraph 2.68(e) of the Regulations provides that if the applicant is lawfully operating a business in Australia, and has traded in Australia for 12 months or more - the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing made for that paragraph.

NOTE 3: Sub-sub-subparagraph 5.19(4)(h)(i)(B)(I) of the Regulations provides that the nominator's business has operated for at least 12 months, and the nominator meets the requirements for the training of Australian citizens and Australian permanent residents that are specified by the Minister in an instrument in writing for that sub-sub-subparagraph.

NOTE 4: Sub-sub-subparagraph 5.19(4)(h)(i)(B)(II) of the Regulations provides that the nominator's business has operated for less than 12 months, and the nominator has an auditable plan for meeting the requirements specified in the instrument mentioned in sub-sub-subparagraph (I).

SCHEDULE A

Training Benchmarks

The business is not required to demonstrate that they are an industry leader in training.

The business is required to show that the training that has been, and continues to be, provided to employees who are Australian citizens and Australian permanent residents is related to the purpose of the business.

The training benchmarks for an established business are:

A) Recent expenditure, by the business, to the equivalent of at least 2% of the payroll of the business, in payments allocated to an industry training fund that operates in the same industry as the business, and



a commitment, by the business, to maintain expenditure in each fiscal year, to that level, for the term of approval as a sponsor.

OR

B) Recent expenditure, by the business, to the equivalent of at least 1% of the payroll of the business, in the provision of training to employees of the business, and a commitment, by the business, to maintain expenditure in each fiscal year, to that level, for the term of approval as a sponsor.

Expenditure that can count towards this benchmark includes:

- paying for a formal course of study for the business's employees who are Australian citizens and Australian permanent residents or for TAFE or University students, as part of the organisational training strategy
- funding a scholarship in a formal course of study approved under the Australian Qualifications Framework for the business's employees who are Australian citizens and Australian permanent residents or, for TAFE or University students, as part of the organisational training strategy
- employment of apprentices, trainees or recent graduates on an ongoing basis in numbers proportionate to the size of the business
- employment of a person who trains the business's Australian employees who are Australian citizens and Australian permanent residents as a key part of their job
- evidence of payment of external providers to deliver training for Australian employees
- on-the-job training that is structured with a timeframe and clearly identified increase in the skills at each stage, and demonstrating:
 - the learning outcomes of the employee at each stage;
 - how the progress of the employee will be monitored and assessed;
 - how the program will provide additional and enhanced skills;



- the use of qualified trainers to develop the program and set assessments; and
- the number of people participating and their skill/occupation

Expenditure that cannot count towards this benchmark includes training that is:

- delivered on-the-job, other than on the job training which meets the requirements outlined above under the heading 'expenditure that can count towards this benchmark'
- confined to only one or a few aspects of the businesses broader operations, unless the training is in the primary business activity
- only undertaken by persons who are not Australian citizens or permanent residents
- only undertaken by persons who are principals in the business or their family members
- only relating to a very low skill level having regard to the characteristic and size of the business.



Annexure B - Direction 52 - Accredited Status

Direction No. 52 - Priority processing for standard business sponsors with accredited status

DIRECTION NO. 52

MIGRATION ACT 1958

DIRECTION UNDER SECTION 499

PRIORITY PROCESSING FOR STANDARD BUSINESS SPONSORS WITH ACCREDITED STATUS

PREAMBLE:

The sponsor accreditation scheme is available to certain standard business sponsors of Temporary Business (Long Stay) visa (Subclass 457 visa).

This scheme recognises that certain Australian public or private businesses or government agencies have a long history of good dealings with the Department of Immigration and Citizenship, including lodging a high volume of good quality, decision-ready applications and an excellent record of compliance with relevant laws.

Accredited Status can be applied for either with a new sponsorship application or by varying an existing sponsorship application. The sponsor will be required to meet certain additional characteristics. Once the characteristics are met, the sponsor receives Accredited Status.

Accredited Status offers the following benefits to sponsors:

1. A sponsorship agreement for a standard business sponsor with Accredited Status will last for six years, instead of the standard three-year sponsorship period.
2. The sponsor with Accredited Status will receive priority processing of all future nomination applications and visa applications for the length of the sponsorship agreement.

Priority processing allows sponsors with Accredited Status to have their nomination and visa applications processed ahead of other applications from sponsors without Accredited Status.

INTRODUCTION

The purpose of this direction is to ensure that standard business sponsors with Accredited Status receive priority processing of their nomination and visa applications under section 51 of the Migration Act 1958.

THEREFORE

I, Chris Bowen, the Minister for Immigration and Citizenship, hereby give the following Direction under section 499 of the Migration Act to any person or body having functions or powers under the Act.



In this Direction, "The Act" means the Migration Act, 1958.

1. The Direction may be cited as Direction No 052 of 2011.
2. The direction commences on 7 November 2011.
3. The requirements for a standard business sponsor to receive Accredited Status are specified in Procedures Advice Manual 3 - Application for 457 Sponsorship Accreditation.
4. Section 51 of the Act provides that I may consider and dispose of applications for visas in such order as I consider appropriate.
5. This direction instructs delegates to give priority to nominations and visa applications to standard business sponsors with Accredited Status.
6. The exact order of priority processing will be determined by the delegate exercising powers or performing functions under section 51 of the Act.

Dated this 14th of October 2011

Chris Bowen

Minister for Immigration and Citizenship



Annexure C - LIST OF OCCUPATIONS

SPECIFICATION OF OCCUPATIONS FOR NOMINATIONS IN RELATION TO SUBCLASS 457 (BUSINESS (LONG STAY)) AND SUBCLASS 442 (OCCUPATIONAL TRAINEE) VISAS (F2012L01312) and SPECIFICATION OF OCCUPATIONS, A PERSON OR BODY, A COUNTRY OR COUNTRIES (F2012L01451)

Federal Register of Legislative Instruments, F2012L01312, IMMI 12/022

[in effect on and from 01/07/2012 - LEGEND note]

Commonwealth of Australia, Migration Regulations 1994

SPECIFICATION OF OCCUPATIONS FOR NOMINATIONS IN RELATION TO SUBCLASS 457 (BUSINESS (LONG STAY)) AND SUBCLASS 442 (OCCUPATIONAL TRAINEE) VISAS

(Paragraphs 2.72(10)(aa) and 2.72I(5)(ba))

I, CHRIS BOWEN, Minister for Immigration and Citizenship, acting under paragraphs 2.72(10)(aa) and 2.72I(5)(ba) of Division 2.17 of Part 2A of the Migration Regulations 1994 ('the Regulations'):

1. REVOKE Instrument number IMMI 10/085, commencing on 15 February 2011, specifying occupations for the purposes of paragraphs 2.72(10)(aa) and 2.72I(5)(ba) of the Regulations; AND
2. SPECIFY for the purposes of paragraph 2.72(10)(aa) of the Regulations, for applications made on or before 30 June 2012, the occupations listed in Schedule 1 to this instrument; AND
3. SPECIFY for the purposes of paragraph 2.72I(5)(ba) of the Regulations, for applications made on or before 30 June 2012, the occupations listed in Schedule 1 to this instrument and the occupation listed in Schedule 2 to this Instrument.

This Instrument, number IMMI 12/022, commences on 1 July 2012.

Dated 12 June 2012

CHRIS BOWEN

Minister for Immigration and Citizenship

[NOTE 1: Paragraph 2.72(10)(aa) of the Regulations provides that for standard business sponsors who make nominations in relation to Subclass 457 (Business (Long Stay)) visas on



or after 1 July 2010, the Minister must be satisfied that the nominated occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified by the Minister in an instrument in writing for the paragraph. The Minister has also specified occupations in Instrument IMMI 12/039 for the purposes of paragraph 2.27(10)(aa).

NOTE 2: Paragraph 2.72I(5)(ba) of the Regulations provides that for occupational trainee sponsors who make nominations in relation to Subclass 442 (Occupational Trainee) visas on or after 1 July 2010, the Minister must be satisfied that the nominated occupational training is in relation to an occupation specified, with its corresponding 6-digit code, by the Minister in an instrument in writing for the paragraph. The Minister has also specified occupations in Instrument IMMI 12/039 for the purposes of paragraph 2.72I(5)(ba).]

Schedule 1

ANZSCO Group Level 1

ANZSCO Code and Occupation		ANZSCO Code and Occupation	
111111	Chief Executive or Managing Director	132511	Research and Development Manager
111211	Corporate General Manager	133111	Construction Project Manager
121111	Aquaculture Farmer	133112	Project Builder
121211	Cotton Grower	133211	Engineering Manager
121212	Flower Grower	133311	Importer or Exporter
121213	Fruit or Nut Grower	133312	Wholesaler
121214	Grain, Oilseed or Pasture Grower	133411	Manufacturer
121215	Grape Grower	133511	Production Manager (Forestry)
121216	Mixed Crop Farmer	133512	Production Manager (Manufacturing)
121217	Sugar Cane Grower	133513	Production Manager (Mining)
121218	Turf Grower	133611	Supply and Distribution Manager
121221	Vegetable Grower	134111	Child Care Centre Manager
121299	Crop Farmers nec	134211	Medical Administrator
121311	Apiarist	134212	Nursing Clinical Director
121312	Beef Cattle Farmer	134213	Primary Health Organisation Manager
121313	Dairy Cattle Farmer	134214	Welfare Centre Manager
121314	Deer Farmer	134299	Health and Welfare Services Managers nec
121315	Goat Farmer	134311	School Principal
121316	Horse Breeder	134411	Faculty Head
121317	Mixed Livestock Farmer	134412	Regional Education Manager
121318	Pig Farmer	134499	Education Managers nec
121321	Poultry Farmer	135111	Chief Information Officer
121322	Sheep Farmer	135112	ICT Project Manager
121399	Livestock Farmers nec	135199	ICT Managers nec
121411	Mixed Crop and Livestock Farmer	139112	Commissioned Fire Officer
131112	Sales and Marketing Manager	139113	Commissioned Police Officer
131113	Advertising Manager	139911	Arts Administrator or Manager



131114	Public Relations Manager	139912	Environmental Manager
132111	Corporate Services Manager	139913	Laboratory Manager
132211	Finance Manager	139914	Quality Assurance Manager
132311	Human Resource Manager	139915	Sports Administrator
132411	Policy and Planning Manager	139999	Specialist Managers nec EXCEPT: • Ambassador • Archbishop • Bishop
141111	Café or Restaurant Manager (Excluding positions in Fast Food or Takeaway Food Services)	149112	Fitness Centre Manager
141211	Caravan Park and Camping Ground Manager	149113	Sports Centre Manager
141311	Hotel or Motel Manager	149211	Call or Contact Centre Manager
141411	Licensed Club Manager	149212	Customer Service Manager
141911	Bed and Breakfast Operator	149311	Conference and Event Organiser
141912	Retirement Village Manager	149411	Fleet Manager
141999	Accommodation and Hospitality Managers nec	149412	Railway Station Manager
142112	Antique Dealer	149413	Transport Company Manager
142113	Betting Agency Manager	149912	Cinema or Theatre Manager
142114	Hair or Beauty Salon Manager	149913	Facilities Manager
142115	Post Office Manager	149914	Financial Institution Branch Manager
142116	Travel Agency Manager	149915	Equipment Hire Manager
149111	Amusement Centre Manager		

ANZSCO Group Level 2

ANZSCO Code and Occupation		ANZSCO Code and Occupation	
211111	Actor	212114	Television Presenter
211112	Dancer or Choreographer	212211	Author
211113	Entertainer or Variety Artist	212212	Book or Script Editor
211199	Actors, Dancers and Other Entertainers nec	212311	Art Director (Film, Television or Stage)
211211	Composer	212312	Director (Film, Television, Radio or Stage)
211212	Music Director	212313	Director of Photography
211213	Musician (Instrumental)	212314	Film and Video Editor
211214	Singer	212315	Program Director (Television or Radio)
211299	Music Professionals nec	212316	Stage Manager



211311	Photographer	212317	Technical Director
211411	Painter (Visual Arts)	212318	Video Producer
211412	Potter or Ceramic Artist	212399	Film, Television, Radio and Stage Directors nec
211413	Sculptor	212411	Copywriter
211499	Visual Arts and Crafts Professionals nec	212412	Newspaper or Periodical Editor
212111	Artistic Director	212413	Print Journalist
212112	Media Producer (excluding Video)	212414	Radio Journalist
212113	Radio Presenter	212415	Technical Writer
212416	Television Journalist	224911	Electorate Officer
212499	Journalists and Other Writers nec	224912	Liaison Officer
221111	Accountant (General)	224914	Patents Examiner
221112	Management Accountant	224999	Information and Organisation Professionals nec
221113	Taxation Accountant	225111	Advertising Specialist
221211	Company Secretary	225112	Market Research Analyst
221212	Corporate Treasurer	225113	Marketing Specialist
221213	External Auditor	225211	ICT Account Manager
221214	Internal Auditor	225212	ICT Business Development Manager
222111	Commodities Trader	225213	ICT Sales Representative
222112	Finance Broker	225311	Public Relations Professional
222113	Insurance Broker	225411	Sales Representative (Industrial Products)
222199	Financial Brokers nec	225412	Sales Representative (Medical and Pharmaceutical Products)
222211	Financial Market Dealer	231111	Aeroplane Pilot
222212	Futures Trader	231112	Air Traffic Controller
222213	Stockbroking Dealer	231113	Flying Instructor
222299	Financial Dealers nec	231114	Helicopter Pilot
222311	Financial Investment Adviser	231199	Air Transport Professionals nec
222312	Financial Investment Manager	231211	Master Fisher
223111	Human Resource Adviser	231212	Ship's Engineer
223112	Recruitment Consultant	231213	Ship's Master
223113	Workplace Relations Adviser	231214	Ship's Officer
223211	ICT Trainer	231215	Ship's Surveyor
223311	Training and Development Professional	231299	Marine Transport Professionals nec
224111	Actuary	232111	Architect
224112	Mathematician	232112	Landscape Architect
224113	Statistician	232212	Surveyor
224211	Archivist	232213	Cartographer
224212	Gallery or Museum Curator	232214	Other Spatial Scientist

224213	Health Information Manager	232311	Fashion Designer
224214	Records Manager	232312	Industrial Designer
224311	Economist	232312	Industrial Designer
224411	Intelligence Officer	232313	Jewellery Designer
224412	Policy Analyst	232411	Graphic Designer
224511	Land Economist	232412	Illustrator
224512	Valuer	232413	Multimedia Designer
224611	Librarian	232414	Web Designer
224711	Management Consultant	232511	Interior Designer
224712	Organisation and Methods Analyst	232611	Urban and Regional Planner
233111	Chemical Engineer	234515	Botanist
233112	Materials Engineer	234516	Marine Biologist
233211	Civil Engineer	234517	Microbiologist
233212	Geotechnical Engineer	234518	Zoologist
233213	Quantity Surveyor	234599	Life Scientists nec
233214	Structural Engineer	234611	Medical Laboratory Scientist
233215	Transport Engineer	234711	Veterinarian
233311	Electrical Engineer	234911	Conservator
233411	Electronics Engineer	234912	Metallurgist
233511	Industrial Engineer	234913	Meteorologist
233512	Mechanical Engineer	234914	Physicist
233513	Production or Plant Engineer	234999	Natural and Physical Science Professionals nec
233611	Mining Engineer (excluding Petroleum)	241111	Early Childhood (Pre-primary School) Teacher
233612	Petroleum Engineer	241213	Primary School Teacher
233911	Aeronautical Engineer	241311	Middle School Teacher
233912	Agricultural Engineer	241411	Secondary School Teacher
233913	Biomedical Engineer	241511	Special Needs Teacher
233914	Engineering Technologist	241512	Teacher of the Hearing Impaired
233915	Environmental Engineer	241513	Teacher of the Sight Impaired
233916	Naval Architect	241599	Special Education Teachers nec
233999	Engineering Professional nec	242111	University Lecturer (Suitable for the position of Research Associate or Research Fellow in a university)
234111	Agricultural Consultant	242112	University Tutor
234112	Agricultural Scientist	242211	Vocational Education Teacher
234113	Forester	249111	Education Adviser
234211	Chemist	249112	Education Reviewer
234212	Food Technologist	249211	Art Teacher (Private Tuition)
234213	Wine Maker	249212	Dance Teacher (Private Tuition)
234311	Conservation Officer	249213	Drama Teacher (Private Tuition)
234312	Environmental Consultant	249214	Music Teacher (Private Tuition)

234313	Environmental Research Scientist	249311	Teacher of English to Speakers of Other Languages
234314	Park Ranger	251111	Dietitian
234399	Environmental Scientists nec	251211	Medical Diagnostic Radiographer
234411	Geologist	251212	Medical Radiation Therapist
234412	Geophysicist	251213	Nuclear Medicine Technologist
234511	Life Scientist (General)	251214	Sonographer
234512	Anatomist or Physiologist	251311	Environmental Health Officer
234513	Biochemist	251312	Occupational Health and Safety Adviser
234514	Biotechnologist	251411	Optometrist
		251412	Orthoptist
251511	Hospital Pharmacist	253322	Renal Medicine Specialist
251512	Industrial Pharmacist	253323	Rheumatologist
251513	Retail Pharmacist	253324	Thoracic Medicine Specialist
251911	Health Promotion Officer	253399	Specialist Physician nec
251912	Orthotist or Prosthetist	253411	Psychiatrist
251999	Health Diagnostic and Promotion Professionals nec	253511	Surgeon (General)
252111	Chiropractor	253512	Cardiothoracic Surgeon
252112	Osteopath	253513	Neurosurgeon
252211	Acupuncturist	253514	Orthopaedic Surgeon
252212	Homoeopath	253515	Otorhinolaryngologist
252213	Naturopath	253516	Paediatric Surgeon
252214	Traditional Chinese Medicine Practitioner	253517	Plastic and Reconstructive Surgeon
252299	Complementary Health Therapists nec	253518	Urologist
252311	Dental Specialist	253521	Vascular Surgeon
252312	Dentist	253911	Dermatologist
252411	Occupational Therapist	253912	Emergency Medicine Specialist
252511	Physiotherapist	253913	Obstetrician and Gynaecologist
252611	Podiatrist	253914	Ophthalmologist
252711	Audiologist	253915	Pathologist
252712	Speech Pathologist	253917	Diagnostic and Interventional Radiologist
253111	General Medical Practitioner	253918	Radiation Oncologist
253112	Resident Medical Officer	253999	Medical Practitioners nec
253211	Anaesthetist	254111	Midwife
253311	Specialist Physician (General Medicine)	254211	Nurse Educator
253312	Cardiologist	254212	Nurse Researcher
253313	Clinical Haematologist	254311	Nurse Manager
253314	Medical Oncologist	254411	Nurse Practitioner

253315	Endocrinologist	254412	Registered Nurse (Aged Care)
253316	Gastroenterologist	254413	Registered Nurse (Child and Family Health)
253317	Intensive Care Specialist	254414	Registered Nurse (Community Health)
253318	Neurologist	254415	Registered Nurse (Critical Care and Emergency)
253321	Paediatrician	254416	Registered Nurse (Developmental Disability)
254417	Registered Nurse (Disability and Rehabilitation)	263311	Telecommunications Engineer
254418	Registered Nurse (Medical)	263312	Telecommunications Network Engineer
254421	Registered Nurse (Medical Practice)	271111	Barrister
254422	Registered Nurse (Mental Health)	271299	Judicial and Other Legal Professionals nec
254423	Registered Nurse (Perioperative)	271311	Solicitor
254424	Registered Nurse (Surgical)	272111	Careers Counsellor
254499	Registered Nurses nec	272112	Drug and Alcohol Counsellor
261111	ICT Business Analyst	272113	Family and Marriage Counsellor
261112	Systems Analyst	272114	Rehabilitation Counsellor
261211	Multimedia Specialist	272115	Student Counsellor
261212	Web Developer	272199	Counsellors nec
261311	Analyst Programmer	272311	Clinical Psychologist
261312	Developer Programmer	272312	Educational Psychologist
261313	Software Engineer	272313	Organisational Psychologist
261314	Software Tester	272314	Psychotherapist
261399	Software and Applications Programmers nec	272399	Psychologists nec
262111	Database Administrator	272411	Historian
262112	ICT Security Specialist	272412	Interpreter
262113	Systems Administrator	272413	Translator
263111	Computer Network and Systems Engineer	272499	Social Professionals nec
263112	Network Administrator	272511	Social Worker
263113	Network Analyst	272611	Community Arts Worker
263211	ICT Quality Assurance Engineer	272612	Recreation Officer
263212	ICT Support Engineer	272613	Welfare Worker
263213	ICT Systems Test Engineer		
263299	ICT Support and Test Engineers nec		

ANZSCO Group Level 3

ANZSCO Code and Occupation		ANZSCO Code and Occupation	
311111	Agricultural Technician	311312	Meat Inspector
311211	Anaesthetic Technician	311313	Quarantine Officer

311212	Cardiac Technician	311399	Primary Products Inspectors nec
311213	Medical Laboratory Technician	311411	Chemistry Technician
311214	Operating Theatre Technician	311412	Earth Science Technician
311215	Pharmacy Technician	311413	Life Science Technician
311216	Pathology Collector	311414	School Laboratory Technician
311299	Medical Technicians nec	311499	Science Technicians nec
311311	Fisheries Officer	312111	Architectural Draftsperson
312112	Building Associate	321213	Motorcycle Mechanic
312113	Building Inspector	321214	Small Engine Mechanic
312114	Construction Estimator	322111	Blacksmith
312115	Plumbing Inspector	322112	Electroplater
312116	Surveying or Spatial Science Technician	322113	Farrier
312199	Architectural, Building and Surveying Technicians nec	322114	Metal Casting Trades Worker
312211	Civil Engineering Draftsperson	322115	Metal Polisher
312212	Civil Engineering Technician	322211	Sheetmetal Trades Worker
312311	Electrical Engineering Draftsperson	322311	Metal Fabricator
312312	Electrical Engineering Technician	322312	Pressure Welder
312411	Electronic Engineering Draftsperson	322313	Welder (First Class)
312412	Electronic Engineering Technician	323111	Aircraft Maintenance Engineer (Avionics)
312511	Mechanical Engineering Draftsperson	323112	Aircraft Maintenance Engineer (Mechanical)
312512	Mechanical Engineering Technician	323113	Aircraft Maintenance Engineer (Structures)
312611	Safety Inspector	323211	Fitter (General)
312911	Maintenance Planner	323212	Fitter and Turner
312912	Metallurgical or Materials Technician	323213	Fitter-Welder
312913	Mine Deputy	323214	Metal Machinist (First Class)
312999	Building and Engineering Technicians nec	323215	Textile, Clothing and Footwear Mechanic
313111	Hardware Technician	323299	Metal Fitters and Machinists nec
313112	ICT Customer Support Officer	323311	Engraver
313113	Web Administrator	323312	Gunsmith
313199	ICT Support Technicians nec	323313	Locksmith
313211	Radiocommunications Technician	323314	Precision Instrument Maker and Repairer
313212	Telecommunications Field Engineer	323315	Saw Maker and Repairer
313213	Telecommunications Network Planner	323316	Watch and Clock Maker and Repairer
313214	Telecommunications Technical Officer or Technologist	323411	Engineering Patternmaker



321111	Automotive Electrician	323412	Toolmaker
321211	Motor Mechanic (General)	324111	Panelbeater
321212	Diesel Motor Mechanic	324211	Vehicle Body Builder
324212	Vehicle Trimmer	342412	Telecommunications Cable Jointer
324311	Vehicle Painter	342413	Telecommunications Linesworker
331111	Bricklayer	342414	Telecommunications Technician
331112	Stonemason	351111	Baker
331211	Carpenter and Joiner	351112	Pastrycook
331212	Carpenter	351211	Butcher or Smallgoods Maker (Excluding the activity of slaughtering animals, or primarily boning, slicing or packaging meat in a non-retail setting.)
331213	Joiner	351311	Chef
332111	Floor Finisher	351411	Cook
332211	Painting Trades Worker	361111	Dog Handler or Trainer
333111	Glazier	361112	Horse Trainer
333211	Fibrous Plasterer	361114	Zookeeper
333212	Solid Plasterer	361199	Animal Attendants and Trainers nec EXCEPT: 1. Crutching Contractor 2. Muleser 3. Kennel Hand
333311	Roof Tiler	361211	Shearer
333411	Wall and Floor Tiler	361311	Veterinary Nurse
334111	Plumber (General)	362111	Florist
334112	Airconditioning and Mechanical Services Plumber	362211	Gardener (General)
334113	Drainer	362212	Arborist
334114	Gasfitter	362213	Landscape Gardener
334115	Roof Plumber	362311	Greenkeeper
341111	Electrician (General)	362411	Nurseryperson
341112	Electrician (Special Class)	391111	Hairdresser
341113	Lift Mechanic	392111	Print Finisher
342111	Airconditioning and Refrigeration Mechanic	392112	Screen Printer
342211	Electrical Linesworker	392211	Graphic Pre-press Trades Worker
342212	Technical Cable Jointer	392311	Printing Machinist
342311	Business Machine Mechanic	392312	Small Offset Printer
342312	Communications Operator	393111	Canvas Goods Fabricator
342313	Electronic Equipment Trades Worker	393112	Leather Goods Maker



342314	Electronic Instrument Trades Worker (General)	393113	Sail Maker
342315	Electronic Instrument Trades Worker (Special Class)	393114	Shoemaker
342411	Cabler (Data and Telecommunications)	393211	Apparel Cutter
393212	Clothing Patternmaker	399411	Jeweller
393213	Dressmaker or Tailor	399511	Broadcast Transmitter Operator
393299	Clothing Trades Workers nec	399512	Camera Operator (Film, Television or Video)
393311	Upholsterer	399513	Light Technician
394111	Cabinetmaker	399514	Make Up Artist
394211	Furniture Finisher	399515	Musical Instrument Maker or Repairer
394212	Picture Framer	399516	Sound Technician
394213	Wood Machinist	399517	Television Equipment Operator
394214	Wood Turner	399611	Signwriter
394299	Wood Machinists and Other Wood Trades Workers nec	399911	Diver
399111	Boat Builder and Repairer	399912	Interior Decorator
399112	Shipwright	399913	Optical Dispenser
399211	Chemical Plant Operator	399914	Optical Mechanic
399212	Gas or Petroleum Operator	399916	Plastics Technician
399213	Power Generation Plant Operator	399917	Wool Classer
399311	Gallery or Museum Technician	399918	Fire Protection Equipment Technician
399312	Library Technician	399999	Technicians and Trades Workers nec

ANZSCO Group Level 4

ANZSCO Code and Occupation		ANZSCO Code and Occupation	
411111	Ambulance Officer	411716	Youth Worker
411112	Intensive Care Ambulance Paramedic	441211	Emergency Service Worker
411211	Dental Hygienist	441212	Fire Fighter
411212	Dental Prosthetist	441311	Detective
411213	Dental Technician	441312	Police Officer
411214	Dental Therapist	442111	Prison Officer
411411	Enrolled Nurse	442216	Security Consultant
411412	Mothercraft Nurse	451311	Funeral Director
411511	Aboriginal and Torres Strait Islander Health Worker	451399	Funeral Workers nec EXCEPT: • Chapel or Memorial Attendant • Funeral Director's Assistant
411611	Massage Therapist	452311	Diving Instructor (Open Water)



411711	Community Worker	452312	Gymnastics Coach or Instructor
411712	Disabilities Services Officer	452313	Horse Riding Coach or Instructor
411713	Family Support Worker	452314	Snowsport Instructor
411714	Parole or Probation Officer	452315	Swimming Coach or Instructor
411715	Residential Care Officer	452316	Tennis Coach
		452317	Other Sports Coach or Instructor
452318	Dog or Horse Racing Official	452411	Footballer
452321	Sports Development Officer	452412	Golfer
452322	Sports Umpire	452413	Jockey
452323	Other Sports Official	452499	Sportspersons nec

ANZSCO Group Level 5

511111	Contract Administrator
511112	Program or Project Administrator

ANZSCO Group Level 6

611112	Stock and Station Agent
612113	Real Estate Agency Principal
639211	Retail Buyer
639212	Wool Buyer

ANZSCO Group Level 7

712211	Driller
--------	---------

Schedule 2

ANZSCO Code and Occupation	
272211	Minister of Religion

In this Instrument:

1. ANZSCO means, under regulation 1.03 of the Regulations, the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics as current on 1 July 2010. This is the ANZSCO - First Edition, incorporating Revision 1 (ABS Catalogue No. 1220.0) and is available online at <http://www.abs.gov.au>.
2. nec means “not elsewhere classified”.
3. The Australian Bureau of Statistics defines Cafés and Restaurants and Takeaway Food Service premises under the Australian and New Zealand Standard Industrial Classification (ANZSIC).



4. ANZSIC Class 4511 Cafes and Restaurants

This class consists of units mainly engaged in providing food and beverage serving services for consumption on the premises. Customers generally order and are served while seated (i.e. waiter/waitress service) and pay after eating.

5. ANZSIC Class 4512 Takeaway Food Services

This class consists of units mainly engaged in providing food services ready to be taken away for immediate consumption. Customers order or select items and pay before eating. Items are usually provided in takeaway containers or packaging. Food is consumed on the premises in limited seating facilities, taken away by the customer or delivered. This class also includes units mainly engaged in supplying food services in food halls and food courts.

Federal Register of Legislative Instruments, F2012L01451, IMMI 12/039

[in effect on and from 01/07/2012 - LEGEND note]

Commonwealth of Australia, Migration Regulations 1994

SPECIFICATION OF OCCUPATIONS, A PERSON OR BODY, A COUNTRY OR COUNTRIES

(subregulations 1.15I(1) and 2.26B(1), paragraphs 2.72(10)(aa) and 2.72I(5)(ba) and sub-subparagraph 5.19(4)(h)(i)(A) and item 4(a) of the table in subitem 1137(4), item 4(a) of the table in subitem 1138(4) and item 4(a) of the table in subitem 1230(4) and subparagraphs 1136(4)(b)(ii), 1136(5)(b)(ii), 1136(6)(b)(iii), 1229(4)(b)(ii), 1229(5)(b)(ii), 1229(6)(b)(iii) and 1229(7)(b)(ii) and paragraph 186.234(2)(a))

I, *CHRIS BOWEN*, Minister for Immigration and Citizenship, acting under subregulations 1.15I(1) and 2.26B(1), paragraphs 2.72(10)(aa) and 2.72I(5)(ba) and sub-subparagraph 5.19(4)(h)(i)(A) and item 4(a) of the table in subitem 1137(4), item 4(a) of the table in subitem 1138(4) and item 4(a) of the table in subitem 1230(4) and subparagraphs 1136(4)(b)(ii), 1136(5)(b)(ii), 1136(6)(b)(iii), 1229(4)(b)(ii), 1229(5)(b)(ii), 1229(6)(b)(iii) and 1229(7)(b)(ii) of Schedule 1 and paragraph 186.234(2)(a) of Schedule 2 to the *Migration Regulations 1994* ('the Regulations'):

1. SPECIFY for the purposes of paragraph 2.72(10)(aa) and 2.72I(5)(b) of the Regulations, the occupations and their corresponding 6-digit code listed in Columns A and B of Schedule 1 and Columns A and B of Schedule 2 to this instrument; AND

2. SPECIFY, in relation to a person who applies on or after 1 July 2012, for a:

(a) subclass 189 visa;

(b) subclass 485 visa;



(c) subclass 487 visa if the applicant is not nominated by a State or Territory government agency;

(d) subclass 489 visa if the applicant is not nominated by a State or Territory government agency;

(e) subclass 885 visa; or

(f) subclass 886 visa if the applicant is not nominated by a State or Territory government agency;

the following:

(i) for the purposes of paragraph 1.15I(1)(a) of the Regulations, each occupation listed in Column A of Schedule 1 to this instrument is to be a skilled occupation that is applicable to the person; and

(ii) for the purposes of paragraph 2.26B(1)(a) of the Regulations, the person or body listed in Column D of Schedule 1 to this instrument is the relevant assessing authority for the corresponding skilled occupation listed in Column A of Schedule 1 to this instrument; and

(iii) for the purposes of paragraph 2.26B(1)(b) of the Regulations, the country or countries corresponding to each skilled occupation listed in Column A of Schedule 1 and relevant assessing authority listed in Column D of Schedule 1 to this instrument as the country or countries for which the specified person or body is the relevant assessing authority for the purposes of an application for a skills assessment in that skilled occupation made by a resident of one of those countries included in Column C of Schedule 1 to this instrument; and

(iv) for the purposes of subparagraphs 1136(4)(b)(ii), 1136(5)(b)(ii), 1136(6)(b)(iii), 1229(4)(b)(ii), 1229(5)(b)(ii), 1229(6)(b)(iii) and 1229(7)(b)(ii) and item 4(a) of the table in subitem 1137(4) and item 4(a) of the table in subitem 1230(4) of Schedule 1 to the Regulations, each skilled occupation in Column A of Schedule 1 to this instrument that is applicable to the person.

3. SPECIFY, in relation to a person who is nominated by a State or Territory government agency and who applies, or who is the spouse or de facto partner of a person who is nominated by a State or Territory government agency who applies, on or after 1 July 2012 for a:

(a) subclass 487 visa

(b) subclass 886 visa;

(c) subclass 190 visa; or

(d) subclass 489 visa;

the following:



(i) for the purposes of paragraph 1.15I(1)(a) of the Regulations, each occupation listed in Column A of Schedule 1 and Column A of Schedule 2 to this instrument is to be a skilled occupation that is applicable to the person; and

(ii) for the purposes of paragraph 2.26B(1)(a) of the Regulations, the person or body listed in Column D of Schedule 1 and Column D of Schedule 2 to this instrument is the relevant assessing authority for the corresponding skilled occupation listed in Column A of Schedule 1 and Column A of Schedule 2 to this instrument; and

(iii) for the purposes of paragraph 2.26B(1)(b) of the Regulations, the country or countries corresponding to each skilled occupation listed in Column A of Schedule 1 and Column A of Schedule 2 and relevant assessing authority listed in Column D of Schedule 1 and Column D of Schedule 2 to this instrument as the country or countries for which the specified person or body is the relevant assessing authority for the purposes of an application for a skills assessment in that skilled occupation made by a resident of one of those countries included in Column C of Schedule 1 and Column C of Schedule 2 to this instrument; and

(iv) for the purposes subparagraphs 1136(4)(b)(ii), 1136(5)(b)(ii), 1136(6)(b)(iii), 1229(4)(b)(ii), 1229(5)(b)(ii), 1229(6)(b)(iii) and 1229(7)(b)(ii) and item 4(a) of the table in subitem 1138(4) and item 4(a) of the table in subitem 1230(4) of Schedule 1 to the Regulations each skilled occupation in Column A of Schedule 1 and Column A of Schedule 2 to this instrument that is applicable to the person.

4. SPECIFY for the purposes of sub-subparagraph 5.19(4)(h)(i)(A) of the Regulations each occupation listed in Column A of Schedule 1 and Column A of Schedule 2 to this instrument; AND

5. SPECIFY for the purposes of paragraph 186.234(2)(a) of Schedule 2 to the Regulations each person or body listed in Column D of Schedule 1 and Column D of Schedule 2 to this instrument as the assessing authority for the corresponding occupation listed in Column A of Schedule 1 and Column A of Schedule 2 to this instrument.

This Instrument, IMMI 12/039, commences on 1 July 2012, immediately after the commencement of *Migration Amendment Regulation 2012 (No. 2)*.

Dated 28 June 2012

CHRIS BOWEN

Minister for Immigration and Citizenship

[NOTE 1: Subregulation 1.15I(1) of the Regulations provides that a *skilled occupation*, in relation to a person, means an occupation of a kind that is specified by the Minister in an instrument in writing to be a skilled occupation, for which a number of points specified in the instrument are available, and is applicable to the person in accordance with the specification. The Minister has also specified skilled occupations in Instrument IMMI 12/023, IMMI 12/065 and IMMI 12/068 (for the purposes of subregulation 1.15I(1)).



NOTE 2: Subregulation 2.26B(1) provides that the Minister may, by an instrument in writing, specify a person or body as the relevant assessing authority for a skilled occupation (if the person or body is approved in writing by the Education Minister or the Employment Minister as the relevant assessing authority for the occupation) and one or more countries, for the purposes of an application for a skills assessment made by a resident of one of those countries. The Minister has also specified assessing authorities in Instrument IMMI 12/023, IMMI 12/065 and IMMI 12/068 (for the purposes of subregulation 2.26B(1)).

NOTE 3: Paragraph 2.72(10)(aa) provides that for standard business sponsors who make nominations in relation to Subclass 457 (Business (Long Stay)) visas on or after 1 July 2012, the Minister must be satisfied that the nominated occupation and its corresponding 6-digit code correspond to an occupation and its corresponding 6-digit code specified by the Minister in an instrument in writing for the paragraph. The Minister has also specified occupations in Instrument IMMI 12/022 (for the purposes of 2.72(10)(aa)).

NOTE 4: Paragraph 2.72I(5)(ba) provides that for occupational trainee sponsors who make nominations in relation to Subclass 442 (Occupational Trainee) visas on or after 1 July 2012, the Minister must be satisfied that the nominated occupational training is in relation to an occupation specified, with its corresponding 6-digit code, by the Minister in an instrument in writing for the paragraph. The Minister has also specified occupations in Instrument IMMI 12/022 (for the purposes of 2.72I(5)(ba)).

NOTE 5: Sub-subparagraph 5.19(4)(h)(i)(A) provides that the Minister must, in writing, approve a nomination if the tasks to be performed in the position will be performed in Australia and correspond to the tasks of an occupation specified by the Minister in an instrument in writing.

NOTE 6: Subparagraphs 1136(4)(b)(ii), 1136(5)(b)(ii) and 1136(6)(b)(iii) of Schedule 1 provide that the applicant must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing.

NOTE 7: Item 4(a) of the table in subitem 1137(4) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled – Independent (Permanent) (Class SI) visa must nominate a skilled occupation that is specified by the Minister in an instrument in writing as a skilled occupation at the time of invitation to apply for the visa.

NOTE 8: Item 4(a) of the table in subitem 1138(4) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled – Nominated (Permanent) (Class SN) visa must nominate a skilled occupation that is specified by the Minister in an instrument in writing as a skilled occupation at the time of invitation to apply for the visa.

NOTE 9: Subparagraphs 1229(4)(b)(ii), 1229(5)(b)(ii), 1229(6)(b)(iii) and 1229(7)(b)(ii) provide that the applicant must nominate a skilled occupation for the applicant that is specified by the Minister in an instrument in writing.

NOTE 10: Item 4(a) of the table in subitem 1230(4) provides that an applicant seeking to satisfy the primary criteria for the grant of a Skilled – Regional Sponsored (Provisional) (Class SP) visa must nominate a skilled occupation that is specified by the Minister in an instrument in writing as a skilled occupation at the time of invitation to apply for the visa.



NOTE 11: Paragraph 186.234(2)(a) of Schedule 2 provides that, for certain applicants seeking to satisfy the primary criteria for Direct Entry stream, an assessing authority specified by the Minister in an instrument in writing, as the assessing authority for the occupation, has assessed the applicant's skills as suitable for the occupation.

NOTE 12: Subsection 56(1) of the *Legislative Instruments Act 2003* provides that if the enabling legislation in relation to a legislative instrument as in force at any time before the commencing day of that Act (1 January 2005) required the text of the instrument, or particulars of its making, to be published in the *Gazette*, the requirement for publication in the *Gazette* is taken, in relation to any such instrument made on or after that day, to be satisfied if the instrument is registered.]

Schedule 1 – Skilled Occupation List (SOL)

(Specification of occupations, countries, and assessing authorities for the purposes of paragraphs 2 and 3, specification of occupations and assessing authorities for the purposes of paragraphs 4 and 5 and specification of occupations for the purposes of paragraph 1 of this instrument)

Column A	Column B	Column C	Column D
OCCUPATION	ANZSCO CODE	COUNTRY	ASSESSING AUTHORITY
Construction Project Manager	133111	All	VETASSESS
Project Builder	133112	All	VETASSESS
Engineering Manager	133211	All	Engineers Australia/AIM
Production Manager (Mining)	133513	All	VETASSESS
Child Care Centre Manager	134111	All	TRA
Medical Administrator	134211	All	VETASSESS
Nursing Clinical Director	134212	All	ANMAC
Primary Health Organisation Manager	134213	All	ANMAC
Welfare Centre Manager	134214	All	VETASSESS
Accountant (General)	221111	All	CPA/ICAA/IPA
Management Accountant	221112	All	CPA/ICAA/IPA
Taxation Accountant	221113	All	CPA/ICAA/IPA
External Auditor	221213	All	CPA/ICAA/IPA
Internal Auditor	221214	All	VETASSESS
Actuary	224111	All	VETASSESS
Land Economist	224511	All	VETASSESS
Valuer	224512	All	VETASSESS
Ship's Engineer	231212	All	AMSA
Ship's Master	231213	All	AMSA
Ship's Officer	231214	All	AMSA
Architect	232111	All	AACA
Landscape Architect	232112	All	VETASSESS
Cartographer	232213	All	VETASSESS



Other Spatial Scientist	232214	All	VETASSESS
Surveyor	232212	All	SSSI
Urban and Regional Planner	232611	All	VETASSESS
Chemical Engineer	233111	All	Engineers Australia
Materials Engineer	233112	All	Engineers Australia
Civil Engineer	233211	All	Engineers Australia
Geotechnical Engineer	233212	All	Engineers Australia
Quantity Surveyor	233213	All	AIQS
Structural Engineer	233214	All	Engineers Australia
Transport Engineer	233215	All	Engineers Australia
Electrical Engineer	233311	All	Engineers Australia
Electronics Engineer	233411	All	Engineers Australia
Industrial Engineer	233511	All	Engineers Australia
Mechanical Engineer	233512	All	Engineers Australia
Production or Plant Engineer	233513	All	Engineers Australia
Mining Engineer (Excluding Petroleum)	233611	All	Engineers Australia
Petroleum Engineer	233612	All	Engineers Australia
Aeronautical Engineer	233911	All	Engineers Australia
Agricultural Engineer	233912	All	Engineers Australia
Biomedical Engineer	233913	All	Engineers Australia
Engineering Technologist	233914	All	Engineers Australia
Environmental Engineer	233915	All	Engineers Australia
Naval Architect	233916	All	Engineers Australia
Agricultural Consultant	234111	All	VETASSESS
Agricultural Scientist	234112	All	VETASSESS
Forester	234113	All	VETASSESS
Medical Laboratory Scientist	234611	All	AIMS
Veterinarian	234711	All	AVBC
Metallurgist	234912	All	VETASSESS
Physicist (Medical Physicist only)	234914	All	ACPSEM
Early Childhood (Pre-Primary School) Teacher	241111	All	NOOSR/AITSL
Secondary School Teacher	241411	All	NOOSR/AITSL
Special Needs Teacher	241511	All	AITSL
Teacher of the Hearing Impaired	241512	All	AITSL
Teacher of the Sight Impaired	241513	All	AITSL
Special Education Teachers nec	241599	All	AITSL
Medical Diagnostic Radiographer	251211	All	AIR
Medical Radiation Therapist	251212	All	AIR
Nuclear Medicine Technologist	251213	All	ANZSNM
Sonographer	251214	All	AIR
Environmental Health Officer	251311	All	VETASSESS



Occupational Health and Safety Advisor	251312	All	VETASSESS
Optometrist	251411	All	OCANZ
Hospital Pharmacist	251511	All	APharmC
Retail Pharmacist	251513	All	APharmC
Chiropractor	252111	All	CCEA
Osteopath	252112	All	ANZOC
Dental Specialist	252311	All	ADC
Dentist	252312	All	ADC
Occupational Therapist	252411	All	OTC
Physiotherapist	252511	All	APC
Podiatrist	252611	All	APodC/ANZPAC
Speech Pathologist	252712	All	SPA
General Medical Practitioner	253111	All	Medical Board of Australia
Anaesthetist	253211	All	Medical Board of Australia
Specialist Physician (General Medicine)	253311	All	Medical Board of Australia
Cardiologist	253312	All	Medical Board of Australia
Clinical Haematologist	253313	All	Medical Board of Australia
Medical Oncologist	253314	All	Medical Board of Australia
Endocrinologist	253315	All	Medical Board of Australia
Gastroenterologist	253316	All	Medical Board of Australia
Intensive Care Specialist	253317	All	Medical Board of Australia
Neurologist	253318	All	Medical Board of Australia
Paediatrician	253321	All	Medical Board of Australia
Renal Medicine Specialist	253322	All	Medical Board of Australia
Rheumatologist	253323	All	Medical Board of Australia
Thoracic Medicine Specialist	253324	All	Medical Board of Australia
Specialist Physicians nec	253399	All	Medical Board of Australia
Psychiatrist	253411	All	Medical Board of Australia
Surgeon (General)	253511	All	Medical Board of Australia
Cardiothoracic Surgeon	253512	All	Medical Board of Australia
Neurosurgeon	253513	All	Medical Board of Australia
Orthopaedic Surgeon	253514	All	Medical Board of Australia
Otorhinolaryngologist	253515	All	Medical Board of Australia
Paediatric Surgeon	253516	All	Medical Board of Australia
Plastic and Reconstructive Surgeon	253517	All	Medical Board of Australia
Urologist	253518	All	Medical Board of Australia
Vascular Surgeon	253521	All	Medical Board of Australia
Dermatologist	253911	All	Medical Board of Australia
Emergency Medicine Specialist	253912	All	Medical Board of Australia
Obstetrician and Gynaecologist	253913	All	Medical Board of Australia
Ophthalmologist	253914	All	Medical Board of Australia



Pathologist	253915	All	Medical Board of Australia
Diagnostic and Interventional Radiologist	253917	All	Medical Board of Australia
Radiation Oncologist	253918	All	Medical Board of Australia
Medical Practitioners nec	253999	All	Medical Board of Australia
Midwife	254111	All	ANMAC
Nurse Practitioner	254411	All	ANMAC
Registered Nurse (Aged Care)	254412	All	ANMAC
Registered Nurse (Child and Family Health)	254413	All	ANMAC
Registered Nurse (Community Health)	254414	All	ANMAC
Registered Nurse (Critical Care and Emergency)	254415	All	ANMAC
Registered Nurse (Development Disability)	254416	All	ANMAC
Registered Nurse (Disability and Rehabilitation)	254417	All	ANMAC
Registered Nurse (Medical)	254418	All	ANMAC
Registered Nurse (Medical Practice)	254421	All	ANMAC
Registered Nurse (Mental Health)	254422	All	ANMAC
Registered Nurse (Perioperative)	254423	All	ANMAC
Registered Nurse (Surgical)	254424	All	ANMAC
Registered Nurse nec	254499	All	ANMAC
ICT business Analyst	261111	All	ACS
Systems Analyst	261112	All	ACS
Analyst Programmer	261311	All	ACS
Developer Programmer	261312	All	ACS
Software Engineer	261313	All	ACS
Computer Network and Systems Engineer	263111	All	ACS
Telecommunications Engineer	263311	All	Engineers Australia
Telecommunications Network Engineer	263312	All	Engineers Australia
Barrister	271111	All	SLAA
Solicitor	271311	All	SLAA
Clinical Psychologist	272311	All	APS
Educational Psychologist	272312	All	APS
Organisational Psychologist	272313	All	APS
Psychotherapist	272314	All	VETASSESS
Psychologists nec	272399	All	APS
Social Worker	272511	All	AASW
Civil Engineering Draftsperson	312211	All	Engineers Australia/ VETASSESS
Civil Engineering Technician	312212	All	VETASSESS



Electrical Engineering Draftsperson	312311	All	Engineers Australia
Electrical Engineering Technician	312312	All	TRA
Radio Communications Technician	313211	All	TRA
Telecommunications Field Engineer	313212	All	Engineers Australia
Telecommunications Network Planner	313213	All	Engineers Australia
Telecommunications Technical Officer or Technologist	313214	All	Engineers Australia
Automotive Electrician	321111	All	TRA
Motor Mechanic (General)	321211	All	TRA
Diesel Motor Mechanic	321212	All	TRA
Motorcycle Mechanic	321213	All	TRA
Small Engine Mechanic	321214	All	TRA
Sheetmetal Trades Worker	322211	All	TRA
Metal Fabricator	322311	All	TRA
Pressure Welder	322312	All	TRA
Welder (First Class)	322313	All	TRA
Aircraft Maintenance Engineer (Avionics)	323111	All	TRA
Aircraft Maintenance Engineer (Mechanical)	323112	All	TRA
Aircraft Maintenance Engineer (Structures)	323113	All	TRA
Fitter (General)	323211	All	TRA
Fitter and Turner	323212	All	TRA
Fitter-Welder	323213	All	TRA
Metal Machinist (First Class)	323214	All	TRA
Locksmith	323313	All	TRA
Stonemason	331112	All	TRA
Carpenter and Joiner	331211	All	TRA
Carpenter	331212	All	TRA
Joiner	331213	All	TRA
Painting trades workers	332211	All	TRA
Glazier	333111	All	TRA
Fibrous Plasterer	333211	All	TRA
Solid Plasterer	333212	All	TRA
Plumber (General)	334111	All	TRA
Airconditioning and Mechanical Services Plumber	334112	All	TRA
Drainer	334113	All	TRA
Gasfitter	334114	All	TRA
Roof plumber	334115	All	TRA
Electrician (General)	341111	All	TRA
Electrician (Special Class)	341112	All	TRA



Lift Mechanic	341113	All	TRA
Airconditioning and Refrigeration Mechanic	342111	All	TRA
Electrical Linesworker	342211	All	TRA
Technical Cable Jointer	342212	All	TRA
Electronic Equipment Trades Worker	342313	All	TRA
Electronic Instrument Trades Worker (General)	342314	All	TRA
Electronic Instrument Trades Worker (Special Class)	342315	All	TRA
Boat Builder and Repairer	399111	All	TRA
Shipwright	399112	All	TRA
Dental Hygienist	411211	All	VETASSESS
Dental Prosthetist	411212	All	TRA
Dental Technician	411213	All	TRA
Dental Therapist	411214	All	VETASSESS

Schedule 2 – Consolidated Sponsored Occupation List (CSOL)

(Specification of occupations, countries, and assessing authorities for the purposes of paragraph 3, specification of occupations and assessing authorities for the purposes of paragraphs 4 and 5 and specification of occupations for the purposes of paragraph 1 of this instrument)

Column A	Column B	Column C	Column D
OCCUPATION	ANZSCO CODE	COUNTRY	ASSESSING AUTHORITY
Chief Executive or Managing Director	111111	All	AIM
Corporate General Manager	111211	All	AIM
Defence Force Senior Officer	111212	All	VETASSESS
Aquaculture Farmer	121111	All	VETASSESS
Cotton Grower	121211	All	VETASSESS
Flower Grower	121212	All	VETASSESS
Fruit or Nut Grower	121213	All	VETASSESS
Grain, Oilseed or Pasture Grower (Aus) / Field Crop Grower (NZ)	121214	All	VETASSESS
Grape Grower	121215	All	VETASSESS
Mixed Crop Farmer	121216	All	VETASSESS
Sugar Cane Grower	121217	All	VETASSESS
Turf Grower	121218	All	VETASSESS
Vegetable Grower (Aus) / Market Gardener (NZ)	121221	All	VETASSESS
Crop Farmers nec	121299	All	VETASSESS
Apiarist	121311	All	VETASSESS



Beef Cattle Farmer	121312	All	VETASSESS
Dairy Cattle Farmer	121313	All	VETASSESS
Deer Farmer	121314	All	VETASSESS
Goat Farmer	121315	All	VETASSESS
Horse Breeder	121316	All	VETASSESS
Mixed Livestock Farmer	121317	All	VETASSESS
Pig Farmer	121318	All	VETASSESS
Poultry Farmer	121321	All	VETASSESS
Sheep Farmer	121322	All	VETASSESS
Livestock Farmers nec	121399	All	VETASSESS
Mixed Crop and Livestock Farmer	121411	All	VETASSESS
Sales and Marketing Manager	131112	All	AIM
Advertising Manager	131113	All	AIM
Public Relations Manager	131114	All	AIM
Corporate Services Manager	132111	All	VETASSESS
Finance Manager	132211	All	CPAA/ICAA/IPA
Human Resource Manager	132311	All	AIM
Policy and Planning Manager	132411	All	VETASSESS
Research and Development Manager	132511	All	VETASSESS
Importer or Exporter	133311	All	VETASSESS
Wholesaler	133312	All	VETASSESS
Manufacturer	133411	All	VETASSESS
Production Manager (Forestry)	133511	All	VETASSESS
Production Manager (Manufacturing)	133512	All	VETASSESS
Supply and Distribution Manager	133611	All	AIM
Health and Welfare Services Managers nec	134299	All	VETASSESS
School Principal	134311	All	VETASSESS
Faculty Head	134411	All	VETASSESS
Regional Education Manager	134412	All	VETASSESS
Education Managers nec	134499	All	VETASSESS
Chief Information Officer	135111	All	ACS
ICT Project Manager	135112	All	ACS
ICT Managers nec	135199	All	ACS
Commissioned Defence Force Officer	139111	All	VETASSESS
Commissioned Fire Officer	139112	All	VETASSESS
Commissioned Police Officer	139113	All	VETASSESS
Senior Non-Commissioned Defence Force Member	139211	All	VETASSESS
Art Administrator or Manager	139911	All	VETASSESS
Environmental Manager	139912	All	VETASSESS
Laboratory Manager	139913	All	VETASSESS
Quality Assurance Manager	139914	All	VETASSESS



Sports Administrator	139915	All	VETASSESS
Specialist Managers nec EXCEPT: · Ambassador · Archbishop · Bishop	139999	All	VETASSESS
Cafe or Restaurant Manager (Excluding positions in Fast Food or Takeaway Food Services)	141111	All	VETASSESS
Caravan Park and Camping Ground Manager	141211	All	VETASSESS
Hotel or Motel Manager	141311	All	VETASSESS
Licensed Club Manager	141411	All	VETASSESS
Bed and Breakfast Operator	141911	All	VETASSESS
Retirement Village Manager	141912	All	VETASSESS
Accommodation and Hospitality Managers nec	141999	All	VETASSESS
Antique Dealer	142112	All	VETASSESS
Betting Agency Manager	142113	All	VETASSESS
Hair or Beauty Salon Manager	142114	All	VETASSESS
Post Office Manager	142115	All	VETASSESS
Travel Agency Manager	142116	All	VETASSESS
Amusement Centre Manager	149111	All	VETASSESS
Fitness Centre Manager	149112	All	VETASSESS
Sports Centre Manager	149113	All	VETASSESS
Call or Contact Centre Manager	149211	All	VETASSESS
Customer Service Manager	149212	All	VETASSESS
Conference and Event Organiser	149311	All	VETASSESS
Fleet Manager	149411	All	VETASSESS
Railway Station Manager	149412	All	VETASSESS
Transport Company Manager	149413	All	VETASSESS
Boarding Kennel or Cattery Operator	149911	All	VETASSESS
Cinema or Theatre Manager	149912	All	VETASSESS
Facilities Manager	149913	All	VETASSESS
Financial Institution Branch Manager	149914	All	VETASSESS
Equipment Hire Manager	149915	All	VETASSESS
Actor	211111	All	VETASSESS
Dancer or Choreographer	211112	All	VETASSESS
Entertainer or Variety Artist	211113	All	VETASSESS
Actors, Dancers and Other Entertainers nec	211199	All	VETASSESS
Composer	211211	All	VETASSESS
Music Director	211212	All	VETASSESS
Musician (Instrumental)	211213	All	VETASSESS



Singer	211214	All	VETASSESS
Music Professionals nec	211299	All	VETASSESS
Photographer	211311	All	VETASSESS
Painter (Visual Arts)	211411	All	VETASSESS
Potter or Ceramic Artist	211412	All	VETASSESS
Sculptor	211413	All	VETASSESS
Visual Arts and Crafts Professionals nec	211499	All	VETASSESS
Artistic Director	212111	All	VETASSESS
Media Producer (Excluding Video)	212112	All	VETASSESS
Radio Presenter	212113	All	VETASSESS
Television Presenter	212114	All	VETASSESS
Author	212211	All	VETASSESS
Book or Script Editor	212212	All	VETASSESS
Art Director (Film, Television or Stage)	212311	All	VETASSESS
Director (Film, Television, Radio or Stage)	212312	All	VETASSESS
Director of Photography	212313	All	VETASSESS
Film and Video Editor	212314	All	VETASSESS
Program Director (Television or Radio)	212315	All	VETASSESS
Stage Manager	212316	All	VETASSESS
Technical Director	212317	All	VETASSESS
Video Producer	212318	All	VETASSESS
Film, Television, Radio and Stage Directors nec	212399	All	VETASSESS
Copywriter	212411	All	VETASSESS
Newspaper or Periodical Editor	212412	All	VETASSESS
Print Journalist	212413	All	VETASSESS
Radio Journalist	212414	All	VETASSESS
Technical Writer	212415	All	VETASSESS
Television Journalist	212416	All	VETASSESS
Journalists and Other Writers nec	212499	All	VETASSESS
Company Secretary	221211	All	VETASSESS
Corporate Treasurer	221212	All	CFAA/ICAA/IPA
Commodities Trader	222111	All	VETASSESS
Finance Broker	222112	All	VETASSESS
Insurance Broker	222113	All	VETASSESS
Financial Brokers nec	222199	All	VETASSESS
Financial Market Dealer	222211	All	VETASSESS
Futures Trader	222212	All	VETASSESS
Stockbroking Dealer	222213	All	VETASSESS



Financial Dealers nec	222299	All	VETASSESS
Financial Investment Adviser	222311	All	VETASSESS
Financial Investment Manager	222312	All	VETASSESS
Human Resource Adviser	223111	All	VETASSESS
Recruitment Consultant	223112	All	VETASSESS
Workplace Relations Adviser	223113	All	VETASSESS
ICT Trainer	223211	All	ACS
Training and Development Professional	223311	All	VETASSESS
Mathematician	224112	All	VETASSESS
Statistician	224113	All	VETASSESS
Archivist	224211	All	VETASSESS
Gallery or Museum Curator	224212	All	VETASSESS
Health Information Manager	224213	All	VETASSESS
Records Manager	224214	All	VETASSESS
Economist	224311	All	VETASSESS
Intelligence Officer	224411	All	VETASSESS
Policy Analyst	224412	All	VETASSESS
Librarian	224611	All	VETASSESS
Management Consultant	224711	All	VETASSESS
Organisation and Methods Analyst	224712	All	VETASSESS
Electorate Officer	224911	All	VETASSESS
Liaison Officer	224912	All	VETASSESS
Migration Agent (Aus)	224913	All	VETASSESS
Patents Examiner	224914	All	VETASSESS
Information and Organisation Professionals nec	224999	All	VETASSESS
Advertising Specialist	225111	All	VETASSESS
Market Research Analyst	225112	All	VETASSESS
Marketing Specialist	225113	All	VETASSESS
ICT Account Manager	225211	All	VETASSESS
ICT Business Development Manager	225212	All	VETASSESS
ICT Sales Representative	225213	All	VETASSESS
Public Relations Professional	225311	All	VETASSESS
Sales Representative (Industrial Products)	225411	All	VETASSESS
Sales Representative (Medical and Pharmaceutical Products)	225412	All	VETASSESS
Technical Sales Representatives nec	225499	All	VETASSESS
Aeroplane Pilot	231111	All	CASA
Air Traffic Controller	231112	All	VETASSESS
Flying Instructor	231113	All	VETASSESS
Helicopter Pilot	231114	All	CASA



Air Transport Professionals nec	231199	All	VETASSESS
Master Fisher	231211	All	VETASSESS
Ship's Surveyor	231215	All	AMSA
Marine Transport Professionals nec	231299	All	AMSA
Fashion Designer	232311	All	VETASSESS
Industrial Designer	232312	All	VETASSESS
Jewellery Designer	232313	All	VETASSESS
Graphic Designer	232411	All	VETASSESS
Illustrator	232412	All	VETASSESS
Multimedia Designer	232413	All	VETASSESS
Web Designer	232414	All	VETASSESS
Interior Designer	232511	All	VETASSESS
Engineering Professional nec	233999	All	Engineers Australia
Chemist	234211	All	VETASSESS
Food Technologist	234212	All	VETASSESS
Wine Maker	234213	All	VETASSESS
Conservation Officer	234311	All	VETASSESS
Environmental Consultant	234312	All	VETASSESS
Environmental Research Scientist	234313	All	VETASSESS
Park Ranger	234314	All	VETASSESS
Environmental Scientists nec	234399	All	VETASSESS
Geologist	234411	All	VETASSESS
Geophysicist	234412	All	VETASSESS
Life Scientist (General)	234511	All	VETASSESS
Anatomist or Physiologist	234512	All	VETASSESS
Biochemist	234513	All	VETASSESS
Biotechnologist	234514	All	VETASSESS
Botanist	234515	All	VETASSESS
Marine Biologist	234516	All	VETASSESS
Microbiologist	234517	All	VETASSESS
Zoologist	234518	All	VETASSESS
Life Scientists nec	234599	All	VETASSESS
Conservator	234911	All	VETASSESS
Meteorologist	234913	All	VETASSESS
Physicist	234914	All	VETASSESS
Natural and Physical Science Professionals nec	234999	All	VETASSESS
Primary School Teacher	241213	All	NOOSR/AITSL
Middle School Teacher (Aus) / Intermediate School Teacher (NZ)	241311	All	AITSL
University Lecturer (Suitable for the position of Research Associate or Research Fellow in a University)	242111	All	VETASSESS



University Tutor	242112	All	VETASSESS
Vocational Education Teacher (Non Trades)	242211	All	VETASSESS
Vocational Education Teacher (Trades)	242211	All	TRA
Education Adviser	249111	All	VETASSESS
Education Reviewer	249112	All	VETASSESS
Art Teacher (Private Tuition)	249211	All	VETASSESS
Dance Teacher (Private Tuition)	249212	All	VETASSESS
Drama Teacher (Private Tuition)	249213	All	VETASSESS
Music Teacher (Private Tuition)	249214	All	VETASSESS
Private Tutors and Teachers nec	249299	All	VETASSESS
Teacher of English to Speakers of Other Languages	249311	All	VETASSESS
Dietician	251111	All	DAA
Orthoptist	251412	All	VETASSESS
Industrial Pharmacist	251512	All	VETASSESS
Health Promotion Officer	251911	All	VETASSESS
Orthotist or Prosthetist	251912	All	VETASSESS
Health Diagnostic and Promotion Professionals nec	251999	All	VETASSESS
Acupuncturist	252211	All	VETASSESS
Homoeopath	252212	All	VETASSESS
Naturopath	252213	All	VETASSESS
Traditional Chinese Medicine Practitioner	252214	All	Chinese Medicine Board Of Australia
Complementary Health Therapists nec	252299	All	VETASSESS
Audiologist	252711	All	VETASSESS
Resident Medical Officer	253112	All	Medical Board of Australia
Nurse Researcher	254212	All	VETASSESS
Nurse Manager	254311	All	VETASSESS
Nurse Educator	254211	All	VETASSESS
Multimedia Specialist	261211	All	ACS
Web Developer	261212	All	ACS
Software Tester	261314	All	ACS
Software and Applications Programmers nec	261399	All	ACS
Database Administrator	262111	All	ACS
ICT Security Specialist	262112	All	ACS
Systems Administrator	262113	All	ACS
Network Administrator	263112	All	ACS
Network Analyst	263113	All	ACS
ICT Quality Assurance Engineer	263211	All	ACS



ICT Support Engineer	263212	All	ACS
ICT Systems Test Engineer	263213	All	ACS
ICT Support and Test Engineers nec	263299	All	ACS
Judge	271211	All	Agency that approves the appointment*
Magistrate	271212	All	Agency that approves the appointment*
Tribunal Member	271213	All	Agencies that approve the appointment**
Judicial and Other Legal Professionals nec	271299	All	VETASSESS
Careers Counsellor	272111	All	VETASSESS
Drug and Alcohol Counsellor	272112	All	VETASSESS
Family and Marriage Counsellor	272113	All	VETASSESS
Rehabilitation Counsellor	272114	All	VETASSESS
Student Counsellor	272115	All	VETASSESS
Counsellors nec	272199	All	VETASSESS
Minister of Religion	272211	All	VETASSESS
Historian	272411	All	VETASSESS
Interpreter	272412	All	NAATI
Translator	272413	All	NAATI
Social Professionals nec	272499	All	VETASSESS
Community Arts Worker	272611	All	VETASSESS
Recreation Officer	272612	All	VETASSESS
Welfare Worker	272613	All	ACWA
Agricultural Technician	311111	All	VETASSESS
Anaesthetic Technician	311211	All	VETASSESS
Cardiac Technician	311212	All	VETASSESS
Medical Laboratory Technician	311213	All	AIMS
Operating Theatre Technician	311214	All	VETASSESS
Pharmacy Technician	311215	All	VETASSESS
Pathology Collector (Aus) / Phlebotomist (NZ)	311216	All	AIMS
Medical Technicians nec	311299	All	VETASSESS
Fisheries Officer	311311	All	VETASSESS
Meat Inspector	311312	All	VETASSESS
Quarantine Officer	311313	All	VETASSESS
Primary Products Inspectors nec	311399	All	VETASSESS
Chemistry Technician	311411	All	VETASSESS
Earth Science Technician	311412	All	VETASSESS
Life Science Technician	311413	All	VETASSESS
School Laboratory Technician	311414	All	VETASSESS
Science Technicians nec	311499	All	VETASSESS



Architectural Draftsperson	312111	All	VETASSESS
Building Associate	312112	All	VETASSESS
Building Inspector	312113	All	VETASSESS
Construction Estimator	312114	All	VETASSESS
Plumbing Inspector	312115	All	VETASSESS
Surveying or Spatial Science Technician	312116	All	VETASSESS
Architectural, Building and Surveying Technicians nec	312199	All	VETASSESS
Electronic Engineering Draftsperson	312411	All	Engineers Australia
Electronic Engineering Technician	312412	All	TRA
Mechanical Engineering Draftsperson	312511	All	Engineers Australia
Mechanical Engineering Technician	312512	All	TRA
Safety Inspector	312611	All	VETASSESS
Maintenance Planner	312911	All	VETASSESS
Metallurgical or Materials Technician	312912	All	VETASSESS
Mine Deputy	312913	All	VETASSESS
Building and Engineering Technicians nec	312999	All	VETASSESS/Engineers Australia
Hardware Technician	313111	All	TRA
ICT Customer Support Officer	313112	All	TRA
Web Administrator	313113	All	ACS
ICT Support Technicians nec	313199	All	TRA
Blacksmith	322111	All	TRA
Electroplater	322112	All	TRA
Farrier	322113	All	TRA
Metal Casting Trades Worker	322114	All	TRA
Metal Polisher	322115	All	TRA
Textile, Clothing and Footwear Mechanic	323215	All	TRA
Metal Fitters and Machinists nec	323299	All	TRA
Engraver	323311	All	TRA
Gunsmith	323312	All	TRA
Precision Instrument Maker and Repairer	323314	All	TRA
Saw Maker and Repairer	323315	All	TRA
Watch and Clock Maker and Repairer	323316	All	TRA
Engineering Patternmaker	323411	All	TRA
Toolmaker	323412	All	TRA
Panelbeater	324111	All	TRA
Vehicle Body Builder	324211	All	TRA
Vehicle Trimmer	324212	All	TRA
Vehicle Painter	324311	All	TRA



Bricklayer	331111	All	TRA
Floor Finisher	332111	All	TRA
Roof Tiler	333311	All	TRA
Wall and Floor Tiler	333411	All	TRA
Business Machine Mechanic	342311	All	TRA
Communications Operator	342312	All	TRA
Cabler (Data and Telecommunications)	342411	All	TRA
Telecommunications Cable Jointer	342412	All	TRA
Telecommunications Linesworker	342413	All	TRA
Telecommunications Technician	342414	All	TRA
Baker	351111	All	TRA
Pastry cook	351112	All	TRA
Butcher or Smallgoods Maker (Excluding the activity of slaughtering animals, or primarily boning, slicing or packaging meat in a non-retail setting.)	351211	All	TRA
Chef	351311	All	TRA
Cook	351411	All	TRA
Homoeopath	252212	All	VETASSESS
Naturopath	252213	All	VETASSESS
Traditional Chinese Medicine Practitioner	252214	All	Chinese Medicine Board Of Australia
Complementary Health Therapists nec	252299	All	VETASSESS
Audiologist	252711	All	VETASSESS
Resident Medical Officer	253112	All	Medical Board of Australia
Nurse Researcher	254212	All	VETASSESS
Nurse Manager	254311	All	VETASSESS
Nurse Educator	254211	All	VETASSESS
Multimedia Specialist	261211	All	ACS
Web Developer	261212	All	ACS
Software Tester	261314	All	ACS
Software and Applications Programmers nec	261399	All	ACS
Database Administrator	262111	All	ACS
ICT Security Specialist	262112	All	ACS
Systems Administrator	262113	All	ACS
Network Administrator	263112	All	ACS
Network Analyst	263113	All	ACS
ICT Quality Assurance Engineer	263211	All	ACS
ICT Support Engineer	263212	All	ACS
ICT Systems Test Engineer	263213	All	ACS



ICT Support and Test Engineers nec	263299	All	ACS
Judge	271211	All	Agency that approves the appointment*
Magistrate	271212	All	Agency that approves the appointment*
Tribunal Member	271213	All	Agencies that approve the appointment**
Judicial and Other Legal Professionals nec	271299	All	VETASSESS
Careers Counsellor	272111	All	VETASSESS
Drug and Alcohol Counsellor	272112	All	VETASSESS
Family and Marriage Counsellor	272113	All	VETASSESS
Rehabilitation Counsellor	272114	All	VETASSESS
Student Counsellor	272115	All	VETASSESS
Counsellors nec	272199	All	VETASSESS
Minister of Religion	272211	All	VETASSESS
Historian	272411	All	VETASSESS
Interpreter	272412	All	NAATI
Translator	272413	All	NAATI
Social Professionals nec	272499	All	VETASSESS
Community Arts Worker	272611	All	VETASSESS
Recreation Officer	272612	All	VETASSESS
Welfare Worker	272613	All	ACWA
Agricultural Technician	311111	All	VETASSESS
Anaesthetic Technician	311211	All	VETASSESS
Cardiac Technician	311212	All	VETASSESS
Medical Laboratory Technician	311213	All	AIMS
Operating Theatre Technician	311214	All	VETASSESS
Pharmacy Technician	311215	All	VETASSESS
Pathology Collector (Aus) / Phlebotomist (NZ)	311216	All	AIMS
Medical Technicians nec	311299	All	VETASSESS
Fisheries Officer	311311	All	VETASSESS
Meat Inspector	311312	All	VETASSESS
Quarantine Officer	311313	All	VETASSESS
Primary Products Inspectors nec	311399	All	VETASSESS
Chemistry Technician	311411	All	VETASSESS
Earth Science Technician	311412	All	VETASSESS
Life Science Technician	311413	All	VETASSESS
School Laboratory Technician	311414	All	VETASSESS
Science Technicians nec	311499	All	VETASSESS
Architectural Draftsperson	312111	All	VETASSESS
Building Associate	312112	All	VETASSESS



Building Inspector	312113	All	VETASSESS
Construction Estimator	312114	All	VETASSESS
Plumbing Inspector	312115	All	VETASSESS
Surveying or Spatial Science Technician	312116	All	VETASSESS
Architectural, Building and Surveying Technicians nec	312199	All	VETASSESS
Electronic Engineering Draftsperson	312411	All	Engineers Australia
Electronic Engineering Technician	312412	All	TRA
Mechanical Engineering Draftsperson	312511	All	Engineers Australia
Mechanical Engineering Technician	312512	All	TRA
Safety Inspector	312611	All	VETASSESS
Maintenance Planner	312911	All	VETASSESS
Metallurgical or Materials Technician	312912	All	VETASSESS
Mine Deputy	312913	All	VETASSESS
Building and Engineering Technicians nec	312999	All	VETASSESS/Engineers Australia
Hardware Technician	313111	All	TRA
ICT Customer Support Officer	313112	All	TRA
Web Administrator	313113	All	ACS
ICT Support Technicians nec	313199	All	TRA
Blacksmith	322111	All	TRA
Electroplater	322112	All	TRA
Farrier	322113	All	TRA
Metal Casting Trades Worker	322114	All	TRA
Metal Polisher	322115	All	TRA
Textile, Clothing and Footwear Mechanic	323215	All	TRA
Metal Fitters and Machinists nec	323299	All	TRA
Engraver	323311	All	TRA
Gunsmith	323312	All	TRA
Precision Instrument Maker and Repairer	323314	All	TRA
Saw Maker and Repairer	323315	All	TRA
Watch and Clock Maker and Repairer	323316	All	TRA
Engineering Patternmaker	323411	All	TRA
Toolmaker	323412	All	TRA
Panelbeater	324111	All	TRA
Vehicle Body Builder	324211	All	TRA
Vehicle Trimmer	324212	All	TRA
Vehicle Painter	324311	All	TRA
Bricklayer	331111	All	TRA
Floor Finisher	332111	All	TRA



Roof Tiler	333311	All	TRA
Wall and Floor Tiler	333411	All	TRA
Business Machine Mechanic	342311	All	TRA
Communications Operator	342312	All	TRA
Cabler (Data and Telecommunications)	342411	All	TRA
Telecommunications Cable Jointer	342412	All	TRA
Telecommunications Linesworker	342413	All	TRA
Telecommunications Technician	342414	All	TRA
Baker	351111	All	TRA
Pastry cook	351112	All	TRA
Butcher or Smallgoods Maker (Excluding the activity of slaughtering animals, or primarily boning, slicing or packaging meat in a non-retail setting.)	351211	All	TRA
Chef	351311	All	TRA
Cook	351411	All	TRA
Retail Buyer	639211	All	VETASSESS
Wool Buyer	639212	All	VETASSESS
Driller	712211	All	TRA

1. ANZSCO means, under regulation 1.03 of the Regulations, the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics as current on 1 July 2010. This is the ANZSCO - First Edition, Revision 1 (ABS Catalogue No. 1220.0) and is available online at www.abs.gov.au.

2. The acronyms used to refer to an *Assessing Authority* mean:

AACA	Architects Accreditation Council of Australia Inc
AASW	Australian Association of Social Workers
ACOPRA/APC	Australian Council of Physiotherapy Regulating Authorities Ltd/Australian Physiotherapy Council
ACPSEM	Australasian College of Physical Scientist and Engineers in Medicine
ACS	Australian Computer Society
ACWA	Australian Community Workers Association
ADC	Australian Dental Council
AIM	Australian Institute of Management
AIMS	Australian Institute of Medical Scientists
AIQS	Australian Institute of Quantity Surveyors
AIR	Australian Institute of Radiography
AITSL	Australian Institute for Teaching and School Leadership
AMSA	Australian Maritime Safety Authority
ANMAC	Australian Nursing and Midwifery Accreditation Council
ANZOC	Australian and New Zealand Osteopathic Council
ANZSNM	Australian and New Zealand Society of Nuclear Medicine



<i>APharmC</i>	Australian Pharmacy Council
<i>APodC/ANZPAC</i>	Australian Podiatry Council/Australian and New Zealand Podiatry Accreditation Council Inc.
<i>APS</i>	Australian Psychological Society
<i>AVBC</i>	Australasian Veterinary Boards Council Inc.
<i>CASA</i>	Civil Aviation Safety Authority
<i>CCEA</i>	Council on Chiropractic Education Australasia Inc.
<i>CPAA</i>	Certified Practising Accountants Australia
<i>DAA</i>	Dieticians Association of Australia
<i>Engineers Australia</i>	Institution of Engineers, Australia
<i>ICAA</i>	Institute of Chartered Accountants of Australia
<i>IPA</i>	Institute of Public Accountants
<i>NAATI</i>	National Accreditation Authority for Translators and Interpreters
<i>NOOSR/AITSL</i>	National Office of Overseas Skills Recognition/Australian Institute for Teaching and School Leadership
<i>OCANZ</i>	Optometry Council of Australia and New Zealand
<i>OTC</i>	Occupational Therapy Council
<i>SLAA</i>	State Legal Admission Authority
<i>SPA</i>	Speech Pathology Association of Australia
<i>SSSI</i>	Surveying and Spatial Sciences Institute
<i>TRA</i>	Trades Recognition Australia
<i>VETASSESS</i>	Vocational Education and Training Assessment Services

3. *nec* means “not elsewhere classified”.

4. * Judges and Magistrates are appointed positions, appointed by the Attorney General's Department.

5. ** Tribunal Member comprises a large number of different positions appointed by different relevant agencies.



Annexure D: TEMPORARY SKILLED MIGRATION INCOME THRESHOLD (TSMIT)

Federal Register of Legislative Instruments, F2012L01294, IMMI 12/047

[in effect on and from 01/07/2012 - LEGEND note]

Commonwealth of Australia, Migration Regulations 1994

SPECIFICATION OF INCOME THRESHOLD AND ANNUAL EARNINGS

(Paragraphs 2.72(10)(cc) and 2.79(1A)(b) and subregulation 2.72(10AB))

I, CHRIS BOWEN, Minister for Immigration and Citizenship, acting under paragraphs 2.72(10)(cc) and 2.79(1A)(b) and subregulation 2.72(10AB) of the Migration Regulations 1994 ('the Regulations'):

1. REVOKE Legislative Instrument IMMI 11/041 signed on 6 June 2011 specifying temporary skilled migration income threshold and annual earnings; AND
2. SPECIFY, for the purposes of paragraph 2.72(10)(cc) of the Regulations, that the temporary skilled migration income threshold is AUD 51,400; AND
3. SPECIFY, for the purposes of subregulation 2.72(10AB) and paragraph 2.79(1A)(b) of the Regulations, annual earnings of AUD 180,000.

This Instrument, IMMI 12/047 commences on 1 July 2012 immediately after the commencement of the Migration Amendment Regulation 2012 (No. 2).

Dated 12 June 2012

CHRIS BOWEN

Minister for Immigration and Citizenship

[NOTE 1: Paragraph 2.72(10)(cc) of the Regulations provides that the base rate of pay, under the terms and conditions of employment mentioned in paragraph (c) that are provided or would be provided to an Australian citizen or an Australian permanent resident, will be greater than the temporary skilled migration income threshold specified by the Minister in an instrument in writing for paragraph (cc).

NOTE 2: Subregulation 2.72(10AB) of the Regulations provides that paragraphs 2.72(10)(c) and 2.72(10)(cc) do not apply if the annual earnings of the person identified in the nomination are equal to or greater than the amount specified by the Minister in an instrument in writing for the subregulation.



NOTE 3: Paragraph 2.79(1A)(b) of the Regulations provides that regulation 2.79 does not apply to a standard business sponsor of a primary sponsored person if the annual earnings of the primary sponsored person are equal to or greater than the amount specified by the Minister in an instrument in writing for the paragraph.]



Annexure E - MARKET RATES

Specification of method to determine terms and conditions of employment that would be provided to an Australian citizen or an Australian permanent resident to perform equivalent work in the same workplace at the same location (Subregulation 2.72(10AA))

Federal Register of Legislative Instruments, F2009L03515, 11 September 2009, IMMI 09/113, Commonwealth of Australia, Migration Regulations 1994

I, *CHRIS EVANS*, Minister for Immigration and Citizenship, specify for the purposes of subregulation 2.72(10AA) of Part 2A to the *Migration Regulations 1994* (the Regulations) that the method for determining the terms and conditions of employment (and the base rate of pay under the terms and conditions of employment) that would be provided to an Australian citizen or an Australian permanent resident to perform equivalent work in the person's workplace at the same location is set out at Schedule A.

This Instrument, IMMI 09/113, commences on 14 September 2009.

Dated 10 September 2009

Minister for Immigration and Citizenship

SCHEDULE A

1 Definitions

relevant information may include, but is not limited to:

(a) information in relation to statutory minimum entitlements, fair work instruments, state industrial instruments and transitional instruments that apply to Australian citizens or Australian permanent residents in similar workplaces.

(b) local knowledge and evidence of appropriate terms and conditions of employment including information from:

(i) employer associations; and

(ii) unions.

(c) broader labour market data including:

(i) Australian Bureau of Statistics Employee Earnings and Hours Survey (see www.abs.gov.au);



(ii) Australian Government's Job Outlook (see www.joboutlook.gov.au);

(iii) remuneration surveys; and

(iv) job vacancy advertisements

fair work instrument and state industrial instrument have the same meaning as in the *Fair Work Act 2009*.

transitional instrument has the same meaning as in the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

2 Methodology

For subregulation 2.72(10AA), the method is:

(1) If there is a fair work instrument, state industrial instrument or transitional instrument that would apply to Australian citizens or Australian permanent residents in the same workplace at the same location and would apply to the person identified in the nomination, then the terms and conditions of employment set out in that instrument are the terms and conditions that would be provided to an Australian citizen or Australian permanent resident to perform equivalent work.

NOTE The expression ***applies*** is used to indicate the range of employees, employers etc. who are required to comply with, or can enforce, the terms of an instrument.

(2) If subitem 2(1) does not apply, the terms and conditions of employment that would apply to Australian citizens and Australian permanent residents to perform equivalent work in the same workplace in the same location must be determined with regard to relevant information.

NOTE The methodology in item 2 yields the terms and conditions of employment for the purposes of paragraph 2.72(10)(c) (paragraph 2.72(10AA)(a) refers). The base rate of pay for the purposes of paragraph 2.72(10)(cc) (paragraph 2.72(10AA)(b) refers) will be established by one or more of those terms and conditions.



Annexure F - ENGLISH LANGUAGE

Level of salary and exemptions to the English language requirement for Subclass 457 (Business (Long Stay)) Visas (Paragraph 457.223(6)(a) and Subclause 457.223(11))

Federal Register of Legislative Instruments, F2012L01275, IMMI 12/048

[in effect on and from 01/07//2012 - LEGEND note]

Commonwealth of Australia

Migration Regulations 1994

LEVEL OF SALARY AND EXEMPTIONS TO THE ENGLISH LANGUAGE REQUIREMENT FOR SUBCLASS 457 (BUSINESS (LONG STAY))VISAS

(Paragraph 457.223(6)(a) and subclause 457.223(11))

I, *CHRIS BOWEN*, Minister for Immigration and Citizenship, acting under paragraph 457.223(6)(a) and subclause 457.223(11) of Schedule 2 to the *Migration Regulations 1994* ('the Regulations'):

1. REVOKE Instrument IMMI 11/042, signed on 6 June 2011, which specified the level of salary that is worked out in a way specified for paragraph 457.223(6)(a) of Schedule 2 to the Regulations, and specified a class of applicants for the meaning of *exempt applicant* under subclause 457.223(11) of Schedule 2 to the Regulations; AND
2. SPECIFY for the purposes of paragraph 457.223(6)(a) of Schedule 2 to the Regulations, the following way of working out the level of salary:

An annual salary, paid on a monthly, fortnightly or weekly basis, at a base rate of pay which is equal to or greater than the applicable base salary, where:

the **base rate of pay** is the person's rate of pay payable to an employee for his or her ordinary hours of work, not including any of the following:

- (a) incentive-based payments and bonuses;
- (b) loadings;
- (c) monetary allowances;
- (d) overtime or penalty rates;
- (e) any other separately identifiable amounts; and

the **applicable base salary** is AUD 92,000 per annum.



Note: The definition of **base rate of pay** is based on the definition given in section 16 of the *Fair Work Act 2009*.

3. SPECIFY for the purposes of the meaning of “exempt applicant” under subclause 457.223(11) of Schedule 2 to the Regulations, the following classes of applicants to be an *exempt applicant*:

(a) applicants who are:

(i) nominated in an occupation that does not require a level of English language competency for grant (however described) of registration, licence or membership, and

(ii) the holder of a passport of any of the following countries:

(A) Canada;

(B) New Zealand;

(C) the Republic of Ireland;

(D) the United Kingdom; or

(E) the United States of America;

(b) applicants who are:

(i) the subject of an approved nomination and the application for approval of the nomination was made before 1 July 2010 in an occupation that does not require a level of English language competency for grant (however described) of registration, licence or membership; and

(ii) nominated in the application for approval of nomination in an occupation for an approved position in an occupation that is in the ASCO Major Groups 1 – 3, excluding Head Chef 3322-01 and Chef 3322-11, except where an applicant has been nominated for Head Chef or Chef and has lodged a visa application before 14 April 2009

(c) applicants who are:

(i) the subject of an approved nomination and the application for approval of the nomination was made on or after 1 July 2010 in an occupation that does not require a level of English language competency for grant (however described) of registration, licence or membership; and

(ii) nominated in the application for approval of nomination in an occupation for an approved position in an occupation that is in ANZSCO Major Groups 1, 2, 4, 5, 6, Sub-Major Group 31 or Unit Group 3993;

(d) applicants who:



- (i) are nominated in an occupation that does not require a level of English language competency for grant (however described) of registration, licence or membership; and
- (ii) have completed at least 5 consecutive years of full-time study in a secondary and/or higher education institution where the instruction was delivered in English;
- (e) applicants who are:
 - (i) nominated in relation to an activity or occupation by a standard business sponsor approved under regulation 2.59 of the Regulations; and
 - (ii) nominated in relation to activity or occupation that will be performed at a diplomatic or consular mission of another country or an office of the authorities of Taiwan located in Australia.

4. For the purposes of Item (3) of this Instrument:

- (a) in relation to secondary education, "**full-time study**" means the standard number of contact hours that a student would undertake in the relevant country; and
- (b) in relation to higher education, "**full-time study**" means the completion of at least three subjects in each semester or trimester of study.

5. In this Instrument:

- ☐ *ANZSCO* means, under regulation 1.03 of the Regulations, the Australian and New Zealand Standard Classification of Occupations published by the Australian Bureau of Statistics as current on 1 July 2010. This is the ANZSCO - First Edition, Revision 1 (ABS Catalogue No. 1220.0) and is available online at <http://www.abs.gov.au>.
- ☐ *ASCO* means, under regulation 1.03 of the Regulations, the Australian Standard Classification of Occupations, published by the Australian Bureau of Statistics on 31 July 1997. This is the ASCO - Second Edition (ABS Catalogue No. 1220.0) and is available online at <http://www.abs.gov.au>.

This Instrument, IMMI 12/048, commences on 1 July 2012, immediately after the commencement of *Migration Amendment Regulation 2012 (No. 2)*.

Dated 12 June 2012

CHRIS BOWEN

Minister for Immigration and Citizenship

[NOTE 1: Paragraph 457.223(6)(a) of the Regulations applies to an applicant for a Subclass 457 (Business (Long Stay)) visa if the applicant will be paid, in connection with the occupation nominated in relation to the applicant, a level of salary that is at least the level of salary worked out in a way specified by the Minister in an instrument in writing for the paragraph.



NOTE 2: Subclause 457.223(11) of the Regulations provides that in subclause 457.223(4), *exempt applicant* means an applicant who is in a class of applicants specified by the Minister in an instrument in writing for the subclause.

NOTE 3: Definition of ANZSCO Major Group level (1 digit) is the broadest level of ANZSCO. A combination of skill level and skill specialisation was used to design the major groups.

NOTE 4: Definition of ANZSCO Sub-Major Group level (2 digits). Each sub-major group is distinguished from others in the major group on the basis of skill level and a broad application of skill specialisation.

NOTE 5: Definition of ANZSCO Unit Group level (4 digits). Each unit group is distinguished from others in the minor group on the basis of a finer application of skill specialisation and, where necessary, skill.]
