

Subclass 482 Temporary Skill Shortage Visa – Medium-term & Short-term Streams: Sponsor’s Obligations

Each employer that is approved as a standard business sponsor, allowing it to sponsor subclass 482 Temporary Skill Shortage visa applicants (and previously subclass 457 visa applicants) for skilled positions in its business **must** comply with certain obligations set out in the relevant legislation.

A summary of these sponsorship obligations, together with information about how long each obligation lasts, is set out in the table below. Please contact us if you have any further queries.

NOTE: The obligations will differ slightly for employers who sponsor visa applicants under the Labour Agreement stream of this visa. Please contact us for further details.

Sponsor’s Obligation	Explanation	Duration
<p>Co-operate with inspectors</p>	<p>The sponsor must cooperate with inspectors who are appointed under the <i>Migration Act 1958</i> for the purpose of investigating whether a sponsorship obligation is being (or has been) complied with; whether sponsors have hired illegal workers; and/or other relevant circumstances that could lead to administrative action by the Department of Home Affairs (the DOHA).</p> <p>The inspectors’ powers include the right to enter premises, inspect work, interview persons and require documents to be produced for inspection.</p>	<p>Commences on the day sponsorship is approved.</p> <p>Ceases five years after the sponsorship expires.</p>
<p>Ensure equivalent terms and conditions of employment</p> <p>NOTE: This obligation does not apply to a sponsored employee who holds a subclass 457 visa and receives a salary in excess of the applicable high income threshold (currently \$250,000 per year).</p>	<p>For nominations made PRIOR TO 18 March 2018: The sponsor must ensure that the terms and conditions of employment provided to a sponsored employee are:</p> <ul style="list-style-type: none"> • no less favourable than the terms and conditions the sponsor provides, or would provide, to an Australian citizen or Australian permanent resident to perform work in an equivalent position in the sponsor’s workplace at the same location • no less favourable than the terms and conditions offered to the sponsored employee in support of the relevant nomination application that was 	<p><u><i>If the sponsored employee already holds a subclass 457 or 482 visa:</i></u> Commences from the time the nomination is approved.</p> <p><u><i>If the sponsored employee does not hold a subclass 457 or 482 visa:</i></u> Commences from the time the visa is granted.</p> <p>Ceases when the visa holder ceases employment OR is granted a further</p>

approved by the DOHA

substantive visa (that is not a subclass 457 or 482 visa).

Ensure equivalent terms and conditions of employment cont.

For nominations made ON or AFTER 18

March 2018: The sponsor must ensure that:

- the sponsored person's **annual earnings** are no less than the annual earnings referred to in the **approved nomination** for that person
- the sponsored person's **annual earnings** are no less than an **Australian citizen or Australian permanent resident** would earn for performing equivalent work in the same workplace at the same location
- the employment conditions (other than earnings) that apply to the sponsored person are no less favourable than those that apply, or would apply, to an **Australian citizen or Australian permanent resident** performing equivalent work in the same workplace at the same location

Pay travel costs to enable sponsored persons to leave Australia

The sponsor must pay **reasonable and necessary travel costs** to enable the sponsored employee (and any dependents included on that employee's subclass 457 or 482 visa) to leave Australia **IF the costs have been requested in writing** by the DOHA or the sponsored persons, and the sponsor has not already paid the costs.

Costs are considered reasonable and necessary if they:

- include travel from the sponsored employee's usual place of residence in Australia to the place of departure from Australia;
- include travel from Australia to the country (for which the sponsored employee holds a passport) specified in the request to pay costs;
- are paid within 30 days of receiving the request;
- are for economy class air travel or, where this is unavailable, a reasonable equivalent.

*If the sponsored employee already holds a subclass 457 or 482 visa: **Commences** from the time the nomination is approved.*

*If the sponsored employee does not hold a subclass 457 or 482 visa: **Commences** from the time the visa granted.*

***Ceases** when the sponsored employee obtains another nomination **OR** is granted a further substantive visa (not a subclass 457 or 482 visa) **OR** has left Australia and no longer holds a subclass 457 or 482 visa.*

<p>Pay costs incurred by the Commonwealth to locate and remove unlawful non-citizen</p>	<p>The sponsor must pay costs incurred by the Commonwealth in locating and/or removing the sponsored employee (and/or any dependents included on that employee's subclass 457 or 482 visa) from Australia, IF the Minister has requested the payment by written notice.</p> <p>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 to enable the sponsored employee and dependents to leave Australia (see 'travel costs' obligation detailed above).</p>	<p><i>Commences on the day on which the sponsored person becomes an unlawful non-citizen.</i></p> <p><i>Ceases five years after the sponsored person leaves Australia.</i></p>
<p>Keep records</p>	<p>The sponsor must keep records of its compliance with all sponsorship obligations, as well as a copy of the sponsored employee's employment contract, and records of the tasks performed by the sponsored employee in the nominated occupation, the location of the sponsored employee's employment, and the sponsor's annual turnover (for nominations requiring payment of the Skilling Australians Fund levy).</p> <p>Sponsors approved prior to 12 August 2018 must also maintain records of their compliance with the required training benchmarks up until that date, as applicable.</p> <p>All of the records kept must be reproducible, and some must be capable of verification by an independent person.</p> <p>NOTE: Records are not required to be kept for more than 5 years.</p>	<p><i>Commences on the day sponsorship is approved.</i></p> <p><i>Ceases two years after the sponsorship ceases AND the sponsor is no longer sponsoring a visa holder.</i></p>
<p>Provide records and information to the Minister</p>	<p>The sponsor must provide to the Minister, IF the Minister makes a written request, 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. <p>The records or information must be provided on request, and in the manner and timeframe requested by the Minister.</p>	<p><i>Commences on the day sponsorship is approved.</i></p> <p><i>Ceases two years after the sponsorship ceases AND the sponsor is no longer sponsoring a visa holder.</i></p>

Provide information to Immigration when certain events occur

The sponsor must inform the DOHA when certain changes in circumstances occur e.g.:

- the sponsored employee **ceases** (or fails to commence) **employment** with the sponsor;
- there is a **change in work duties** carried out by the sponsored employee;
- the sponsor's **legal entity ceases to exist**, or there is a significant change to the business e.g. appointment of a new company director;
- the sponsor's business becomes **insolvent**;
- the sponsor's **address or contact details change**.

This information must be provided to the DOHA either online or by email, usually **within 28 days** of the occurrence of the relevant event or change in circumstances.

Commences on the day sponsorship is approved.

Ceases when the sponsorship ceases **AND** the sponsor is no longer sponsoring a visa holder.

Ensure sponsored employee works only in the nominated occupation

The sponsor must ensure that the sponsored employee works only in the **occupation specified in the most recently approved nomination** for that person.

The sponsor must (unless exempt from this requirement) ensure that the sponsored employee is engaged under a written contract of employment as:

- **for sponsors operating in Australia:** the sponsor's employee, or the employee of an associated entity **OR**
- **for sponsors operating overseas:** the sponsor's employee

The sponsor must also (unless exempt from this requirement) not engage in activities relating to the recruitment of a visa holder/applicant in order to supply or on-hire that person to a non-associated business.

If the sponsored employee already holds a visa for which nomination was required:

Commences on the day the nomination is approved.

If the sponsored employee does not already hold such a visa:

Commences on the day the visa granted.

Ceases when the sponsored employee obtains another nomination **OR** is granted a further substantive visa (not a 457 or 482 visa) **OR** has left Australia and no longer holds a 457 or 482 visa.

NOT to recover certain costs from a sponsored employee (or the dependents included on that employee's visa)

The sponsor must **NOT recover (or seek to recover)** from another person **some or ALL of the costs** (including migration agent costs):

- associated with **becoming or being a sponsor** or former sponsor; or
- associated with a **nomination** for a visa (including the Skilling Australians Fund levy); or
- relating specifically to the **recruitment** of the sponsored employee for the subclass 457 or 482 nomination.

Further, the sponsor must not take action (or seek to take action) that would result in the transfer of some or all of these costs to another person, or that would result in another person paying some or all of these costs.

Commences on the day sponsorship is approved.

Ceases when the sponsorship ceases AND where the sponsor is no longer sponsoring a visa holder.

Not to engage in discriminatory recruitment practices

The sponsor must **NOT** engage in (or have engaged in) **discriminatory recruitment practices**.

This requires sponsors to use the subclass 457 or 482 visa programme only to fill skill shortages where a suitable Australian worker cannot be found.

'Discriminatory recruitment practices' could include only interviewing or hiring persons of a certain citizenship or visa status, or advertising a position via foreign language websites or newspapers predominantly accessed by people outside Australia.

Intra-company transfers, internal recruitment and promotion within Australia, and renomination are not considered to be 'discriminatory recruitment practices'.

Commences on the day sponsorship is approved.

Ceases when the sponsorship ceases.