

From: s. 22(1)(a)(ii)
To: s. 22(1)(a)(ii)
Subject: s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

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-----Original Message-----

From: Education - QRP - Prof s. 22(1)(a)(ii)
Sent: Thursday, 29 October 2015 12:12 PM
To: s. 22(1)(a)(ii)

[Redacted]

Subject: Guidelines for the Skilled Migration Assessing Authorities [SEC=UNCLASSIFIED]

Good afternoon

Thank you for meeting with s. 22(1)(a)(ii) and I this morning. As discussed attached are the Guidelines for the Skilled Migration Assessing Authorities. In regards to the other items we discussed I am still following up and will be in contact.

Kind regards

s. 22(1)(a)(ii)
[Redacted]

s. 22(1)(a)(ii)
Qualifications Recognition Policy | International Mobility Branch International Group Australian Government
Department of Education and Training
Telephone: s. 22(1)(a)(ii)

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Australian Government
Department of Education and Training

Guidelines for skilled migration assessing authorities

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under the *Freedom of Information Act 1982*

Introduction

Australia's skilled migration programme

Australia's skilled migration programme aims to contribute to Australia's economic and workforce needs in skills areas identified by the Australian Government. The programme requires certain prospective migrants to undergo an assessment of their skills, qualifications and/or experience to ensure they meet the standard needed for employment in Australia in a nominated occupation. Assessing authorities approved by the Australian Government conduct skills assessments to inform the Department of Immigration and Border Protection's decisions on skilled migration.

Regulatory authority

These Guidelines relate to regulation 2.26B (Relevant assessing authorities) of the *Migration Regulations 1994*¹, which states that:

(1) Subject to subregulation (1A), the Minister may, by an instrument in writing for this subregulation, specify a person or body as the relevant assessing authority for:

- (a) a skilled occupation; and*
- (b) one or more countries;*

for the purposes of an application for a skills assessment made by a resident of one of those countries.

(1A) The Minister must not make an instrument under subregulation (1) unless the person or body has been approved in writing as the relevant assessing authority for the occupation by:

- (a) the Education Minister; or*
- (b) the Employment Minister.*

(2) The standards against which the skills of a person are assessed by a relevant assessing authority for a skilled occupation must be the standards set by the relevant assessing authority for the skilled occupation.

(3) A relevant assessing authority may set different standards for assessing a skilled occupation for different visa classes or subclasses.

The purpose of these Guidelines

These Guidelines provide guidance to bodies and assessing authorities as to the criteria to be considered, and the process adopted, by the Minister for Education in relation to:

- persons or bodies seeking approval as an assessing authority for an occupation under subregulation 2.26B(1A)
- assessing authorities seeking approval to change its scope of nominated occupations
- being satisfied that assessing authorities are continuing to meet the standards for approval under subregulation 2.26B(1A)

The criteria align with Australia's international obligations under UNESCO recognition conventions and Australian Government skills recognition policy, including outcomes-based approaches to skills recognition, the principle of comparability, and eliminating barriers to recognition.

These Guidelines are subject to review.

¹ <http://www.comlaw.gov.au/Details/F2013C01002>.

Roles and responsibilities

| Body | Responsibilities |
|--|--|
| Person or body seeking approval as an assessing authority (Body) | <ul style="list-style-type: none"> • Provide evidence against the approval criteria |
| Assessing authority | <ul style="list-style-type: none"> • Deliver a skills assessment service to prospective migrants aligned with Australian Government skills recognition policies • Adhere to the Guidelines • Work effectively with the Australian Government, including through participating in support arrangements |
| Department of Education and Training (Education) | <ul style="list-style-type: none"> • Assess bodies against the approval criteria on the basis of evidence provided • Recommend bodies to the Minister for Education for approval • Notify Immigration of the Minister for Education's approval • Monitor assessing authorities and make recommendations to the Minister accordingly • Providing skills recognition policy advice to assessing authorities • Liaise with Immigration and other Australian Government agencies • Maintain Australia's international obligations in skills recognition |
| Minister for Education | <ul style="list-style-type: none"> • Approve bodies as assessing authorities • Notify the Minister for Immigration of approval of bodies as assessing authorities and requesting their specification • Revoke approval of bodies as assessing authorities |
| Department of Immigration and Border Protection (Immigration) | <ul style="list-style-type: none"> • Facilitate the Minister for Immigration's specification of bodies through the relevant legislative instrument • Provide migration policy advice to assessing authorities, government agencies and other stakeholders |
| Minister for Immigration | <ul style="list-style-type: none"> • Specify bodies as assessing authorities |

Approval

Initial approval

When considering whether to approve a body under subregulation 2.26B(1) of the Migration Regulations, the Minister for Education will consider the body's application for approval as an assessing authority for an occupation against the approval criteria established in these Guidelines.

If the body is approved, the Minister for Education will then advise the Minister for Immigration of the approval and request specification under the Migration Regulations. Following such specification an assessing authority can issue valid skills assessments.

The Minister for Education may, in exercising discretion under subregulation 2.26B(1A), approve an application that does not meet all of the approval criteria. In this regard, any specific arguments advanced by a body for approval as to why an approval criterion should not apply, in the particular circumstances of their application, will be considered by the Minister for Education. In addition, having regard to the particular circumstances of an application for approval, the Minister for Education may consider that it is appropriate to decline an application that meets the approval criteria.

Bodies may approach Education seeking approval or Education or Immigration may identify a body as a prospective assessing authority for a nominated occupation and request the body makes an application for approval as an assessing authority. Education will work with bodies seeking to become assessing authorities and assessing authorities seeking to expand the scope of occupations under their remit, to facilitate approval and specification. This includes liaison with Immigration and other Australian Government agencies.

Ongoing approval

To maintain the integrity of the approval process for assessing authorities, approvals granted by the Minister for Education are to be subject to review. To assist the Minister for Education in determining whether an assessing authority ought to continue to be approved under subregulation 2.26B(1A), an assessing authority must:

- participate in Education's support arrangements by providing information on applications and assessments according to parameters and in the format identified by Education (see page 9)
- inform Education and Immigration of proposed changes to its assessment standards, processes or fees at least three months before implementation
- provide evidence of the assessing authority's continued commitment to the approval criteria, if requested
- provide information about skills assessments, standards, complaints and stakeholder consultation, if requested

In circumstances where the assessing authority does not continue to meet the standards for approval under subregulation 2.26B(1A), the Minister for Education can revoke the assessing authority's approval, following discussion and consultation with the Minister for Immigration, the assessing authority and other relevant organisations.

Approval criteria

The approval criteria provide a basis for the approval of assessing authorities by the Minister for Education and support the delivery of an appropriate skills assessment service by assessing authorities.

Documentary evidence required is listed below. Evidence can apply to more than one criterion.

Criterion 1: The body is financially viable and has administrative structures, policies and processes to operate effectively as an assessing authority

Evidence:

- *the completed form at Attachment A and the supporting documents specified in the form*
- *the body's proposed fee structure and the basis for the proposed fee structure*
- *the body's constitution and business plan, operational manual or similar covering:*
 - *administrative units involved in the assessment process*
 - *roles and responsibilities of the assessment officer(s)*
 - *policies and processes to undertake skills assessments*
 - *financial processing/management system*
 - *data collection and reporting system*
- *the body's business continuity, risk management, privacy, freedom of information and record-keeping policies*

A body must demonstrate that it is capable of effectively and efficiently delivering a skills assessment service. It must also demonstrate that it has planned how to identify and mitigate risks to the provision of skills assessments in order to protect the interests of prospective migrants and the Australian Government.

A body must demonstrate that it has, or can reasonably expect to have, sufficient financial resources (including income from skills assessments) to carry out its responsibilities as an assessing authority. In the case of a body seeking approval, a projected operating budget constitutes acceptable evidence.

Fees for skills assessments should minimise financial barriers to recognition. Fees for skills assessments and for review and/or appeal of skills assessments should be calculated on a cost-recovery basis and reflect the cost to the body of the skills assessment and review and/or appeal processes.

A body must have records management policies and processes that ensure accurate data collection of applications, assessment results and the basis on which the assessment result was decided. A body must also demonstrate that prospective migrants' personal information will be handled and stored correctly as required by law, and that prospective migrants will be granted access to their own information as required by law.

Application forms must include an applicant declaration by which the prospective migrant declares that he or she:

- understands the purpose of the application

- has supplied factual information about themselves and understand the penalties for providing false and misleading information
- agrees to the release of his or her personal information in certain circumstances and
- understands that reasonable enquiries relevant to his or her application may be made

Criterion 2: The body represents the nominated occupation nationally and has written support from relevant organisations to operate as the assessing authority for the nominated occupation

Evidence:

- *letters of support from relevant organisations*
- *information about how the body will regularly liaise with relevant organisations to ensure consistency and currency in skills recognition.*

The body should be an occupation-specific body with a national role. Occupation-specific bodies are those responsible for establishing and/or applying nationally-recognised occupational standards for the occupation they propose to assess, either through licensing/registration or the accreditation of Australian Qualifications Framework qualifications required for employment in the occupation. Notwithstanding historical precedent, only one assessing authority per occupation will be approved except in extraordinary circumstances.

It is the responsibility of the assessing authority to liaise with relevant organisations on an ongoing basis to ensure streamlined recognition in the occupation, particularly if skills recognition decisions for migration and employment are made by different bodies.

The support of relevant organisations will give the Australian Government and prospective migrants confidence in the acceptability of skills assessments done by the body. The number and range of relevant organisations whose support the body will require will differ according to the occupation. Relevant organisations include industry bodies, regulatory authorities and education providers.

Letters stating support for the body and acceptance of skills assessments issued by the body as meeting the standard for employment in Australia in the nominated occupation should be from the following relevant organisations:

- registration/licensing authorities, for regulated occupations and
- other organisations that represent the interests of the occupation and its members.

If a relevant organisation does not support the body operating as the assessing authority for an occupation, the body and relevant organisation should discuss the matter to seek consensus. If the issue is unable to be resolved, the body will be expected to make a case as to why this approval criterion should not be applied, for consideration by the Minister for Education.

Criterion 3: The body has assessment standards that are consistent with standards needed for employment in the nominated occupation in Australia and has appropriate processes for assessing applicants against these standards

Evidence:

- *the assessment standards and the process by which the body will determine if a prospective migrant meets the standards*
- *an explanation of how the assessment standards are consistent with standards for employment in the nominated occupation in Australia*
- *an explanation of how the assessment standards were established and will be updated regularly*

The assessing authority is responsible for setting the assessment standards for the nominated occupation. However, the Minister for Education must be satisfied that the assessment standards are appropriate and do not pose unreasonable barriers to recognition. As such, the body must demonstrate that proposed standards:

- can be met through skills, qualifications and/or experience
- are limited to skills, qualifications and/or experience relevant to the nominated occupation
- are not less than or more than those an Australian would need to meet for employment in the nominated occupation
- are based on nationally-recognised occupational standards:
 - standards for licensing/registration in the nominated occupation and/or
 - Australian Qualifications Framework qualifications required for employment in the nominated occupation

The process by which the assessment standards are applied must:

- be transparent, coherent, reliable, fair and non-discriminatory
- be flexible enough to allow an applicant to meet the standards through a variety of pathways
- deliver positive outcomes for prospective migrants with:
 - Australian qualifications accredited for entry to the nominated occupation
 - registration, licensing or professional body membership in the nominated occupation
- allow for applicants to correct errors or omissions in their applications
- not be unreasonable in terms of the type, format or certification of documents required, which must be the minimum required to assess the applicant against the assessment standards
- in the case of exams, be available at appropriate intervals throughout the year and in a range of geographic locations, taking costs, feasibility, projected number of assessments and visa issues into account.

Criterion 4: The body will clearly inform prospective migrants about skills assessments

Evidence:

- *the body's website address*
- *information the body will provide to prospective migrants and documentation the body will provide to applicants*
- *an explanation of how the body will communicate with prospective migrants including communication of changes to skills assessment standards or fees*

The body must provide information in plain English that explains the skills assessment process, including assessment standards, assessment methods, application requirements, fees, service times, review and/or appeal processes, and the requirements to work in the nominated occupation in Australia.

Information should be detailed enough to allow prospective migrants to understand the likelihood of meeting the standards for a skills assessment in a nominated occupation before making an application. This is particularly important for occupations that assessed by exam, due to the time and financial commitment to enter such a process.

The body should provide information and contact details relating to registration, licensing, membership of a professional body and employment to enable the prospective migrant to seek more information on working in the nominated occupation if he or she is successful in migrating to Australia.

Applicants must be issued with a skills assessment that clearly states the suitability of their skills for migration purposes for the nominated occupation.

Criterion 5: The body has an appropriate review and/or appeal process for its skills assessments

Evidence:

- *the body's review and/or appeal policy*
- *a template of the documentation used for presenting information to the review officer and/or appeal assessor/panel*
- *mechanisms for independent input into the review/appeal process*

The body may choose to have a review process, an appeal process, or both.

An internal review process involves a more senior officer within the body, who was not involved in processing the original application, reviewing the skills assessment decision to ensure that no errors have been made in the skills assessment or administration of the application.

An external appeal process involves an independent assessor or advisory/appeal panel re-assessing the original application. This may include additional information submitted by the applicant, or subsequent exam results. Independent input should contribute expertise in the nominated occupation, for example through being a practitioner, academic or regulatory/professional body representative whose primary role is not with the body.

If the review and/or appeal identifies that an error has been made that affects the skills assessment decision, the applicant should be issued a revised skills assessment.

The review and/or appeal process should include counselling, by which an officer within the assessing authority provides feedback to unsuccessful applicants on how their skills assessment result was determined and what options are now open to them.

Support and reporting

Education will support assessing authorities in their skills assessment activities by:

- providing advice and feedback on skills recognition policy issues through profrecognition@education.gov.au
- holding regular meetings, face-to-face and online, including policy forums for assessing authorities
- publishing assessment guidelines on the comparability of overseas qualifications to the Australian Qualifications Framework
- facilitating contact with relevant organisations and Australian Government stakeholders as required
- assisting assessing authorities in streamlining skills recognition, such as through alignment of standards and processes for migration and employment

To allow Education to provide informed support to assessing authorities, assessing authorities are requested to provide the information described below every six months. This information will be used by Education to identify trends in skills recognition and will not be released beyond the Australian Government.

Required information (to be provided for the previous six months) is to include:

- number of skills assessments by suitable/not suitable outcome
- breakdown of not suitable outcome by criteria not met
- number of review and appeal requests, including outcome
- number of assessments for applicants with Australian qualifications accredited for entry to the nominated occupation or Australian registration/licensing in the nominated occupation, including outcome



Application to become a migration assessing authority—financial viability questionnaire

A. General

The information requested in this questionnaire is sought to determine, in the opinion of the Department of Education and Training, whether the professional body is in an appropriate financial position to fulfil the responsibilities of an assessing authority on an ongoing basis in accordance with criterion 1 of the Approval Guidelines. This questionnaire forms part of the application for approval as an assessing authority in accordance with *reg.2.26B of the Migration Regulations 1994*. All organisations applying for approval as an assessing authority must complete this questionnaire and submit it to Education as part of its application.

Please ensure you read and complete each question. Incomplete, inaccurate or illegible information may delay assessment of your application.

B. Organisational details

1. Applicant's legal name
2. Applicant's trading name
3. Does the applicant have an ultimate holding body? If so, provide its name.
4. Does the applicant have any subsidiaries? If so, provide their names.
5. Does the applicant have any related bodies corporate? If so, provide their names.
6. What type of organisation is the applicant?
 A company registered under the *Corporations Act 2001* (attach copies of Registration of Business/Trading Name, Certificate of Incorporation and constitution)
 An incorporated association (attach copies of Registration of Business/Trading Name, Legislation Reference and Registration Number under legislation other than the *Corporations Act 2001* and articles of association)
 Other (attach copy of Registration of Business/Trading Name)
7. Applicant's ABN
8. Applicant's ACN (if applicable)
9. Applicant's registration number under legislation other than the *Corporations Act 2001* (if applicable)
10. Applicant's registered business address in Australia (must be a physical address)

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11. How many years has the applicant been operating?
12. Does the applicant conduct business in Australia? Yes No
13. Is central management and control of the applicant in Australia? Yes No
14. How many employees does the applicant have?
15. Provide details of at least two and no more than four people directly involved in the management and operation of the applicant and the use and recording of funds (e.g. company directors, Chief Executive Officer and Chief Financial Officer).

Full name

Position in organisation

Number of years in management/operations/financial management of organisation

Full name

Position in organisation

Number of years in management/operations/financial management of organisation

Full name

Position in organisation

Number of years in management/operations/financial management of organisation

Full name

Position in organisation

Number of years in management/operations/financial management of organisation

16. Please provide the following information with regard to the applicant.
If the answer to any question is "yes", please attach details on a separate sheet of paper.

Has there been any past, current, pending or finalised legal action against the applicant within the past five years? Yes No

Have there been any collections by a debt collection agency on behalf of creditors of the applicant? Yes No

Has any contract involving the applicant been terminated for cause? Yes No

Financial information

17. Does the applicant had a risk management plan? Yes No
If yes, please attach a copy. If no, please provide an explanation.

18. To demonstrate the applicant's financial health, please attach the following documents.

- A copy of the applicant's Audited General Purpose Financial Statements for the most recent complete financial year
- A copy of the applicant's Audited General Purpose Financial Statements for the three previous complete financial years
- If the most recent of these statements is more than six months old, then an interim financial report should also be attached.

If copies of the requested documents are not attached, please provide an explanation.

The Audited General Purpose Financial Statements should be accrual and based on Australian Accounting Standards and other mandatory reporting requirements, and include a Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and notes to the accounts. The Auditor's Statement and the name, qualifications and address of the Auditor should also be attached.

19. If the applicant has been operating for less than one financial year, please attach a projected operating budget for the current financial year and the next financial year, and, if applicable:

- financial details for previous entities which have formed the new organisation, explaining what resources mentioned in these financial reports the applicant can call on (if applicable).

20. Does the applicant have any contingent liabilities likely to have an impact on its financial position? Yes No

21. Does the applicant have any contingency funding if it experienced an unexpected funding shortfall? Yes No

22. Does the professional body authorise Education to contact its accountant auditor for clarification of any queries regarding its financial statements? If yes, please provide their name and contact details. Yes No

Privacy notice

The Department of Education and Training collects any personal information sought in this questionnaire so that it can determine the organisation's suitability to be an assessing authority under the *Migration Regulations 1994*. Education may use this information provided to obtain further information about the organisation and/or any named individuals from Education's own records and databases, publicly available records of the Australian Securities and Investment Commission, and/or a credit rating agency. This information will be used by Education to verify information provided and to identify any adverse information that has not been disclosed, or that may adversely affect the eligibility of the organisation as an assessing authority. Education is obliged to protect any personal information about individuals in accordance with the provisions of the *Privacy Act 1988*. In the course of assessing financial viability, some personal information may be disclosed to the bodies described under the heading Declaration (below). In other instances, personal information can be disclosed without consent where authorised or required by law.

Confidentiality notice

Education operates within a public accountability framework, which requires it to ensure the transparency of its activities. This requires Education to minimise the amount of information that is subject to confidentiality requirements. The overriding principle applied by Education is that information should not be protected as confidential unless there is good reason to do so. Organisations completing this questionnaire are asked to identify in writing any information that they consider should be protected as confidential information when considering their application for approval as an assessing authority, including reasons for the request. Education may request further information from an organisation about its claim for confidentiality, and will negotiate an appropriate timeframe with the organisation for it to respond to the request.

If the organisation does not identify any information as confidential, Education will consider that the organisation has no information which should be protected as confidential in processing its application for approval as an assessing authority. Education reserves the right, at its sole discretion,

to accept or refuse a request to treat information as confidential. Education will treat as confidential information which is provided in response to this questionnaire and is:

- provided by organisations which ultimately do not receive public money or do not receive Education's support for their activity; and
- which is not otherwise in the public domain.

Exceptions to Confidentiality

Education's obligation to keep an organisation's information confidential will not be breached if the information:

- is disclosed by Education to the responsible Minister;
- is disclosed by Education in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia; and
- is authorised or required by law to be disclosed.

Organisations should note that there are provisions for access to records in the *Freedom of Information Act 1982*, the *Auditor-General Act 1997* and the *Ombudsman Act 1976*. Parliament and the courts also have legal rights to access to a wide range of information.

Declaration

A. I confirm that:

- the information provided in this form and all attached documents is complete and correct;
- my organisation understands that Education will have the right (but not be obliged) to act in reliance upon the contents of my response to the application, including its attachments;
- my organisation will regard all communication with Education as confidential and not disclose the contents without Education's prior written consent; and
- to the best of my knowledge, the Privacy Notice in this questionnaire has been drawn to the attention of all individuals whose personal details have been provided in this questionnaire.

B. I acknowledge that Education is authorised to undertake the necessary steps to assess the financial viability of the organisation by checking information contained within this application with, or obtaining additional information from:

- other Commonwealth agencies, such as the Australian Taxation Office and the Australian Securities and Investments Commission;
- state and territory agencies;
- law enforcement agencies;
- credit reference agencies;
- Courts or Tribunals; or
- any other appropriate organisational person reasonably required as part of these checks.

C. I understand that giving false or misleading information to the Commonwealth is a serious offence under the *Criminal Code Act 1995*.

Signed on behalf of the applicant by:

Signature:

Name:

Position:

Date:

Signature:

Name:

Position:

Date:

This questionnaire should be signed by:

- two Directors, if the applicant is a company;
- two office bearers who are authorised to sign, if the applicant is an incorporated association; or
- two office bearers who are authorised to sign, if the applicant is another type of organisation.