

Citizenship, Residency, Visas and Immigration

Policy Number: B46 (QH-POL-250)

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Purpose: To provide clear and consistent policy advice regarding citizenship, residency and visa requirements for employment including Queensland Health sponsorship of overseas highly skilled clinical professionals.

Application: This policy applies to clinical roles within Queensland Health.

Only clinical roles may be filled by a sponsored overseas employee.

Delegation: The 'delegate' is as listed in the Department of Health Human Resource (HR) Delegations Manual, or Hospital and Health Services Human Resource (HR) Delegations Manual, as amended from time to time.

Legislative or other authority:

- *Migration Act 1958 (Cth)*
- *Public Service Act 2008*
- *Hospital and Health Boards Act 2011*
- *Aged Care Act 1997*
- *Australian Citizenship Act 2007*
- *Worker Protection Act 2008*

Related policy or documents:

- Recruitment and Selection HR Policy B1 (QH-POL-212)
- Criminal History Checking HR Policy B40 (QH-POL-122)
- Transfer and Appointment Expenses HR Policy D4 (QH-POL-245)
- Department of Immigration and Border Protection internet site (www.immi.gov.au)

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1 Policy

This policy sets out the citizenship status, eligibility to work in Australia and proof of identity requirements for eligibility for appointment to a position within Queensland Health, including visa sponsorship of international health professionals.

Queensland Health must ensure that the recruitment of overseas professionals into clinical roles strengthens the regional economies through the engagement of skills that complement but do not replace the skills of the available local labour market.

Only in the circumstance that an Australian applicant pool is insufficient to fill a skilled clinical vacancy may Queensland Health sponsor applicants from the overseas market.

All appointments in Queensland Health are to be made in accordance with Recruitment and Selection HR Policy B1.

1.1 Eligibility to work in Australia

The following people can work in Australia:

- Australian citizens
- Australian permanent residents
- New Zealand citizens who entered Australia on a valid New Zealand passport
- non-Australian citizens holding a valid visa with work rights evidenced by current Visa Entitlement Verification Online (VEVO) check.

1.2 Public service officer – permanent appointments (including employees appointed on a contract for a fixed term)

A person is eligible to be appointed as a public service officer employed under the *Public Service Act 2008* on a permanent or contract basis for a fixed term if they are:

- an Australian citizen
- an Australian permanent resident or a person who has a right to be granted permission for permanency under Commonwealth Law
or
- a New Zealand citizen who has a special category visa or a right to be granted a special category visa under the *Migration Act 1958* (Cth).

If a recommended applicant is not eligible for appointment as a public service officer under the above categories, they cannot be appointed permanently. The role (other than one on a contract for a fixed term) may therefore only be offered on a temporary basis until permission for Australian residency and/or Australian citizenship is approved under Commonwealth Law, or the role may be offered to the next recommended applicant in the order of merit who is eligible for appointment.

1.3 Health Service or Public service employees (excluding public service officers)

A person is eligible for appointment to a casual or temporary position, or for appointment as a general employee, if they are:

- an Australian citizen
- an Australian permanent resident
- a New Zealand citizen who entered Australia on a valid New Zealand passport or
- a non-Australian citizen holding a valid visa with work rights.

2 Visa categories

Prior to Queensland Health offering a role to an overseas candidate, permission to check their work right status via VEVO must be requested and retained.

The VEVO online service and instructional information can be found on the Department of Immigration and Border Protection (DIBP) website at:
<http://www.immi.gov.au/Services/Pages/vevo/vevo-overview.aspx>

There are a range of visas that allow overseas candidates to work in Australia and the most common visas used by Queensland Health are detailed below. The sponsorship for an overseas employee is to be approved based on the benefits to Queensland Health while considering the employer obligations and associated costs.

All nominations for sponsorship must be approved by the delegate prior to being submitted to the DIBP for processing.

Delegates and relevant Hospital and Health Service (HHS) employees must be aware of the obligations of both the employer and sponsored visa holder.

2.1 Temporary employer sponsored visas

Queensland Health sponsors employees using the following temporary visa category:

- Temporary (long stay) business (subclass 457) visa - detailed information is covered in Section 3.

2.2 Permanent employer sponsored visas

Queensland Health sponsors the following permanent visa categories:

- Employer Nomination Scheme (ENS) (subclass 186) - detailed information is covered in Section 4.
- Regional Sponsored Migration Scheme (RSMS) (subclass 187) - detailed information is covered in Section 5.

2.3 New Zealand citizens and New Zealand permanent residents

New Zealand citizens are able to live and work in Australia without restriction. On arrival, most New Zealand citizens automatically receive a temporary Special Category Visa (SCV) subclass 444, subject to meeting health and character requirements. This visa allows the holder to live and work in Australia indefinitely and is not an employer sponsored visa.

New Zealand permanent residents are able to be sponsored the same as other overseas sponsored employees and are to apply for an immigration visa before arriving in Australia.

2.4 Student visas

Some student visas allow the visa holder to work a maximum of 40 hours per fortnight when their course is in session and unlimited hours when their course is not in session. Queensland Health does not sponsor students who have not completed their studies. To confirm an overseas student's work rights, a VEVO check is to be completed. Please refer to the DIBP website for further student visa information – www.immi.gov.au.

3 Temporary (long Stay) business (Subclass 457) visa

The 457 visa is a temporary visa which allows overseas candidates to work in Australia for a period of between one day and four years. The 457 visa holder is able to bring any eligible dependants who also have full work and study rights and is able to undertake unlimited travel in and out of Australia.

3.1 Sponsorship

The business sponsorship agreement is managed by the Department of Health Human Resource Services. The current agreement is valid until 11/12/18. Each HHS and the Department of Health has nominated a Responsible Process Owner (RPO) who has access to the sponsorship agreement number and who holds ultimate responsibility for management and adherence with obligations of the agreement. This agreement enables an unlimited number of approved visa applications and enables the transfer of employees across Queensland Health in the same occupation, without the requirement for a new sponsorship nomination and application for each location.

The agreement is also classified as accredited which enables all nominations and visa applications to receive priority processing.

3.2 Nomination and visa application

Approval from the delegate is to be provided to the nominated RPO. Further information about the nomination and visa application process can be obtained from the RPO or via the following link on the DIBP website:

- <http://www.immi.gov.au/Visas/Pages/457.aspx>

4 Permanent employer nominations scheme (ENS) visa

The ENS (subclass 186) visa allows overseas candidates to work in Australia permanently. The ENS visa holder is able to bring any eligible dependants who have full work and study rights and is able to undertake unlimited travel in and out of Australia.

There are two steps to sponsoring an overseas employee via the ENS – nomination of position and person, and visa application.

The nominated position must be full-time, ongoing and available for at least two years and provide working conditions that are no less favourable than provided for Australian citizens in the same or equivalent position within Queensland Health.

Further information about the ENS nomination and visa application process can be obtained from the RPO or via the following link on the DIBP website:

- <http://www.immi.gov.au/Visas/Pages/186.aspx>

5 Permanent regional sponsored migration scheme (RSMS) visa

The RSMS (subclass 187) visa allows overseas highly skilled clinical professionals to work permanently in regional low population growth areas. These applicants are able to bring any eligible dependants who have full work and study rights and unlimited travel in and out of Australia.

The nominated position must be full-time, ongoing and available for at least two years and provide working conditions that are no less favourable than provided for Australian citizens in the same or equivalent position within Queensland Health.

There are two or possibly three steps to sponsoring an overseas employee via the RSMS – nomination certification, nomination of position, and visa application.

Further information about the RSMS nomination and visa application process can be obtained from the RPO or via the following link on the DIBP website:

- <http://www.immi.gov.au/Visas/Pages/187.aspx>

6 Information management requirements

6.1 Information for Payroll Services

It is a mandatory requirement that details of all visa subclasses, visa number and its expiry date are entered on the Queensland Health payroll system. A copy of the visa application approval from DIBP and a copy of the employee's biographical page from their passport are to be sent to Payroll Services. The documentation is to be placed on the employee's personnel file.

6.2 Information and records management

It is a mandatory requirement that Queensland Health and HHSs as RPOs retain records of their compliance with the sponsorship obligations and fully cooperate with DIBP Inspectors.

The *Worker Protection Act 2008* includes the expanded powers of DIBP to monitor and investigate employer non-compliance including a framework for punitive penalties and improved information sharing.

7 Criminal history checking

It is mandatory for Queensland Health to undertake the relevant criminal history check on all prospective overseas employees with temporary work or permanent residency visas in accordance with the Criminal History Checking HR Policy B40.

If the prospective overseas employee is to be engaged in aged care services, in addition to undertaking an aged care criminal history check, the *Aged Care Act 1997* requires the employee to make a statutory declaration stating that the person has never been convicted of murder or sexual assault; or convicted of, and sentenced to imprisonment for, any other form of assault.

Persons to be engaged as key personnel in aged care services are required to undergo additional probity checks including bankruptcy and medical examinations if required.

Definitions:

Australian citizen	<p>A person who has unlimited work rights in Australia and meets one of the following criteria:</p> <ul style="list-style-type: none"> • born in Australia with at least one parent who is either an Australian citizen or a permanent resident of Australia • migrated to Australia to become a citizen • was born overseas and has at least one parent who is an Australian citizen • legally adopted in Australia by an Australian citizen.
Health service employee	<p>A person employed under the <i>Hospital and Health Boards Act 2011</i> on tenure, contract for a fixed term, temporary basis or casual basis. A health service employee is not a public service employee.</p>
Permanent resident (non-Australian citizen)	<p>A person who may remain in Australia indefinitely and has unrestricted work rights in Australia.</p>
Public service employee	<p>A person employed under the <i>Public Service Act 2008</i> as a:</p> <ul style="list-style-type: none"> • full-time or part-time public service officer • temporary employee (performing work ordinarily performed by a public service officer) on either a full-time, part-time or casual basis <p>or</p> <ul style="list-style-type: none"> • general employee (performing work not ordinarily performed by a public service officer) either on a permanent full-time or part-time capacity, or in a temporary full-time, part-time or casual capacity.
Public service officer	<p>A person employed under the <i>Public Service Act 2008</i> as a chief executive, a senior executive or an officer, on tenure (permanent status) unless it is decided that the appointment may be on a contract for a fixed term.</p>
Temporary resident (non-Australian citizen)	<p>A person who may not remain in Australia indefinitely and requires a valid visa permitting them to work.</p>

History:

June 2020	<ul style="list-style-type: none"> • Policy application amended as a result of changes to the Hospital and Health Boards (Changes to Prescribed Services) Amendment Regulation 2019.
June 2014	<ul style="list-style-type: none"> • Policy formatted as part of the HR Policy Simplification project. • Policy amended to: <ul style="list-style-type: none"> – update references and naming conventions – align with legislative changes and revised processes, including amendments to the temporary and permanent employer sponsored visa program as a result of DIBP Reform

	<ul style="list-style-type: none"> - TSMIT updated to an amount of \$51,400 per annum - reflect changes in Queensland Health's sponsorship agreement details.
June 2012	<ul style="list-style-type: none"> • This policy has been updated to reflect recommendations made in the visa and immigration internal audit dated December 2011, including: <ul style="list-style-type: none"> - removing the obligation of health service districts/divisions to 'ensure the sponsored employee and their dependents have private health insurance cover for the term of their visa' - clarifying 457, ENS and RSMS - updating section 10.2.1 VEVO checks - TSMIT updated to the current required amount of \$49,330 per annum.
July 2011	<ul style="list-style-type: none"> • This policy has been updated to reflect changes to both ENS and RSMS onshore applicant eligibility process and change People and Culture Strategic Services to Human Resource Coordination.
July 2010	<ul style="list-style-type: none"> • This policy has been updated to incorporate change to the Subclass 422 – Medical Practitioner (Temporary) visa, the change in temporary and permanent visa application fees, the change from ASCO to ANZSCO codes and change of People and Culture Corporate to People and Culture Strategic Services.
March 2010	<ul style="list-style-type: none"> • This policy has been significantly updated and replaces the previous policy – International Recruitment B46.

Citizenship, Residency and Visa Requirements for Appointment in Queensland Health – Schedule One

Responsibilities and documentation required

The following information is provided as the minimum mandatory standard practice, procedure or process to enable satisfactory compliance with this Queensland Health HR policy.

Local guidelines/procedures may be developed to facilitate implementation of this policy. Any local guidelines/procedures must be consistent with this policy and schedule and ensure employee entitlements continue to be met.

1 Responsibility of applicant

The prospective employee, including Australian citizens and permanent visa holders are to complete an application form when applying for an advertised clinical position within Queensland Health, and indicate their citizenship/residency status. The prospective employee is to provide documentary evidence of their right to work in Australia.

Prospective employees may be eligible for sponsorship by Queensland Health for temporary or permanent residency.

2 Responsibility of chairperson

The chairperson is to confirm the applicant's eligibility for appointment (refer section 1.1 of the policy) prior to any offer of employment being made. At any time during the selection process, when the applicant has indicated they are not an Australian citizen, the chairperson is to request that the applicant provide documentary evidence of their right to work in Australia (e.g. valid visa with work rights). Once this has been obtained, a VEVO check must be undertaken.

When normal selection processes are not undertaken (i.e. temporary appointments less than 12 months duration), the line manager endorsing the appointment is to ensure eligibility requirements are satisfied and proof of identity has been confirmed.

Please refer Recruitment and Selection HR Policy B1.

3 Responsibility of recruitment services

Recruitment Services are required to obtain documentation relating to proof of date and place of birth and proof of identity from the recommended applicant prior to the potential employee commencing employment with Queensland Health.

Recruitment Services require a certified copy of any one of the following from Australian citizen applicants:

- Current Australian passport
- Current Australian birth certificate (an extract is sufficient) and a current Australian drivers licence or 18+ card; or
- Australian naturalisation or citizenship documents and immigration papers issued by DIBP and a current passport or a current Australian drivers licence.

Recruitment Services require certified copies of the following from non-Australian citizen applicants:

- Proof of residency (permanent and temporary) as issued by DIBP, e.g. visa approval.
- Current passport.

4 Documents that are proof of a right to work

The following documents are proof of a right to work in Queensland Health:

- Australian birth certificate (if born before 20 August 1986)
- Australian birth certificate (if born on or after 20 August 1986), form of photo ID, and evidence that at least one parent was an Australian citizen or permanent resident at the time of the child's birth
- Australian citizenship certificate
- Australian passport
- certificate of evidence of permanent resident status or
- valid visa with work rights evidenced by current VEVO check.

5 Documents that are not proof of a right to work

The following documents are not proof of a right to work and cannot be used to determine a person's eligibility to work in Queensland Health:

- tax file number
- drivers licence
- Medicare card
- bank account
- referrals from employment agencies
- references from previous employers
- school records (primary or secondary) or proof of tertiary studies in Australia.

These documents are issued by different agencies for specific purposes only.