

Hammond Taylor a migration law firm



Visa Overview

**The Temporary Skill
Shortage (TSS) – Subclass
482 Visa Program**

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Business Sponsorship, Nomination and Visa

The 482 TSS visa is an employer sponsored visa and grants 482 TSS visa holders temporary residence for up to 2 or 4 years depending on the position, or a shorter period if requested by the employer.

The process is comprised of three steps:

- 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;
- the [482 TSS Nomination](#) which sets out the skilled position to be filled by the visa holder; and
- the [482 TSS 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 approval.

To qualify, businesses must demonstrate that they are operational and attest to a clean record of compliance with workplace and other laws. Both local and overseas-based companies can apply for, and be approved as, a Business Sponsor. Employers must meet all costs related to the Business Sponsorship. These cannot be transferred to the visa applicant.

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 (cessation of employment, change of work duties, change of company structure, etc.);
- maintaining records (visa holder details, payments, etc.);
- cooperating with the DHA and Fair Work Inspectors;
- paying return travel costs of 457 or 482 TSS visa holders, if requested in writing.

Hammond Taylor 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 482 TSS 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 and 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 Nomination relates to the position to be filled by the visa applicant and must meet certain minimum requirements:

- The position must correspond to a skilled occupation listed by the DHA (set out on the 482 TSS visa 'Medium and Long-term Strategic Skilled Occupation List' (MSLTSSL) or the 'Short-term Skilled Occupations List' (STSOL));
- The market rate (ie, 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 position must be genuine – it must be consistent with the business activities; and
- The employer must conduct Labour Market Testing (ie. advertised the position) unless exempted in specified circumstances.

Employers must meet all costs associated with the Nomination. These cannot be transferred to the visa applicant.

Transferring Employment

Where a prospective employee already holds a 457 or 482 TSS visa it is possible to transfer employment by lodging a new Nomination only (for Business Sponsored 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 recent 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 < \$10 million	Turnover > \$10 million
Levy Surcharge	\$1,200 per year	\$1,800 per year

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. 482 TSS Visa

The 482 TSS visa application relates to the visa applicant and any family members included in the application. It is valid for up to 2 or 4 years depending on the occupation or 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 and a condition requiring health insurance.

To qualify for the visa, the visa applicant (i.e. the prospective employee) 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 2 years experience in the proposed position.

Application Timing

Preparation

We will provide you with a list of relevant documents to prepare. Once we receive them we will review and advise if the documents satisfy eligibility criteria and further information is needed.

Post Lodgement

Once the application is lodged the processing times are likely to be 6-12 weeks. 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 482 TSS Nomination. This includes government fees, professional fees, and costs incurred as part of these applications.

Costs for the 482 TSS 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.

Should you have any concerns about these laws contact us for further information.

Contact Us

Contact Hammond Taylor for a full summary of costs associated with the visa application process on 03 9044 9265 or by email at hello@hammond-taylor.com.au.

Other information

Please click [here](#) to be directed to the [482 TSS visa information page](#) on our website.

Note: The above is a summary and should not be treated as a definitive statement of the law. You should seek personalised immigration advice before acting.