

# **AUSTRALIAN EMPLOYMENT PROCESSES FOR INTERNATIONAL MEDICAL GRADUATES (IMGs)**

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## **GENERAL IMMIGRATION REGULATIONS**

Australia has a single Commonwealth Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) which is responsible for administering the Immigration laws of the country.

### **Police/criminal/justice requirements.**

Everyone who wishes to enter Australia is required to be of good character. In general all visa applicants intending a total stay of more than 12 months in Australia, must meet the character requirement before entry or further stay in Australia. A police clearance certificate needs to be supplied from all countries in which the applicant has lived for more than 12 months in the last 10 years. Form 47P provides specific instructions and provides overseas addresses from where applicants can obtain their relevant police clearances.<sup>1</sup> All costs associated with police checks are the responsibility of the visa applicant.

Applicants are also required on Form 80 to provide personal details to enable additional character checks to be undertaken.<sup>2</sup>

Applicants applying under the Independent Overseas Student, Designated Area Sponsored Overseas Student, Australian Sponsored Overseas Student categories must include an Australian Federal Police check with their application for it to be valid. Form 1101 "Police Records Check Consent to obtain personal information" needs to be forwarded to the Criminal Records Department of the Australian Federal Police who will send a report directly to the applicant and if there is a criminal history they will send a copy to DIMIA.<sup>3</sup>

Police certificates are not normally required for persons under the age of 16 years.

In some cases the above paperwork does not need to be completed, instead questions are included in the specific visa form. Eg if applying on Form 1066 "Application for a long-stay temporary business visa". However, at any time DIMIA may still request the other paperwork to be provided.

Some examples of when a person will fail the character test include:

- when the person has a substantial criminal record,
  - sentenced to a term of imprisonment for 12 months or more, or
  - sentenced to either death or life imprisonment, or
  - sentenced to two or more terms of imprisonment (whether on one or more occasions), where the total of those terms is two years or more, or

- acquitted of an offence on the grounds of either unsoundness of mind or insanity and, as a result, the person has been detained in a facility or institution;
- when the person either has, or has had, an association with an individual, group or organisation suspected of having been, or being, involved in criminal conduct,
- when there is a significant risk that the person will engage in criminal conduct in Australia, harass, molest, intimidate or stalk another person in Australia, vilify a segment of the Australian community, or incite discord in the Australian community or in a segment of that community,
- when, having regard to the person's past and present criminal conduct, the person is found not to be of good character, and
- when having regard to the person's past and present general conduct, the person is found to be not of good character. <sup>4</sup>

A person, whose visa is cancelled on the grounds of either a substantial criminal record, or past and present criminal conduct, is permanently excluded from Australia.

## **Health Requirements**

People who want to migrate to, or stay temporarily in, Australia for long periods must undergo comprehensive examinations to ensure they meet Australia's health standards. The health requirement is set by DIMIA on advice from the Department of Health and Ageing.

The health requirement is designed to ensure:

- risks to public health in the Australian community are minimised;
- public expenditure on health and community services is contained; and
- Australian residents have access to health and other community services. <sup>5</sup>

The health requirement applies equally to all applicants for migration or long-term temporary residence from all countries.

Immediate family members of any applicant for permanent residency, including dependent family members who do not intend to migrate, must be assessed against the health requirement. If an applicant cannot meet the health requirement (even if it is a family member who does not intend to migrate), the visa application must be refused under the Migration Regulations, with limited exceptions. Refusal of one family member will mean the whole family unit's application will not be able to proceed.

Applicants for permanent visas will be asked to undergo

- a medical examination (using Form 26), <sup>6</sup>
- an x-ray (using Form 160) <sup>7</sup>if 11 or older and
- a HIV/AIDS test if 15 or older.

Medical examinations and x-rays are conducted by qualified doctors and radiologists who, in most cases, are nominated by DIMIA.

Applicants for a temporary visa may be asked to undergo a medical and x-ray examination if they are

- Likely to enter a pharmaceutical laboratory, hospital or health care area (including nursing homes) for any reason. In this case an x-ray is minimum requirement regardless of length of stay. Low and medium risk country inhabitants may make short visits to patients in Australia without x-ray screening;
- Likely to be engaged or enrolled in an Australian childcare centre (including preschools or crèches) either as an employee or trainee. In this case an x-ray is the minimum requirement regardless of length of stay;
- 70 years or older. A medical proforma needs to be completed by their doctor.<sup>8</sup>

Regardless of length of stay if there are any indications that the applicant may not meet health requirements then they will need a chest x-ray and/or a medical examination.

In some cases where an employer is sponsoring a temporary overseas employee, health requirements may be waived if the Australian employer gives a written undertaking to DIMIA that they will meet all costs relating to the disease or condition. There is no option of a waiver if the condition may result in a public health risk.

### **Language requirements**

English is not a criterion for all migrants. For those visa categories that do require a specified level of English proficiency the application will be refused if the required level is not met.

In most cases of Employer sponsored migration or Skilled Migration the nominee must have a vocational or functional level of English.<sup>9</sup>

Evidence of English proficiency can be provided through details of

- primary, secondary or tertiary education
- results of an International English Language Testing System (IELTS) test<sup>10</sup>
- results of an Occupational English test (OET) or
- other evidence.

Medical Practitioners who apply for permanent residence need to have undertaken the Australian Medical Council assessment process before applying for a visa. As part of the AMC process they need to have completed a designated vocational test of English proficiency or been granted an exemption on specified grounds.

### **Character assessment**

Discussed under police requirements.

## **New Zealand Citizens**

The 1973 Trans-Tasman Travel Arrangement allows New Zealand citizens to enter Australia to visit, live and work. The person needs a valid New Zealand passport to enter Australia. They are considered to have applied for a visa and, subject to health or character concerns, will automatically receive a Special Category Visa (SCV) which is recorded electronically. They do not need to seek a visa before travelling, unless there are medical or character concerns.

New Zealand citizens with medical conditions or criminal convictions are advised to approach the nearest Australian diplomatic office overseas to discuss their entry before travelling to Australia.

As a result of changes announced by the Australian and New Zealand governments on 26 February 2001, some New Zealand citizens are required to obtain permanent residence if they wish to:

- access certain social security payments (subject to the two year eligibility waiting period for most payments);
- be eligible for Australian citizenship; or
- sponsor people for permanent residence.<sup>11</sup>

## SKILLS/QUALIFICATIONS

Recognition of Skills and/or qualifications for IMGs depends on whether they are applying for temporary or permanent residency.

### Temporary residency

Medical Practitioners from overseas can enter Australia via a number of different ways. The two main routes for temporary residency are

1. Visa subclass 422 (Medical Practitioner) which allows temporary entry to medical practitioners from overseas to provide medical services where a suitable person in Australia is not available. These are medical positions designated as being “area of need” by the relevant State or Territory Health authority.<sup>12 13</sup>
2. Visa subclass 442 (Occupational Trainee) allows persons from overseas to undertake a supervised training program in Australia that is workplace-based and that has been designed specifically to add to, or enhance, the person’s level of practical skill in their present occupation or area of expertise. If a Medical Practitioner, these are usually doctors entering to undertake clinical specialist training.<sup>14</sup>

### “Area of Need” Temporary Resident Doctors (TRDs) Visa subclass 422

The applicant needs to be registered by the Medical Practitioners Board of the State or Territory of intended practice. Requirements are specific to each State and Territory. The applicant will generally be granted conditional registration in Australia. These doctors are also subject to supervision by an appropriately qualified Australian medical practitioner. Currently there is no formal Australia wide assessment of the level of theoretical and clinical skills expected of temporary resident doctors. Each Medical Board has different regulations, however, in most cases conditional registration will be granted for up to 4 years in an Area deemed to be of Need following provision of certain requirements. These include

- Certified copies of all medical degrees together with certified translations of any such document if written in a language other than English
- A Certificate of Good Standing from all Registration authorities where the applicant is currently registered
- A detailed curriculum vitae.

In considering an application for registration as a medical practitioner a Board would consider the following in determining whether to grant registration:

- The applicant’s mental and physical health
- The applicant’s command of the English language
- The applicant’s criminal history
- Any history of conditions, suspension or cancellation of registration
- The nature and extent of experience since qualification
- Any other issue relevant to determining the applicant’s ability to competently and safely practice.<sup>15</sup>

## Occupational Trainees Visa subclass 442

As part of the visa application process specific information needs to be supplied.

### A. NOMINATIONS FOR GENERAL OCCUPATIONAL TRAINING

The following information needs to be provided:

1. Biographical information on the nominating organisation covering its:
  - a) history;
  - b) date of establishment;
  - c) certificate of registration; and
  - d) principal activities.
2. Details of any formal arrangement between the nominator and the nominee's employer overseas;
3. Details of the nominating organisation's historical and existing training program for:
  - a) Visa subclass 442 holders; and
  - b) Australian residents;

Note: Under policy, this requirement cannot be met unless the nominator is  
(a) providing employees with organised training programs other than initial on-the-job instruction or orientation; or  
(b) participating in industry-based and government training programs and/or cadet training programs. Applications will not be approved if the nominator is considered not to be providing reasonable training opportunities for its own Australian employees.

4. Confirmation that employment and/or training opportunities to Australian residents will not be adversely affected as a result of the proposed training;
5. A comprehensive and structured training program which is to be closely supervised. The training must be workplace-based and be related to the nominee's current skill level and occupation, with the intention to enhance the nominee's skill level in his / her current occupation. The training program must be signed by the designated training supervisor. Details must also include all of the following:
  - a) the specific nature and duration of training (including expected hours of study and practical experience);
  - b) details of relevance, nature, duration and hours per week spent on any classroom-based training;
  - c) how the training will be supervised;
  - d) whether any external study or training provided by a third party will be involved.
6. A statement outlining the following:
  - a) the purpose of the proposed training and how the training relates to the nominee's current skill level in his / her current occupation;
  - b) how the training will add to, or enhance, the nominee's current skill level in his / her occupation;
  - c) why the training is being offered to the nominee.
7. If the nominee has already held or currently holds a Visa subclass 442, justification that the nominee needs further training beyond the original training program;
8. Details of salary and any other benefits to be provided to the nominee.

### B. NOMINATIONS FOR MEDICAL PRACTITIONER OCCUPATIONAL TRAINEES

The following information should be lodged with the nomination:

1. All documentation as required for general Occupational Trainees as stipulated above;
2. A comprehensive workplace-based training program signed by both the hospital's Director of Medical Services and the designated training supervisor;
3. A letter signed by an authorised person within the specialist medical college endorsing the training program. <sup>16</sup>

Separate to the Visa application process any overseas trained doctor who wishes to gain training as an occupational trainee will need to meet Registration requirements with the relevant State or Territory Medical Board. Again these will differ between States but essentially a sponsor usually a Tertiary Teaching Hospital needs to put forward a suitable training program and agree to supervise the trainee. In most cases one of the Professional Colleges will be involved.

### **Permanent Residency**

The principal avenue for overseas trained doctors (OTDs) intending permanent residence in Australia on the basis of their medical qualifications is to meet the Australian Medical Council (AMC) requirements for general or specialist registration. Any other overseas trained doctors who have obtained the right to permanent residency also need to go through the same process if they wish to practise as a doctor in Australia.

OTDs without recognised primary medical qualifications (i.e. their qualification is not from an AMC accredited medical school) are required to sit a multiple choice question examination and a clinical examination administered by the AMC. On meeting these requirements, the OTD needs to complete a period of supervised medical practise under the direction of a State/Territory medical board. Once this assessment process has been satisfactorily completed, an OTD will be eligible for general registration, meaning they can practise without restriction.

The standard of the AMC examinations is defined as the level of attainment of medical knowledge, clinical skills and attitudes required of newly qualified graduates of Australian medical schools who are about to commence intern training.

Applicants intending to undertake the AMC process are required to have completed a designated vocational test of English proficiency, or been granted an exemption on specified grounds. Candidates for the AMC examination applying offshore must travel to Australia to sit the examination, and return to their country to await the outcome. This assessment must be undertaken prior to commencing the immigration process.

Overseas trained general practitioners holding relevant post-graduate qualifications in general practice can also seek recognition of their qualification/experience through the Royal Australian College of General Practitioners (RACGP), as an alternative to undertaking the AMC examination, for appointment to “unmet area of need” positions, as determined by State and Territory health authorities.

Overseas trained specialists are able to apply through the AMC to have their specialist skills assessed by the relevant specialist medical college in Australia. Applicants will be assessed on the basis of their training and experience against the training and examination programs of the relevant college and the standard required for admission to Fellowship of that college. Overseas trained specialists who are assessed by the relevant college as competent to practise in Australia will be eligible to apply for registration limited to the designated field of specialist practice. Applicants for specialist assessment may at any time apply separately to the AMC to present for the AMC examination for general registration.<sup>17</sup>

Temporary Resident Doctors may apply for permanent residence onshore under various visa requirements. In this case, applicants must either complete the AMC examination process or obtain specialist recognition from the relevant College before they lodge their visa application.

## **New Zealand Doctors**

Doctors with primary medical qualifications obtained in New Zealand are automatically granted general registration in Australia and are not required to undergo the AMC assessment, as New Zealand medical schools are accredited by the AMC.

While most New Zealand postgraduate qualifications are recognised in Australia, doctors with these qualifications are advised to seek confirmation from the AMC.

It is important to note that New Zealand citizens are able to enter and remain in Australia on a special form of temporary visa. For the purpose of the Health Insurance Act 1973, New Zealand doctors are considered temporary resident doctors. They are therefore ineligible to provide services that attract Medicare benefits for a period of 10 years unless they obtain an exemption by working in an "Area of Need".<sup>18</sup>

## EMPLOYMENT ARRANGEMENTS

Employment of International Medical Graduates (IMGs) will vary dependant on their visa class and/or residency status. Temporary Resident Doctors will always require sponsorship. Permanent IMGs do not require sponsorship once they have valid permanent residency and have met any conditions related to obtaining residency, and have medical board registration.

### Permanent International Medical Graduates

The difficulty for IMGs is getting into the country initially. Australia has made a decision to control the number of doctors who enter the country. Therefore medical practitioners are not included on the “skilled occupations” list for the Skilled-Independent and Skilled-Australian Sponsored visa categories. To be eligible for a visa under these categories, applicants must have both recognised skills and recent work experience in an occupation on the list. Persons who have been working as medical doctors are unable to meet this requirement and cannot be granted a visa under these categories. These two categories are generally the easiest way for skilled people to obtain entry into Australia.

The only real options for medical practitioners to obtain permanent residency in Australia are through the Employer Nomination Scheme (ENS) and the Regional Sponsored Migration Scheme (RSMS). These schemes are designed to enable Australian employers to recruit highly skilled workers from overseas, where they are unable to fill vacancies locally.<sup>19 20</sup>

IMGs can apply either onshore or offshore under these schemes. A nomination for a permanent appointment by an Australian employer must be lodged at a Department of Immigration and Multicultural Affairs (DIMA) Business Centre with evidence that:

- The position has been fully labour market tested; or
- The relevant State/Territory Health Department has advised that people with skills required for the position are not available in Australia (i.e. the position has been given an area of need status).

AMC assessment must be undertaken before the application for a visa can be lodged. Applicants who pass the AMC examination process, or are advised by the AMC that they meet the Specialist College requirements, are eligible to apply for medical registration in the relevant category.

To sponsor an IMG through the Employer Nomination Scheme, the employer must be able to demonstrate that:

- They have a need for a paid employee, that the business is located in Australia and that it is operated by the employer;
- The vacancy requires the appointment of a “highly skilled person”. This means that the position requires a person who has completed at least 3 years of formal training and 3 years relevant work experience;
- The position is a full-time, fixed term appointment of at least 3 years;
- The employer has a satisfactory training record;
- The employer must have demonstrated that the position could not be filled from the Australian labour market; and

- The terms and conditions of employment must be in accordance with the standards for working conditions provided under Australian industrial laws.

The visa application through the Employer Nomination Scheme will be assessed by DIMIA against the following:

- That the nominee has the skills relevant to the nominated position;
- That the nominee meets the definition of a “highly skilled person”;
- That the nominee is able to satisfy any mandatory licensing, registration or professional membership requirements (for a doctor they must be eligible for Medical Board registration through the AMC process);
- That the employment, as outlined in the approved nomination, is still available (usually a signed contract of employment is required);
- That the nominee is less than 45 years (unless the appointment has been approved as exceptional);
- That the nominee has vocational English language ability; and
- That the nominee and all family unit members meet mandatory health and character requirements.<sup>21</sup>

The Regional Sponsored Migration Scheme allows employers in regional or low population growth areas of Australia to fill skilled positions that they are unable to fill from the local labour market. All areas of Australia are covered except Brisbane, the Gold Coast, Newcastle, Sydney, Wollongong, Melbourne and Perth. Under the scheme, employers are able to nominate staff from overseas or temporary residents currently in Australia to fill full-time, permanent vacancies.

The employer needs to demonstrate that:

- The position is a genuine full-time vacancy;
- The position nominated requires at the minimum qualifications equivalent to at least Australian diploma level;
- The position cannot be filled from the local labour market;
- The position is available for at least two consecutive years;
- Employment and remuneration are in accordance with Australian industrial laws; and
- An employment contract or letter of appointment has been or will be entered into between the employer and the nominee in respect of the nominated position.

The visa application through the Regional Sponsored Migration Scheme will be assessed by DIMIA against the following:

- That the nominee has the relevant qualifications;
- That the nominee is able to satisfy any mandatory licensing, registration or professional membership requirements (for a doctor they must be eligible for Medical Board registration through the AMC process);
- That the position is for a fixed term of at least two years (supported by evidence of a contract or letter of appointment signed by both the employer and the nominee);
- That the nominee is less than 45 years (unless the appointment has been approved as exceptional);
- That the nominee has “functional” English language ability; and
- That the nominee and all family unit members meet mandatory health and character requirements.<sup>22</sup>

## **Restricted Access to Medicare**

In general, the Government introduced a 10 year moratorium on access to Medicare rebates for holders of overseas medical qualifications who were not, at 1 January 1997, recognised as a medical practitioner in Australia. This moratorium affects doctors who were not permanent residents or citizens of Australia and registered with an Australian medical board prior to this date, and those doctors who had not completed their internship or applied to the AMC for assessment of their medical qualifications (and were eligible to be assessed) at this time.

IMGs who are affected by the moratorium are restricted to practising medicine in a salaried position for a period of 10 years unless they obtain an exemption from the moratorium. An exemption may be granted to a doctor working in a district of workforce shortage (area of need), which generally means rural areas and/or the public hospital system.

Since 1 January 1997, all doctors who wish to work in Australia are required to obtain postgraduate qualifications that are appropriate to the field of intended practice before they can access Medicare rebates or work in private practice. For general practitioners this is currently Fellowship of the RACGP, or recognition from the relevant Australian medical college for specialists.<sup>23</sup>

Once an IMG has fulfilled any visa obligations and has general or specialist registration with any State or Territory Medical Board they are able to work as per the limitations above. They do not require sponsorship nor are they restricted in any way other than as above.

## **Temporary Resident Doctors**

Temporary resident doctors (TRDs) are overseas trained doctors recruited to fill particular salaried positions in areas where medical doctors are required but not available (i.e. in under-supplied regions or areas of unmet need). The positions must be fully labour market tested or the relevant State/Territory Health Department must have advised that people with skills required for the position are not available in Australia (i.e. the position has been given area of need status).

TRDs who hold temporary resident visas receive conditional registration from a State Medical Board. Visa validity is usually in line with the period of conditional registration. TRDs are employed for specific periods of time and are restricted to practise in areas of unmet need, usually under supervision. Sponsorship is required regardless of the period of stay and they cannot change employer without prior permission.

TRDs may apply for permanent residence under the Employer Nomination Scheme or the Regional Sponsored Migration Scheme, as detailed above. In this case, applicants must either complete the AMC examination process or obtain specialist recognition from the relevant College before they lodge their visa application.

## **New Zealand Doctors**

New Zealand citizens are able to enter and remain in Australia on a special form of temporary visa. Until the change to the Health Insurance Act 1973, which limited access to provider numbers, New Zealand doctors whose primary medical qualification was obtained in New Zealand were able to freely work and attract Medicare benefits in Australia.

Since the change, for the purposes of the Health Insurance Act 1973, New Zealand doctors are considered temporary resident doctors who usually require exemptions under Section 19AB of the Act to provide services which would attract a Medicare benefit. i.e. they need to wait for 10 years before they can provide services which attract Medicare benefits and meet the other training requirements.

If New Zealand doctors obtain Australian citizenship, and their primary medical qualifications are from medical schools outside Australia, they are still considered overseas trained doctors for the purpose of access to Medicare benefits.<sup>24</sup>

## REFERENCES

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- <sup>1</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 47P Character requirements penal clearance certificates
- <sup>2</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 80 Personal particulars for character assessment
- <sup>3</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 1101 Police records check Consent to obtain personal information
- <sup>4</sup> Department of Immigration and Multicultural and Indigenous Affairs. Migrating to Australia. Frequently Asked Questions – Permanent Residence.  
<http://www.immi.gov.au/faq/permanent/index.htm>
- <sup>5</sup> Department of Immigration and Multicultural and Indigenous Affairs. Health Requirement for permanent entry to Australia. Form 1071i
- <sup>6</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 26A Medical Examination for an Australian visa
- <sup>7</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 160A Radiologist report on chest x-ray of an applicant for an Australian visa
- <sup>8</sup> Department of Immigration and Multicultural and Indigenous Affairs. Health Requirement for temporary entry to Australia. Form 1163i
- <sup>9</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 966i Migrating to Australia English language assessment
- <sup>10</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 1220i IELTS Test Centres
- <sup>11</sup> Department of Immigration and Multicultural and Indigenous Affairs. Migrating to Australia. Frequently Asked Questions – Permanent Residence.  
<http://www.immi.gov.au/faq/permanent/index.htm>
- <sup>12</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 55 Sponsorship for temporary residence in Australia (non business)
- <sup>13</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 147 Application for a temporary residence visa (non-business)
- <sup>14</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 913 Nomination for occupational training
- <sup>15</sup> Melbourne Business Centre. Subclass 422 Medical Practitioner Information Leaflet
- <sup>16</sup> Melbourne Business Centre. Subclass 442 Occupational Trainee Information Leaflet
- <sup>17</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 1062i Overseas trained doctors seeking permanent residence in Australia
- <sup>18</sup> Commonwealth Department of Health and Ageing. Workforce Advice to Medical Practitioners. General Information for Overseas Trained Doctors wishing to practice Medicine in Australia. New Zealand Doctors. [www.health.gov.au/workforce/general.htm](http://www.health.gov.au/workforce/general.htm)
- <sup>19</sup> Department of Immigration and Multicultural and Indigenous Affairs. Employer Sponsored Migration Booklet 5

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<sup>20</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 47ES Application for employer sponsored migration to Australia

<sup>21</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 785 Employer nomination under the Employer Nomination Scheme

<sup>22</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 1054 Employer nomination under the Regional Sponsored Migration Scheme

<sup>23</sup> Department of Immigration and Multicultural and Indigenous Affairs. Form 1062i Overseas trained doctors seeking permanent residence in Australia

<sup>24</sup> Commonwealth Department of Health and Ageing. Workforce Advice to Medical Practitioners. General Information for Overseas Trained Doctors wishing to practice Medicine in Australia. New Zealand Doctors. [www.health.gov.au/workforce/general.htm](http://www.health.gov.au/workforce/general.htm)