

Sponsorship Obligations – Subclass 457 Temporary Work Visa

Each employer that is approved as a standard business sponsor (allowing it to sponsor subclass 457 Temporary Work (Skilled) 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 regarding these obligations.

Sponsor Obligation	Explanation	Duration
Co-operate with inspectors	The sponsor must cooperate with inspectors who are appointed under the Migration Act 1958 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 Immigration & Border Protection. The inspectors' powers include the right to enter premises, inspect work, interview persons and require documents to be produced for inspection.	Commences on the day sponsorship is approved. Ceases five years after the sponsorship expires.
Ensure equivalent terms and conditions of employment NOTE: This obligation does not apply to a sponsored employee who is receiving a salary in excess of the applicable high income threshold.	The sponsor must ensure that the terms and conditions of employment provided to a sponsored employee are: - 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 AND - no less favourable than the terms and conditions offered to the sponsored employee in support of the relevant nomination application that was approved by the DIBP	If the sponsored employee already holds a subclass 457 visa: Commences from the time the nomination is approved. If the sponsored employee does not hold a subclass 457 visa: Commences from the time the visa is granted. Ceases when the visa holder ceases employment OR is granted a further substantive visa (that is not a subclass 457 visa).
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 visa) to leave Australia IF the costs have been requested in writing by the DIBP 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.	<u>If the sponsored employee already holds a subclass 457, 401 or 428 visa:</u> Commences from the time the nomination is approved. <u>If the sponsored employee does not hold a subclass 457 visa:</u> Commences from the time the visa is granted. Ceases when the sponsored employee obtains another nomination OR is granted a further substantive visa (not a subclass 457 visa) OR has left Australia and no longer holds the subclass 457 visa.

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Pay costs incurred by the Commonwealth to locate and remove unlawful non-citizen	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 visa) from Australia, IF the Minister has requested the payment by written notice. 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).	Commences on the day on which the sponsored person becomes an unlawful non-citizen. Ceases five years after the sponsored person leaves Australia.
Keep records	The sponsor must keep records of its compliance with all sponsorship obligations, as well as a copy of the sponsored employee's employment contract, a record of tasks performed by the sponsored employee in the nominated occupation, the location of the sponsored employee's employment, and the sponsor's compliance with the required training benchmarks. All of the records kept must be reproducible, and some must be capable of verification by an independent person.	Commences on the day sponsorship is approved. Ceases two years after the sponsorship ceases AND the sponsor is no longer sponsoring a visa holder.
Provide records and information to the Minister	The sponsor must provide to the Minister, IF the Minister makes a written request, records or information that goes to determining whether: • 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. The records or information must be provided on request, and in the manner and timeframe requested by the Minister.	Commences on the day sponsorship is approved. Ceases two years after the sponsorship ceases AND the sponsor is no longer sponsoring a visa holder.
Provide information to Immigration when certain events occur	The sponsor must inform the DIBP when certain changes in circumstances occur e.g.: • the sponsored employee ceases 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; • the training benchmark information supplied to the DIBP in support of the sponsorship application changes. • This information must be provided to the DIBP by post or 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.

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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.	If the sponsored employee already holds a visa: Commences on the day the nomination is approved. If the sponsored employee does not already hold 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 subclass 457 visa) OR has left Australia and no longer holds the subclass 457 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 the sponsored employee, or the dependents included on that employee's visa, all OR part of the costs (including migration agent costs): - relating specifically to the recruitment of the sponsored employee; or - associated with becoming or being a sponsor or former sponsor.	Commences on the day sponsorship is approved. Ceases when the sponsorship ceases AND where the sponsor is no longer sponsoring a visa holder.
Continue to meet training benchmark requirements	Starting from the sponsorship approval date (and renewing on each anniversary of this date): In each 12 month period during which the sponsor employs a subclass 457 visa holder (for either the whole period or part thereof), the sponsor must meet the benchmarks set by the DIBP in relation to its training of Australian employees. This entails either: - spending the equivalent of at least 1% of its payroll on training its Australian employees; or - contributing the equivalent of at least 2% of its payroll to a relevant industry training fund (or acceptable equivalent).	Commences on the day sponsorship is approved. - If the sponsorship approval period is less than six years: Ceases three years after the sponsorship is approved - If the sponsorship approval period is at least six years: Ceases six years after the sponsorship is approved