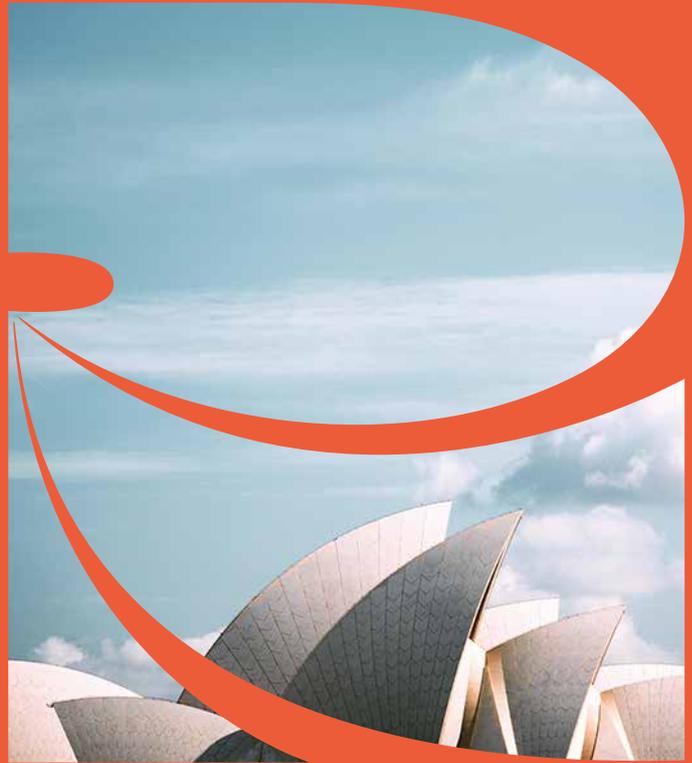


Visa Infosheet

The Skilled Employer Sponsored Regional (Provisional) Subclass 494 Visa Program



The Skilled Employer Sponsored Regional Subclass 494 visa is an employer sponsored visa which allows the visa holder to live, work and travel to and from Australia for a period of 5 years.



Business Sponsorship, Nomination & Visa

The 494 visa is an employer sponsored visa permitting temporary work in regional Australia.

The process is comprised of three steps:

1. the Business Sponsorship agreement with the Department of Home Affairs (DHA) which authorises the business to sponsor skilled overseas workers. This may be either Accredited or Standard Business Sponsorship;
2. the 494 Nomination, which sets out the skilled position to be filled by the visa holder;
3. the 494 Visa, which relates to the prospective employee who will fill the skilled position.

1. Business Sponsorship

The Business Sponsorship allows the business to sponsor skilled workers for employment in Australia. Once granted the Business Sponsorship is valid for 5 years. Businesses can sponsor an unlimited number of visa

holders in the period of their sponsorship.

Sponsorship obligations

Businesses that obtain a Business Sponsorship must agree to meet the Sponsorship Obligations imposed by DHA. The Sponsorship Obligations establish a number of ongoing commitments including:

- making notifications to the DHA when certain events occur (e.g. cessation of employment, change of work duties, change of company structure, etc.)
- maintaining records (e.g. visa holder details, payments, etc.)
- cooperating with the DHA and Fair Work Inspectors
- paying return travel costs of 494 visa holders if requested, in writing

Roam Migration Law will provide you with full details of the Sponsorship Obligations so you can understand all legal obligations related with becoming a sponsor. We can help you understand the obligations and introduce systems and processes to ensure compliance for their duration.

Accredited Sponsorship

Accredited Sponsorship gives eligible sponsors access to priority processing of all 494 Nominations and Visa applications. In some circumstances, it also entitles sponsors to streamlined processing with reduced evidentiary requirements.

The criteria for Accredited Sponsorship approval as a low-risk low volume sponsor are as follows:

- 85% of workforce are Australian citizens or permanent residents
- Annual turnover of over \$4 million for the last two years
- Initial Standard Business Sponsorship approved at least one year ago
- No adverse monitoring outcomes
- At least one Subclass 457/482 TSS visa Nomination approved in the last 12 months
- Nomination non-approval rate of less than 3% in the last 12 months
- Standard employment terms and conditions
- Internal salary tables used for sponsored workers

If an application for Accredited Sponsorship is not approved, the business will still be approved as a Standard Business Sponsor (SBS) subject to satisfying criteria for that application.

2. Nomination

The 494 Nomination involves assessment of the skilled position to be filled and must meet certain minimum requirements:

- The position must correspond to a skilled occupation listed by the DHA on the relevant skilled occupation list.
- The employer must conduct Labour Market Testing (i.e. advertised the position) unless exempted in specified circumstances.
- The market rate (i.e. rate which would be paid to an Australian performing the same work) must be higher than the Temporary Skilled Migration Income Threshold (TSMIT) of \$53,900 + superannuation.

- The annual market salary rate must be assessed by a Regional Certifying Body.
- The position must be genuine – it must be consistent with the business activities.

Regional Certifying Body

The application process requires the relevant Regional Certifying Body (RCB) to provide certification to support the nomination. The RCB uses local knowledge to advise whether the visa applicant will be paid appropriately for the nomination occupation in that location.

Transferring employment

Where a prospective employee already holds a 494 visa, it is possible to transfer employment by lodging a new Nomination only (for Business Sponsorship approved businesses). This process reduces paperwork and saves time and money.

Training levy system

The Skilling Australians Fund (SAF) levy, also known as the Nomination Training Contribution Charge (NTCC), was implemented on 12 August 2018. The SAF levy legislation requires employers to pay a levy to the Commonwealth Government to be redistributed to support the training and education of Australian citizens and permanent residents in TAFE and other courses. The levy is calculated based on the turnover of the business in the most recently completed financial year and the proposed period of employment. It is payable in full at the time of lodging the Nomination. The levy amount is calculated as follows:

	Turnover <10M	Turnover >10M
Levy surcharge	\$3,000	\$5,000

The SAF levy must be paid by the employer. Transfer of the payment to any 3rd party or the visa applicant is illegal, and penalties include significant fines or criminal charges.

3. 494 Visa

The 494 visa application relates to the visa applicant and any family members included in the application. It is valid for up to 5 years depending on the proposed period of employment. The visa is subject to conditions;

in particular, a condition permitting the employee to only work for the sponsoring employer in the nominated occupation in regional Australia.

To qualify for the visa, the visa applicant (i.e. the prospective employee) must be under 45 years of age and must demonstrate they have the minimum qualifications and/or experience for the occupation, appropriate, English skills, obtain police clearances and be eligible to obtain local licensing if required for the position. In addition, the applicant must have a minimum 3 years' experience in the proposed position.

Pathway to Permanent Residency

An applicant who has held a 494 visa for three years and earned a salary at or above the required threshold, may be eligible to apply for a Permanent Residence (Skilled Regional) Subclass 191 visa.

Application process

Preparation

We will provide you with a list of relevant documents to prepare. Upon receipt, we will review and advise if the documents satisfy eligibility criteria or if further information is needed.

Post lodgement

Once the application is lodged the processing times are likely to be 2-10 months. The processing time can vary significantly based on a number of factors (DHA staffing levels, applicant and industry risk profiles, occupation, salary levels, etc.).

Where DHA requests additional information in support of the application this can result in the application being delayed further. We work to prevent requests for further information by supplying as much information as possible in support of your application up front.

Applications can be lodged concurrently however this presents potential risks if any of the applications are refused.

Costs

By law employers must meet the cost of the Business Sponsorship and 494 Nomination. This includes government fees, professional

fees, and costs incurred as part of these applications. Costs for the RCB application and the 494 visa can be met by either the employer or the employee.

Payment for visa laws

Since December 2015 it has been unlawful to offer or request sponsorship in exchange for a benefit. Benefit is defined widely and can include a favour, a service, payment, or a gift. The benefit does not have to be provided in order for the conduct to be unlawful.

Significant penalties apply to employers, prospective employers, and the company office holders of these organisations, visa applicants, or prospective visa applicants for this conduct. Penalties include fines or jail terms for more serious conduct.

Further information

For further information on how we can assist you to manage your Australian visa services contact Roam Migration Law Partner, Jackson Taylor, by phone: (03) 1300 950 771 or email: j.taylor@roammigrationlaw.com.

The information in this document is a summary and should not be treated as a definitive statement of the law. You should seek personalised immigration advice before acting.



Level 14, 330 Collins Street, Melbourne, VIC 3000
+61 1300 950 77

hello@hammondjtaylor.com.au