



## Frequently Asked Questions Reforms to the Business Skills Program July 2012

The Business Skills Program will be replaced by the Business Innovation and Investment Program on 1 July 2012. The Business Innovation and Investment Program introduces some key reforms that were recommended by a comprehensive review of the Business Skill Program in 2011.

### What is the Business Innovation and Investment Program?

Business Innovation and Investment is a niche category in Australia's skilled migration program. It aims to directly create new business as visa holders become business owners. This is different to the general skilled migration and the employer sponsored visa categories, which aim to supply skilled employees to existing businesses and industries at risk of skill shortages.

The Business Innovation and Investment Program is designed to increase entrepreneurial talent and diversify business expertise in Australia. It is positioned to target migrants that have a demonstrated history of success in innovation and business and are able to make a significant contribution to the national innovation system and to the Australian economy.

**See:** <http://www.immi.gov.au/skilled/business/whats-new.htm>

### Why are changes being made to the program?

The existing Business Skills Program was introduced in March 2003, but the business environment has changed since the global financial crisis. Australia's economy has been strong and less volatile than some others, so it was timely to review the program to ensure it was meeting its objectives.

A comprehensive review of the program was conducted in 2011. It revealed that there was a need to improve on the design of the program to better position it to encourage greater ventures by business migrants and foster innovation.

### When are the changes coming into effect?

The changes come into effect on 1 July 2012.

### What visa options are available under the new program?

The program will be made up of three visa subclasses:

- Business Talent (Permanent) (subclass 132)
- Business Innovation and Investment (Provisional) (subclass 188)
- Business Innovation and Investment (Permanent) (subclass 888).

Within each of these visa subclasses there will be two 'streams'.

## What are the new streams?

The Business Talent (Permanent) (subclass 132) visa streams will be:

- significant business history stream
- venture capital entrepreneur stream.

The Business Innovation and Investment (Provisional) (subclass 188) visa and the Business Innovation and Investment (Permanent) (subclass 888) visa streams will be:

- business innovation stream
- investor stream.

## What is SkillSelect? How does it relate to the program?

SkillSelect is an online service that enables skilled workers and business people interested in migrating to Australia to record their details to be considered for a skilled visa through an Expression of Interest . People who want to migrate to Australia may be nominated for skilled visas by Australian employers or state and territory governments, and invited by the Australian Government to lodge a visa application.

More information on SkillSelect is available.

**See:** <http://www.immi.gov.au/skills/skillselect/>

SkillSelect will be implemented on 1 July 2012. All intending migrants who are interested in applying for a Business Talent (subclass 132) or a provisional Business Innovation and Investment (subclass 188) visa must submit an Expression of Interest and receive an invitation in order to lodge a visa application.

**See:** <http://www.immi.gov.au/skills/skillselect/>

## Why is there a points test?

A key component of the new program is the introduction of the innovation points test for the provisional Business Innovation and Investment (subclass 188) visa. The combination of a points test with SkillSelect is designed to improve the quality of the program.

## What is the pass mark?

The pass mark for the provisional visa is 65. This pass mark is consistent with the pass mark for the General Skilled Migration points test.

**See:** <http://www.immi.gov.au/skilled/business/whats-new.htm>

## What is the English language requirement of the provisional Business Innovation and Investment visa?

There are no minimum English language threshold requirements for applicants and their family members. All applicants and any dependants over the age of 18 years old who are unable to demonstrate functional English must pay a second instalment of the visa application charge.

Applicants who can demonstrate vocational English or proficient English will be eligible to be awarded points under the innovation points test.

### Why have the thresholds been raised for the provisional visa?

The new thresholds will be set at the same level as the provisional non-sponsored thresholds of the existing Business Skills program. These rates are consistent with the Australian Bureau of Statistics' records of the average net worth of Australian business owners in 2006, so these thresholds are a suitable minimum for potential entry into Australia. Business metrics and personal assets provide an objective basis to determine the size of business that an applicant has owned and maintained. It also determines the level of financial resources the applicant has available to support themselves and to develop business and investment activity in Australia.

The following table details the minimum asset and turnover requirements for visas under the program.

| Subclass                                  | Assets          | Turnover     |
|---|-----------------|--------------|
| (188) Business innovation stream          | AUD800 000      | AUD500 000   |
| (188) Investor stream                     | AUD2.25 million | N/A          |
| (888) Business innovation stream          | AUD600 000      | AUD300 000   |
| (132) Significant business history stream | AUD1.5 million  | AUD3 million |

### Can I renew my provisional visa?

The new program will incorporate access to flexibility provisions to encourage innovative business and assist business people on their pathway to permanent residence.

Provisional visa holders who met the requirements for the business innovation stream may be eligible to apply for a two year extension to their provisional visa, provided they are nominated by a state or territory government.

### I am the holder of current provisional Business Skills visa (subclasses 160,161,162,163,164 or 165). What do I do next?

If you are currently the holder of a provisional Business Skills visa (subclasses 160,161,162,163,164 or 165), you must apply for the existing permanent Business Skills visa (subclasses 890, 891,892, 893). You will not be eligible to apply for a Business Innovation and Investment (Permanent) (subclass 888) visa.

## Are there any changes to the permanent visa?

The following requirements will apply to the permanent Business innovation and Investment visa:

- The business and personal assets requirement has been increased to align the program with the median level of assets of Australian business owners.
- There are new ownership criteria for business nominated under the Business Innovation and Investment program.
- The primary applicant will need to have met the primary criteria for the grant of their provisional Business Innovation and Investment visa. This means that swapping between primary and secondary visa holders is no longer allowed.
- Measures have been introduced to improve the integrity of the program and require a visa holder to have complied with Australian Government, state or territory laws applicable to business.

## What do the ownership changes mean if I want to buy a business in Australia?

Under the new program, you cannot have acquired an ownership interest in the main business(es) from a person who was an applicant for, or holder of, a Business Skills (Residence) visa. The only exception is if you had a joint interest with the other person in the main business for at least 12 months before you applied for the visa.

The objectives of the program are for visa holders to transfer their business skills and history of innovation to Australia. The recycling of businesses from one business migrant to another counteracts this objective.

## Are there any changes to the Business Talent (subclass 132) visa?

The Business Talent visa will be included in SkillSelect, which requires the submission of an Expression of Interest. The significant business history stream will maintain the same criteria required under the existing Business Skills Program.

In addition to the significant business history stream, the venture capital entrepreneur stream will be introduced as part of the Business Talent visa.

## What is the venture capital entrepreneur stream?

The venture capital entrepreneur stream is for entrepreneurs who have sourced at least AUD1 million in venture capital funding from a member of the Australian Venture Capital Association Limited to fund the start up phase, product commercialisation, business development or expansion of a high value business idea in Australia.

## Why has the venture capital entrepreneur stream been introduced?

Australia has an innovation-driven economy with pioneering scientific research institutions and world class research and development facilities, and the venture capital industry has a good track record of commercialising world-class products and services. The venture capital entrepreneur stream will be a channel for bringing foreign entrepreneurial expertise to Australia's national innovation system.

## Why have some of the old visa options been removed?

The Australian Government has committed to reduce the number of temporary working visa subclasses by 50 per cent by 2012. The aim is to reduce the total number of visa subclasses by 50 per cent by 2015.

While the existing Business Skills Program has 13 visa subclasses, 96 per cent of the program was made up of state/territory sponsored categories and a number of visa subclasses were underused. These specific visa subclasses were removed to simplify the program.

This means that subclass 845 and 846 visa will be closed to new applicants from 1 July 2012.

## What options are there in the Business Innovation and Investment program for visa holders of a subclass 444 and Independent Executives who hold a subclass 457?

Holders of a subclass 444 or 457IE will be able to apply directly for the permanent Business Innovation and Investment visa (subclass 888) from 1 July 2012.

## How do Australian states or territories nominate applicants?

Once your Expression of Interest is in SkillSelect, it can be viewed and a state or territory can decide whether to nominate you to apply for a visa. The following state and territory governments have their own criteria for deciding which applicants they will nominate. In most cases, and before you are nominated, the relevant state or territory will contact you to discuss business possibilities.

The following information is contact details for state and territory governments.

- Australian Capital Territory: <http://www.business.act.gov.au/>
- New South Wales: <http://www.business.nsw.gov.au/live-and-work-in-nsw>
- Northern Territory: <http://www.nt.gov.au/dbe/Pages/default.aspx>
- Queensland: <http://www.workliveplay.qld.gov.au/dsdweb/v4/apps/web/content.cfm?id=3168>
- South Australia: <http://www.migration.sa.gov.au/sa/home.jsp>
- Tasmania: <http://www.migration.tas.gov.au/>
- Victoria: <http://www.liveinvictoria.vic.gov.au/>
- Western Australia: <http://www.smallbusiness.wa.gov.au/>

## **If I am nominated by a specific Australian state or territory, am I allowed to move to a different state or territory?**

When you are nominated by a state or territory for a provisional Business Innovation and Investment visa, it is the expectation of the department and the state or territory government that has nominated you that you will reside and establish a business in their jurisdiction.

If you need to move to or establish your business in a different state or territory, and you want to be eligible for a permanent Business Innovation and Investment visa, you must have a new nomination from the state or territory in which you reside. You should also have a letter of release from the state or territory that has nominated you.

## **What are my options if a state or territory does not nominate me for a Business Innovation and Investment visa?**

The program is a state and territory nominated program. You must have been nominated by a state or territory government to apply for a Business Innovation and Investment visa.

## **How do I lodge an application?**

If you have been nominated through SkillSelect by a state or territory and you meet other mandatory criteria, you will automatically receive an invitation.

You will have 60 days to lodge your visa application using the department's electronic lodgement system. If you receive two invitations in SkillSelect but do not lodge a valid visa application as a result of either invitation, your Expression of Interest will be removed from the SkillSelect database. You will have to formally resubmit an Expression of Interest to be considered for future invitation rounds.

## **How do I supply supporting documents for a Business Innovation and Investment visa application?**

If you are invited to apply for a Business Innovation and Investment visa, you need to provide additional supporting documentation directly to a processing centre. The processing centre to which you must send documentation depends on the visa for which you are applying or on your country of usual residence. This documentation must be provided at the same time as the visa application.

## **I have already lodged my provisional Business Skills visa application. What does this change mean for me?**

If you lodged a visa application for a provisional Business Skills visa before 1 July 2012, you will be assessed against the current criteria and the program changes will not affect your application.

## What does the removal of the onshore and offshore distinction mean?

This means that you can apply for any of the Business Innovation and Investment program visas either in or outside Australia.

## What happens to my review rights as a consequence of the removal of the onshore and offshore distinctions?

If your Business Innovation and Investment visa application is refused and you want to seek review of the decision, you may be eligible to do so with the Migration review Tribunal.