



MIGRATION FACT SHEET

Sponsorship Obligations for a Standard Business Sponsor

Who does this apply to?

Employer-sponsored visa programs are designed to be used to fill skill shortages only in circumstances where an appropriate equivalent Australian worker cannot be found. A business must become an approved work sponsor before they can nominate and sponsor an overseas worker.

It is critical the business owner seeking to become an approved work sponsor understands the compliance requirements prior to applying. The purpose of the current sponsorship framework is to ensure that the working conditions of a sponsored employee meets Australian standards and that they are protected from exploitation.

Sponsorship obligations:

An approved work sponsor must satisfy the following obligations:

- Co-operate with Inspectors appointed and exercising powers under the Migration Act.
- Ensure the worker is employed under equivalent terms and conditions of employment of an Australian worker in a similar location.
- Pay travel costs to enable sponsored persons to leave Australia - with caveats.
- Pay costs incurred by the Commonwealth to locate and remove the worker if they become an unlawful non-citizen.
- Keep the required records and provide these records and information to the Minister when required.
- Provide information to the Department when certain events occur, such as the following:
 - On the cessation, or expected cessation, of a primary sponsored person's employment with the sponsor;
 - Any change to the work duties carried out by a primary sponsored person;
 - If the sponsored person fails to commence employment by the time agreed between both parties;
 - Any changes to information provided to the Department such as the employed person and the sponsor's address and contact details;
 - The legal entity of the sponsor ceases to exist;
 - If the sponsor is a company or partnership, when a new director is appointed or if a new partner joins the partnership;
- Ensure the primary sponsored person works in his nominated occupation only.

Discrimination Issues:

An employer or sponsor must not engage in discriminatory recruitment practices. The Australian Human Rights Commission defines 'direct discrimination' as occurring '*when a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics*'. Examples include:

- only interviewing or hiring persons of a certain citizenship or visa status
- only advertising for a position through a medium that is only accessible to persons of a certain citizenship, for example foreign language newspapers or websites used by persons outside Australia.

The following instances will not be deemed discriminatory:

- intra-company transfers from an overseas related business,
- internal recruitment and promotion within Australia,
- re-nomination of a currently sponsored person.

Costs for the employer/sponsor:

An employer or sponsor must not seek to recover, transfer or take actions that would result in another person paying for any of the following costs:

- migration agent costs associated with the lodgment of sponsorship and nomination applications,
- costs associated with becoming an approved work sponsor,
- associated with a nomination under subsection 140GB(1) of the Migration Act,
- the nomination training contribution charge (Skilling Australians Fund Levy),
- migration agent fees or legal fees associated with sponsorship monitoring,
- administrative costs and any sundry costs an employer incurs when they conduct recruitment exercises, including:
 - recruitment agent fees,
 - the cost of job advertising,
 - screening of candidates, short listing, conducting interviews and reference checks,
 - salaries of recruitment or human resource staff,
- the cost of outsourcing background checks, police checks and psychological testing if these relate to an employer determining an applicant's suitability for the position,
- training of new staff,
- pre-agreed costs that are related to attracting a potential primary sponsored person, such as paying for airfares to Australia, visa application costs and moving assistance,
- responding to queries for prospective candidates and advising unsuccessful applicants,
- travel costs for the sponsor to interview and/or meet the applicant either overseas or in Australia.

Contact us for more assistance:

CA Legal & Migration is here to assist you with understanding and navigating the legislation and paperwork associated with becoming an employer sponsor.

You can contact us in the following ways:

Address: 3 Drabsch Street, Loxton SA 5333

Phone: 08 7078 7702

Email: law@calegalmigration.com.au

Website: calegalmigration.com.au

Book an appointment online via:

<https://calegalmigration.leapweb.com.au/>



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