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Australian Government
**Department of Immigration
and Border Protection**

LEGEND

Direction No 85 - Order of Consideration – Distinguished Talent visas

DIRECTION NO. 85 – Order of Consideration – Distinguished Talent visas

| KEY DATES AND REFERENCES | |
|--------------------------|----------------|
| Commenced | 04/11/2019 |
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Direction no. 85

Migration Act 1958

Direction under section 499

Order of Consideration – Distinguished Talent visas

I, *David Coleman*, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, give this Direction under section 499 of the *Migration Act 1958*.

Dated 2019

THE HON DAVID COLEMAN MP

Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

Part 1 Preliminary

1. Name of direction

- (1) This Direction is Direction no. 85 - **Order of Consideration – Distinguished Talent visas**.
- (2) This Direction may be cited as Direction no. 85.

2. Commencement

This Direction commences on 4 November 2019.

3. Application

- (1) Subject to subsection (2), this Direction applies:
 - (a) to all persons having functions and powers under the Act who consider and dispose of applications for a [Subclass visa 124 visa](#) or a [Subclass 858 visa](#); and
 - (b) in relation to visa applications referred to in paragraph (1)(a):
 - (i) made on or after the commencement of this Direction; and

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(ii) made before the commencement of this Direction and where a decision has not been made on commencement of this Direction.

(2) This Direction does not apply to the AAT.

4. Preamble

To enable the Department of Home Affairs to give effect to the priority processing intentions of Government for the Distinguished Talent cohort. This will support the responsive processing of applicants that are identified as highly desirable by Government.

5. Interpretation

In this Direction:

Act means the [Migration Act 1958](#).

AAT means the Administrative Appeals Tribunal.

Subclass 124 visa means a Subclass 124 (Distinguished Talent) visa as prescribed by the Regulations.

Subclass 858 visa means a Subclass 858 (Distinguished Talent) visa as prescribed by the Regulations.

Regulations means the [Migration Regulations 1994](#).

Part 2 Directions

6. Considering applications

(1) Section 51 of the Act provides that the Minister (or a delegate of the Minister) may consider and dispose of applications for visas in such order the Minister considers appropriate.

(2) In determining the order for considering applications for a [Subclass 124 visa](#) or a [Subclass 858 visa](#), persons covered by subsection 3(1) of this Direction are directed to give due regard to the order set out in section 7 of this Direction.

7. Order for considering applications

(1) For subsection 6(2) of this Direction, the priority to be given due regard when allocating applications for assessment by a person covered by section 3(1) of this Direction are as follows (starting from paragraph (1)(a) which sets out the highest priority):

(a) applications made in relation to the sectors set out in subsection (2), or in a related sector, and where:

(i) there is written communication from an Australian employer offering employment in Australia with an annual salary equivalent to or higher than the Fair Work high income threshold; or

(ii) the primary applicant's current earnings is an amount equal or greater than the amount referred to in subparagraph (1)(a)(i); or

(iii) where there is evidence the primary applicant is to likely attract a salary that is equal to or greater than the amount referred to in subparagraph (1)(a)(i);

(b) applications that are not covered by paragraph (1)(a).

(2) For subsection (1), the sectors are the following:

(a) AgTech;

(b) FinTech;

(c) MedTech;

(d) Cyber Security;

(e) Quantum Information, Advanced Digital, Data Science and ICT;

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(f) Space and Advanced Manufacturing;

(g) Energy and Mining Technology.

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Document 1



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Subclass 858 (Distinguished Talent) visa

Procedural Instruction

| | |
|--------------------|---|
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1. Purpose

The purpose of this procedural instruction (PI) is to identify the legal requirements and related policy and procedures that apply to the Subclass 858 (Distinguished Talent) visa (the Subclass 858 visa).

Officers are required to understand and apply the relevant law as set out in the *Migration Act 1958* (the Act) and the *Migration Regulations 1994* (the Regulations). Many of the requirements in the Act are expressed in objective terms and do not allow any discretion for officers. To the extent that the Act and the Regulations allow for discretion, officers should consider the Department's approved policy and procedures where relevant and appropriate in decision-making. This ensures that decision-making is consistent to the extent that it is appropriate, allowing arbitrary outcomes to be avoided.

However, policy and procedures do not have the force of law. When exercising powers or making decisions under legislation, officers should give policy documents due weight, but they should not apply policy inflexibly, and instead consider the merits of each individual case. In order to make a fair, reasonable and lawful decision, it may be necessary to depart from the approved policy and procedures, depending on the facts of the particular case. Before departing from approved policy and procedure, officers should first discuss with their immediate manager, and escalate to the instruction owner only when required. In all cases, a note of the reasons for departing from approved policy and procedure must be added to the client record in ICSE.

2. Scope

This PI describes administering migration law in relation to the Subclass 858 visa. It applies to all officers as defined in subsection 5(1) of the Act and in particular, officers that are visa decision makers exercising powers delegated to them under the Act. Other persons reading this PI should keep in mind that they are not the primary audience and therefore should not utilise contact channels specified for departmental officers only.

3. Procedural Instruction

3.1 Policy Intent

3.1.1 Objectives of the Subclass 858 visa

The Subclass 858 visa is for persons in Australia who wish to settle permanently in Australia and who have an internationally recognised record of exceptional and outstanding achievement in an eligible area, or have provided specialised assistance to the Australian Government in matters of security.

3.1.2 Order for considering Distinguished Talent visas

Direction No. 85 – Order of Consideration – Distinguished Talent visas

Direction No. 85 commenced on 4 November 2019 and gives direction to the processing of the Subclass 858 visa and the Subclass 124 (Distinguished Talent) visa. It applies to applications made on or after this date, as well as to applications made but not decided at this date. It gives highest priority to Distinguished Talent visa applications made in relation to the sectors or a related sector listed below and where:

- there is written communication from an Australian employer offering employment in Australia with an annual salary equivalent to or higher than the Fair Work high income threshold (FWHIT); or
- the primary applicant's current earnings are an amount equal to or greater than the FWHIT; or

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- there is evidence the primary applicant is to likely attract a salary that is equal to or greater than the FWHIT.

Note: The FWHIT is indexed every year effective 1 July. A specific threshold would apply to the period from 1 July to 30 June of the next year. For the purposes of assessing whether the applicant is paid above the FWHIT, income should be assessed on the same basis as the FWHIT, which is by reference to 'earnings' as defined in section 332 of the *Fair Work Act 2009*. For further information regarding the FWHIT go to the Fair Work Ombudsman website at <http://www.fairwork.gov.au>.

The relevant sectors are:

- (a) AgTech (the application of technology to agriculture and food production);
- (b) FinTech (technology that seeks to improve and automate the delivery and use of financial services);
- (c) MedTech (medical technologies and pharmaceuticals);
- (d) Cyber Security;
- (e) Quantum Information, Advanced Digital, Data Science and ICT;
- (f) Space and Advanced Manufacturing; and
- (g) Energy and Mining Technology.

Applications made in relation to the above-mentioned sectors by applicants who provide evidence of their current earnings or future salary equal to or above the FWHIT will be given priority processing of their Distinguished Talent visa application.

The Australian Government, is actively encouraging people who have:

- completed a Doctoral degree (PhD) in the last 3 years, or are submitting their thesis in the next 6 months; or
- completed a Bachelor Honours degree or Masters degree in the last 3 years, and have an overall grade-point average of 80 (or above) out of 100

to consider applying for a Distinguished Talent visa. These graduates/students would also be eligible to receive the highest visa processing priority under Direction 85 if their studies were in one of the seven priority sectors and they can demonstrate a current or future annual salary equivalent to or higher than the FWHIT.

All other Distinguished Talent visa applications receive the second highest priority under Direction No 85.

The rationale for the direction is to give priority to applicants viewed as 'highly desirable' because of their skills and knowledge in sectors identified by the Australian Government as a priority for future industry growth, and with emerging opportunities for Australia's economy. These sectors have been highlighted as priorities through the Industry Growth Centre initiative and through targeted consultation with key industry stakeholders including: Austrade; Department of Industry, Innovation and Science; Department of Employment, Skills, Small and Family Business; and academia.

3.2 Schedule 1 visa application validity requirements

3.2.1 Item 1113 of Schedule 1 Distinguished Talent (Residence) (Class BX)

Item 1113 of Schedule 1 to the Regulations sets out the requirements for making a valid Subclass 858 visa application.

- For general policy and procedural advice on visa application validity requirements, refer to [LS-1849: GenGuideA - All visas - Visa application procedures](#).

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- For policy and procedural advice on the visa application charge, refer to FM-1209: Div 2.2A – Visa application charge.

3.2.2 Application form

In accordance with subitem 1113(1), applications for a Subclass 858 visa must be made using the form specified by legislative instrument for this subitem and made under subregulation 2.07(5). The forms specified are form 47SV or the online form 47DT (Internet).

3.2.3 Visa application charge (VAC)

Paragraph 1113(2)(a) of Schedule 1 to the Regulations prescribes the first instalment of the VAC. Paragraph 1113(2)(b) prescribes the second instalment of the VAC, payable before visa grant, by applicants who were at least 18 years old at the time of application and did not have a functional level of English. See subsection 5(2) of the Act for the definition of 'functional English'.

3.2.4 Where and how the application must be made

Under paragraph 1113(3)(a) of Schedule 1 to the Regulations, a Subclass 858 visa application must be made at the place, and in the manner (if any), specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5). Applicants utilising Form 47SV must post (with correct prepaid postage) or deliver the application by courier service, to the addresses specified, or send as an email using the Global Talent contact form. Applicants using form 47DT (Internet) are to apply as an internet application.

3.2.5 Where the applicant must be

An applicant must be in Australia, but not in immigration clearance at the time of application – see paragraph 1113(3)(b) of Schedule 1 to the Regulations.

3.2.6 Combined applications

Paragraph 1113(3)(c) of Schedule 1 to the Regulations provides that an application by a person claiming to be a member of the family unit of a person who is an applicant for a Subclass 858 visa may be made at the same time and place as, and combined with, the application by that person.

3.2.7 Application to be accompanied by approved form 1000

Paragraph 1113(3)(d) of Schedule 1 to the Regulations provides that an application by an applicant seeking to satisfy subclause 858.212(2), which relates to the applicant's internationally recognised record of exceptional and outstanding achievement in a specified area, must accompany their application with a completed approved form 1000. This form is known as the 'Nomination for Distinguished Talent' form.

Note: 'Approved form' is defined in regulation 1.03 of Part 1 of the Regulations and means a form approved by the Minister under section 495 of the Act or regulation 1.18, and a reference to an approved form by number is a reference to the form so approved and numbered.

The requirement for a completed 'approved form' does not mean that the form needs to be assessed in order for a valid application to be made. It simply must be completed.

3.2.8 Applicant to have provided assistance to the Government in matters of security

Paragraph 1113(3)(e), provides that an application by an applicant seeking to satisfy subclause 858.212(4), requires the Minister to have received advice that the applicant has provided specialised assistance to the Australian Government in matters of security, from:

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- (a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979* (the ASIO Act); or
- (b) the Director-General of Security.

Section 4 of the ASIO Act defines 'intelligence or security agency' as meaning any of the following:

- (a) the Australian Secret Intelligence Service;
- (aa) the Australian Signals Directorate;
- (b) the Office of National Intelligence;
- (c) that part of the Defence Department known as the Australian Geospatial-Intelligence Organisation;
- (d) that part of the Defence Department known as the Defence Intelligence Organisation.

3.3 Schedule 2 criteria - primary criteria

Division 858.2 sets out the primary criteria that must be satisfied by primary applicants. The primary criteria must be satisfied by at least one member of the family unit. The other members of the family unit who are applicants for this subclass only need to satisfy the secondary criteria.

Subdivision 858.21 sets out the criteria that must be satisfied at time of application and subdivision 858.22 sets out the criteria that must be satisfied at time of decision by an applicant seeking to satisfy the primary criteria.

3.3.1 Criteria to be satisfied at time of application

3.3.1.1 Immigration status

3.3.1.1.1 Certain visa holders are ineligible

Subclause **858.211(1)** specifies which visa subclasses an applicant seeking to satisfy the primary criteria for the grant of a Subclass 858 visa is **not** permitted to hold at the time of application. The visa subclasses are:

- Subclass 601 (Electronic Travel Authority);
- Subclass 988 (Maritime Crew);
- Subclass 679 (Sponsored Family Visitor);
- Subclass 459 (Sponsored Business Visitor (Short Stay));
- Subclass 488 (Superyacht Crew);
- Subclass 400 (Temporary Work (Short Stay Specialist));
- Subclass 676 (Tourist);
- Subclass 651 (eVisitor);
- Subclass 600 (Visitor) ;
- Special purpose visa; or
- Subclass 456 (Business (Short Stay)) visa.

Note:

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- Subclass 679 (Sponsored Family Visitor), Subclass 459 (Sponsored Business Visitor (Short Stay)) and Subclass 456 (Business (Short Stay) visas were omitted from the legislation in 2013 and Subclass 488 (Superyacht Crew) visa was omitted from the legislation in 2016. As a result it is unlikely that there would be any current holders of these visas.
- From 19 November 2016, new Subclass 676 visa applications cannot be made (refer to IMMI 16/111).

3.3.1.1.2 If not a substantive visa holder

Subclause 858.211(2) provides that if the applicant is not the holder of a substantive visa at the time of application:

- the applicant must satisfy Schedule 3 criteria 3001, 3003 and 3004; and
- the last substantive visa held by the applicant must not have been one of the following visa subclasses:
 - Subclass 601 (Electronic Travel Authority);
 - Subclass 988 (Maritime Crew);
 - Subclass 679 (Sponsored Family Visitor);
 - Subclass 459 (Sponsored Business Visitor (Short Stay));
 - Subclass 488 (Superyacht Crew);
 - Subclass 400 (Temporary Work (Short Stay Specialist));
 - Subclass 676 (Tourist);
 - Subclass 651 (eVisitor);
 - Subclass 600 (Visitor);
 - Special purpose visa; or
 - Subclass 456 (Business (Short Stay)) visa.

For further guidance in relation to the relevant Schedule 3 criteria, refer to [LS-1854: Sch3 - Additional criteria applicable to unlawful non-citizens and certain bridging visa holders](#).

3.3.2 The applicant's distinguished talent

Clause [858.212](#) sets out the criteria relating to the applicant's distinguished talent that must be satisfied by an applicant seeking to satisfy the primary criteria, at the time of an application.

3.3.2.1 Must have an internationally recognised record of exceptional and outstanding achievement

Subclause [858.212\(2\)](#) provides that the applicant:

- (a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas (as defined in accordance with their ordinary dictionary meaning):
 - i. a profession (refers to 'a vocation requiring knowledge of some department of learning or science');
 - ii. a sport (refers to 'an activity pursued for exercise or pleasure, usually requiring some degree of physical prowess');

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- iii. the arts (refers to 'the theoretical or physical expression of creativity found in human cultures and societies. Major constituents of the arts include visual arts, literature, and performance arts');
 - iv. academia and research (refers to 'scholarly and systematic inquiry into a subject to discover facts or principles'); and
- (b) is still prominent in the area; and
 - (c) would be an asset to the Australian community; and
 - (d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and
 - (e) produces a completed approved form 1000; and
 - (f) if the applicant has not turned 18, or is at least 55 years old, at the time of application—would be of exceptional benefit to the Australian community.

3.3.2.1.1 Policy requirements of international recognition

Under policy, 'internationally recognised record of exceptional and outstanding achievement' means that a person's achievements have been or would be acclaimed as exceptional and outstanding in any country.

An achievement that may attract national acclaim would be considered 'internationally recognised' if that achievement is in an area practised in other countries and has, or would attract, similar acclaim in those countries.

3.3.2.1.2 Assessing international recognition

In determining the international standing of the applicant, under policy, officers are to consider:

- the international standing of the country (or countries), where the applicant's achievements were realised, in respect of the particular area;
- the standing of the achievement in relation to Australian standards such as Australian tertiary education quality standards, in relation to achievements in the area of academia and research; and
- the standing of the achievement in relation to international standards.

For example, an applicant rated at or near the top of their field in their home country would be considered to have an internationally recognised record of exceptional and outstanding achievement if:

- the field is undertaken and recognised in a number of countries; and
- the achievement would be similarly recognised in relation to international and Australian standards (where such standards apply) for that area.

The following examples would meet the 'internationally recognised' threshold:

- an individual holding a senior position (such as senior manager, lead technician, or lecturer) in a highly competitive 'international organisation'. An organisation with an internationally renowned reputation would be considered as an 'international organisation';
- an individual with a track record of holding senior positions in organisations, in a number of countries;
- an individual completing major international projects which have had a wide reaching impact. For example, a pharmaceutical executive who has led projects and as a result, successfully accelerated the clinical trial process to achieve a medical outcome, would be considered as an individual who has had a wide-reaching impact on the health benefits of society.

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3.3.2.1.3 Policy requirements of 'record', 'exceptional' and 'outstanding' achievement

'Exceptional' and 'outstanding achievement' is not defined in the Regulations. Therefore, the ordinary dictionary meaning of the words applies. As such, exceptional and outstanding achievement is the act of accomplishing something extraordinary that places the individual above the average. Individuals with an internationally recognised record of exceptional and outstanding achievement are usually those who are leaders in their particular field.

It is anticipated that an applicant would generally have a record of sustained and multiple achievement. However, a single achievement by an applicant may still be regarded as a record of 'exceptional and outstanding' achievement if that achievement is cutting edge and highly innovative in nature.

3.3.2.1.4 Assessing 'exceptional and outstanding achievement'

In assessing the applicant's record of achievement, officers may take into account information such as indicated in the following examples:

- information provided by an accepted nominator who has a national reputation in relation to the applicant's area of claimed achievement. This may include a full account of the reasons why the nominator believes the applicant has an exceptional and outstanding record of achievement;
- supporting statements and material provided by the applicant detailing relevant aspects of their record of achievement, including their qualifications, awards, and professional or academic positions held. This should include information relating to achievements both in Australia and overseas;
- supporting statements from internationally recognised individuals or organisations in the applicant's claimed area of achievement who are qualified to comment on the applicant's achievements and the applicant's reputation within the area; and
- awards received from internationally recognised institutions or organisations.

Academia and research

- If the applicant's area of achievement is in the area of academia and research, evidence of exceptional and outstanding achievements including:
 - reports commissioned;
 - books published;
 - articles published in professional journals, magazines and newspapers;
 - awards received;
 - recognition by peers (including citation in journals);
 - statements of achievement from government, professional, scientific or other relevant bodies;
 - honours and accolades (for example, a Nobel Prize in Medicine);
 - professional designation such as Professor, PhD, or M.D, whether this be purely honorary or symbolic, or associated with credentials attesting to specific competence, learning or skills;
 - membership of international groups and organisations associated with the area of learning;
 - evidence of government/private grants associated with the applicant's research;

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- evidence of receiving a fellowship or an honorary appointment such as Professor or Associate Professor in one or more highly regarded educational institutions that specialises in the same field;
- academic qualifications associated with the applicant's area of expertise;
- scale and audience of research undertaken or completed;
- statements from the applicant's research supervisor (or professor) that the student's thesis/ research has strong prospects of being published;
- academic statement of results (demonstrating high academic achievement) from an internationally recognised university;
- one or more peer reviewed publications in the applicant's area of study/research;
- links to any reputable websites which refer to the applicant and what they have done/achieved.

A profession

- If the applicant's area of achievement is in the area of a profession, evidence of exceptional and outstanding professional achievements including:
 - national and international industry awards and accolades;
 - references from current and past employers;
 - statements from prominent business and industry peers;
 - academic degrees or professional designations associated with the applicant's profession;
 - personal/professional titles (such as CEO, Director, Department Head and Professor) indicating an earned rank or position within the formal structure of an organisation;
 - newspaper and magazine articles attesting to achievements and/or awards; and
 - links to any reputable websites which refer to the applicant and what they have achieved.

A sport

- If the applicant's area of achievement is in the area of a sport, evidence of exceptional and outstanding sporting achievements; including:
 - national and international rankings;
 - membership of national sporting teams;
 - results in international competitions or tournaments;
 - statements from international sporting bodies;
 - sporting scholarships received;
 - newspaper and magazine articles attesting to achievements; and
 - links to any reputable websites which refer to the applicant's sporting achievements.

The arts

- If the applicant's area of achievement is in the arts, evidence of exceptional and outstanding achievements in the arts including:
 - books published;
 - national and international sales achieved;

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- awards and commissions received;
- galleries in which works are displayed;
- scale and audience of displays held;
- recognition by peers;
- honours and accolades (for example, an Academy Award, or a Nobel Prize in Literature);
- academic qualifications associated with the applicant's area of the arts;
- statements from national and international artistic bodies;
- newspaper and magazine articles attesting to achievements;
- links to any reputable websites which refer to the applicant's artistic achievements.

The internet may be used by officers to source additional material and as a method of confirming the accuracy of any claims made. Officers should only consider information that is relevant, credible and significant. Officers should also have regard to their obligations under the *Privacy Act 1988* when sourcing information. Any adverse or conflicting information obtained from reliable internet sources that is relevant to the decision being made, should be put to the applicant, in writing, for comment.

3.3.2.1.5 Assessing 'Exceptional and outstanding achievement' and international recognition for certain students

Masters degree or Bachelor Honours degree graduates must have an overall grade-point average of 80 (or above) out of 100 if they are relying on these academic qualifications as the sole basis for demonstrating a record of exceptional and outstanding achievement. This requirement does not apply to PhD students.

Achievements by a PhD student/graduate, Masters degree or Bachelor Honours degree graduate will be considered internationally recognised if:

- their research is of international interest and significance; or
- their research would be relevant to an international audience; or
- they have presented their research at international forums; or
- their research could be used to inform academia, governments and industry abroad; or
- their research is relevant to Australian academia, governments and industry in respect to advancing Australia's international competitiveness; or
- their research highlights the potential for innovation and productivity increases for Australian organisations and industries operating in an international or globalised context; and
- they have achieved a grade-point average of 80 (or above) out of 100, if they are a Masters degree or Bachelor Honours degree graduate.

3.3.2.2 Must still be prominent

3.3.2.2.1 Policy requirements of prominence

Paragraph 858.212(2)(b) requires an assessment of the applicant's prominence in their identified area at the time of application.

3.3.2.2.2 Assessing prominence

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An applicant may provide the following information/documentation to demonstrate they are prominent in their field/area of expertise:

- details of recently completed projects;
- details of recent publications;
- details of current and recently held senior positions in a sizable business or organisation;
- evidence of delivering a presentation at professional forums, conferences and events;
- reference letter from a university or employer;
- evidence of patents, trademarks, copyrights, and other intellectual property held;
- evidence of recent national and international awards;
- evidence of membership of prominent international bodies, professional associations and current registrations/ licences.

The information/documentation described under '**Error! Reference source not found.**' is also relevant to the assessment of this criterion. It would be expected that they are currently active.

3.3.2.2.3 Assessing 'Prominence' for certain students

Under policy, Bachelor Honours degree or Masters degree graduates would be taken to have met the requirement to still be 'prominent in their area of academia and research at the time of application' if they have completed their studies in the last 3 years.

PhD students must have completed their studies in the last 3 years, or demonstrate that they will submit their thesis within the next 6 months in order to satisfy the requirement to still be 'prominent in their area of academia and research at the time of application. A full academic transcript and letter from the applicant's university must be provided detailing the submission date of their thesis.

3.3.2.3 Must be an asset to Australia

3.3.2.3.1 Policy requirements of being an asset

Paragraph 858.212(2)(c) requires an applicant to demonstrate that they would be an asset to the Australian community. The term 'asset' is not defined in the Regulations. Therefore the ordinary dictionary meaning of the word applies. As such, an applicant would be considered an asset, if the applicant's settlement in Australia will be 'useful' to and benefit the Australian public, not limited to the applicant and/or nominator, a prospective employer or the applicant's local community.

'Asset' does not only refer to economic benefit. It could also refer to social and/or cultural benefit to the Australian community.

3.3.2.3.2 Assessing whether the applicant would be an asset to Australia

An applicant will be an asset to the Australian community if they:

- raise Australia's technical and/or academic standards internationally;
- will introduce and/or transfer skills to Australia;
- will elevate Australia's competitiveness and reputation in sports and the arts; or
- will make a significant positive social or cultural impact on the Australian community.

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An applicant may provide the following information/documentation to demonstrate they will be an 'asset':

- evidence that they have created a product/ technological advancement that is unique, and cutting edge in nature;
- evidence demonstrating that the applicant's research fills a significant knowledge gap and will be of benefit to industry, business or academia in Australia; or
- evidence of their involvement in establishing a start-up company.

An applicant would not be an asset to the Australian community if the applicant was involved in an area that:

- is outside the generally accepted social or cultural norms of most people in Australia;
- is likely to be offensive to large segments of the Australian community; or
- would otherwise give rise to controversy were the applicant to enter Australia as a distinguished talent.

3.3.2.4 Employability

3.3.2.4.1 Policy requirements of employability

To satisfy paragraph 858.212(2)(d), the applicant must demonstrate that they would have no difficulty in obtaining employment, or in becoming established independently in Australia within their area of achievement.

The policy intent is to ensure that the applicant will be economically independent in Australia, either from employment or becoming independently established in the applicant's area of talent, and not be reliant on social welfare. Importantly, both the ability to obtain employment or become established independently must be in the applicant's area of achievement and take place in Australia. Hence, employment which is not related to the applicant's area of achievement cannot be used to satisfy paragraph 858.212(2)(d).

An applicant would be unable to demonstrate that they would become independently established in their area of achievement should they migrate to and settle in Australia, solely by the existing funds and/or assets held by them. They must also show that they can continue to maintain this independence through their skills in their area of achievement.

3.3.2.4.2 Assessing employability

Officers can consider a combination of the following when assessing this criterion:

- employment contracts or offers of employment related to the area of achievement for work in Australia. This may be evidenced by current and future employment opportunities from employers, employment/recruitment agencies, universities or organisations involved with the area of achievement in Australia;
- evidence of self-employment or opportunities to establish a viable business within the area of achievement;
- evidence of sponsorships, scholarships, grants or other payments intended to support the applicant while they are engaged in activities related to the area of achievement;
- evidence of academic qualifications in their area of achievement. E.g. PhD or Masters degree;
- evidence of high scores (overall grade-point average of 80 out of 100) during the completion of their Masters degree or Bachelor Honours degree, or
- demonstrated track records of previous employment in their area of achievement.

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3.3.2.5 Nomination

3.3.2.5.1 Must be nominated

For paragraph 858.212(2)(e), the applicant is required to produce a completed approved Form 1000 (Nomination for Distinguished Talent). This form requires the applicant's record of achievement to be attested to by a nominator who has a national reputation in relation to the area of achievement. A nominator must be:

- an Australian citizen; or
- an *Australian permanent resident*; or
- an *eligible New Zealand citizen*; or
- an Australian organisation.

Note: *Australian permanent resident* and *eligible New Zealand citizen* are defined in regulation 1.03 of Part 1 of the Regulations.

3.3.2.5.2 Status of nominator

To satisfy paragraph 858.212(2)(e), form 1000 requires the applicant's record of achievement in an area (a profession, sport, the arts, academia and research) to be attested to by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen, or an Australian organisation who has a national reputation relevant to the area of the applicant's achievement.

3.3.2.5.3 National reputation

'National reputation' generally means an image or opinion which is held by the Australian public about an individual or an organisation.

A number of factors may be considered to gain insight on the nominator's reputation, which may attribute to the credibility of the nominator's attestation to the applicant's achievements. These factors may include the nominator's:

- solid track record of achievements;
- evidence of high calibre;
- leadership in the relevant field of expertise;
- professional associations with lead organisations and industry bodies;
- current and previous employment history;
- their participation at conferences both in Australia and internationally; and
- their contribution to a number of international journals which would be utilised by researchers, academics and organisations undertaking work in the same field of research.

National reputation qualified by association

In assessing the national reputation of a nominator, consideration should be given to their professional associations with organisations/ industry bodies renowned in the field. For example, an individual employed as a lecturer at a university recognised internationally for teaching excellence and cutting edge research would be taken to have satisfied requirements around national reputation. An individual nominator employed by a lead ICT company as an ICT professional would be assessed as having a national reputation if that company is a multi-national technology company, one of the world's largest employers, or a leader in creating technological innovations.

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National reputation qualified by international standing

If a nominator has a leading international reputation that would be of national significance to Australia this would be considered acceptable. This broad interpretation of 'national reputation' ensures that the program is not excluding quality Australian citizen, Australian permanent resident or eligible New Zealand citizen nominators living abroad. For example, a nominator living abroad would be considered to have satisfied the requirement to have a national reputation if they have a strong international record of achievement thereby making them reputable at a national level.

3.3.2.5.4 Meaning of 'Australian organisation'

The term 'Australian organisation' may be given a broad interpretation and includes any organisation registered in Australia or authorised to carry on business in Australia. It also includes an Australian organisation operating outside Australia.

Organisations operating a business in Australia will have an Australian Business Number (ABN) that is registered with the Australian Business Register. Officers can conduct a simple search on the ABN Lookup website at <https://abr.business.gov.au/> to determine the existence of the organisation.

Australian organisations which operate both in and outside Australia will have an ABN. If the organisation only operates overseas but not in Australia, they must have been established by an Australian parent company, or an Australian citizen or Australian permanent resident who continues to operate the business, in order to be considered an Australian organisation.

3.3.2.6 If under 18 years old, or 55 years or older

3.3.2.6.1 Exceptional benefit

Paragraph 858.212(2)(f) requires applicants who are less than 18 years old or over 55 years old, at the time the visa application is made, to demonstrate that they would be of exceptional benefit to the Australian community. Under policy, exceptional benefit to the Australian community would be a contribution that would elevate the international standing of the particular area in Australia. The applicant would also need to demonstrate that this benefit would be immediately realised and ongoing in the future. An applicant who intended to retire from their area of achievement or no longer participate in this area shortly after arriving in Australia would be unable to demonstrate that they would be of exceptional benefit to the Australian community.

3.3.3. Security assistance

Subclause 858.212(4) provides that an applicant meets the requirements of this subclause if, acting on the advice of the Minister responsible for an intelligence or security agency within the meaning of the ASIO Act or the Director-General of Security, the applicant has provided specialised assistance to the Australian Government in matters of security. Under policy, subclause 858.212(4) may only be satisfied where written advice is provided by the instruction owner to an officer indicating that advice from the responsible Minister or the Director-General of Security has been received in relation to an applicant.

3.3.4. Skilled Regional Provisional visa holders

Clause [858.213](#) provides that if, at the time of application, the applicant is the holder of a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, or the last substantive visa held by the applicant was one of those visas, then the applicant must have held that visa for at least three years at the time of applicant unless circumstances specified in an instrument exist. No circumstances are currently specified.

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3.3.5 Criteria to be satisfied at time of decision

3.3.5.1 Public interest criteria (PIC)

Clause 858.221 provides that the applicant must satisfy PICs 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4021. If the applicant had turned 18 at the time of application, PIC 4019 must also be satisfied. For policy and procedural guidance see;

- LS-1855: Sch4 - Public interest criteria;
- VM-1027: Sch4 – 4005-4007 – The health requirement; and
- LS-4855: Sch4/4021 - The passport requirement.

3.3.5.2 If a minor

Clause 858.225 requires an applicant that has not turned 18 to satisfy PICs 4017 and 4018. For policy and procedural guidance see:

- VM-3066: s5G - Relationships and family members - Custody (parental responsibility) for minor children; and
- VM-3057: s5G - Relationships and family members - best interests of minor children.

If the primary applicant is a minor, they cannot be granted a visa if granting it would prejudice the custody (or similar) rights of another person.

3.3.5.3 'One fails, all fail' criteria

3.3.5.3.1 PICs

For:

- subclause 858.223(1), the primary applicant cannot be granted a visa unless each **member of the family unit** of the primary applicant who is a Subclass 858 visa applicant satisfies PIC 4001, 4002, 4003, 4004, 4005, 4009, 4010, and if aged at least 18 years at time of application, PIC 4019.
- subclause 858.223(2), the primary applicant cannot be granted a visa unless each **member of the family unit** who are **not** a Subclass 858 visa applicant satisfies:
 - PIC 4001, 4002, 4003, 4004 and 4010; and
 - PIC 4005 unless the Minister is satisfied it would be unreasonable to require the person to undergo assessment in relation to that PIC.

Note: Subregulation 1.12(7) provides the definition of **member of the family unit** that is specific to the Subclass 858 and Subclass 124 (Distinguished Talent) visas and applies in circumstances where the primary visa applicant is under 18 years old at time of application.

3.3.4.3.2 Custody of children

Under clause 858.224, the primary applicant cannot be granted a visa if an applicant who is a member of the family unit of the primary applicant, aged less than 18 years and who made a combined application with the primary applicant does not satisfy PIC 4015 and 4016. For policy and procedural advice see:

- VM-3066: s5G - Relationships and family members - Custody (parental responsibility) for minor children; and
- VM-3057: s5G - Relationships and family members - Best interests of minor children .

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3.3.5.4 Integrity PIC 4020

Clause [858.227](#) provides that unless the applicant satisfies subclause 858.212(4), (relating to the provision of specialised security assistance to the Australian Government), the applicant and each member of their family unit must satisfy PIC 4020. For policy and procedural guidance see:

- [VM-974: Sch4/4020 - The integrity PIC.](#)

3.4 Schedule 2 secondary criteria

3.4.1 Eligibility

Division 858.3 sets out the secondary criteria that must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Subdivision 858.31 sets out the criteria that must be satisfied at time of application and subdivision 858.32 sets out the criteria that must be satisfied at time of decision by an applicant seeking to satisfy the secondary criteria.

3.4.2 Criteria to be satisfied at time of application

3.4.2.1 Relationship

Clause [858.311](#) requires the applicant to be a **member of the family unit** of a person who;

- has applied for a Subclass 858 visa; and
- appears to satisfy the criteria in subdivision 858.21 (primary criteria to be satisfied at time of application);

and a decision to grant or refuse to grant the visa to that person has not been made by the Minister.

For the definition of **member of the family unit** see:

- subregulation [1.12\(2\)](#), applicable where the primary applicant is aged at least 18 years of age; and
- subregulation [1.12\(7\)](#), applicable where the primary applicant is under 18 years old at time of application.

For policy and procedural guidance see:

- [VM-3067: s5G - Relationships and family members - Dependent family members](#)

3.4.2.2 Nomination includes an applicant seeking to satisfy the secondary criteria

Clause [858.312](#) requires that any nomination given in respect of the primary applicant includes all people who have made a Subclass 858 visa application on the basis of being a member of the family unit of an applicant seeking to satisfy the primary criteria.

As form 1000 does not provide space for members of the family unit of an applicant seeking to satisfy subclause 858.212(2) to be listed and included in the nomination, the nominator is required to provide separate written confirmation to the effect that their nomination includes nomination of their nominee's family unit members.

3.4.2.3 Adding a member of the family unit to an application

A member of the family unit can be added to a Subclass 858 visa application (after it has been made but before a decision to grant or refuse the visa) in accordance with regulations 2.08 or 2.08A.

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- Regulation [2.08](#) adds newborn children to the visa application of a non-citizen; and
- Regulation [2.08A](#) enables a spouse or de facto partner, or dependent child to be added to the application of the original applicant.

Subject to meeting the requirements of regulation 2.08 or 2.08A, the applicant added to the application is taken to have combined their application with that of the primary applicant. For policy and procedural advice regarding adding a member of the family unit see: [LS 1849: GenGuideA –All visas - Visa application procedures](#).

3.4.2.4 Criteria to be satisfied at time of decision

Subclause 858.321(1) provides that an applicant seeking to satisfy the secondary criteria must satisfy subclause 858.321(2), (3) or (4).

3.4.2.5 If the family relationship remains ongoing

Subclause 858.321(2) provides that the applicant seeking to satisfy the secondary criteria must, at the time of decision, continue to be a member of the family unit of a person who is the holder of a Subclass 858 visa as a result of satisfying the primary criteria.

Officers may without further enquiry consider this criterion satisfied provided:

- there is no evidence (or notification) to the contrary; and
- no significant time has elapsed since the application was made.

Note: All applicants are required (under section [104](#) of the Act) to notify changes in their circumstances to an officer as soon as possible and in writing. For example, changes in the composition of their family unit as a result of birth, death or change in marital status.

3.4.2.6 If the family relationship breaks down

Subclauses [858.321\(3\)](#) and [\(4\)](#) relate to family violence provisions applicable to the Subclass 858 visa.

Subclauses 858.321(3) provides that the applicant can satisfy the subclause if:

- the applicant is the spouse or de facto partner of the primary applicant who has been granted a Subclass 858 visa (the non-dependent holder holder); and
- the relationship between the applicant and the non-dependent holder has ceased; and
- the applicant, a member of the family unit of the applicant who made a combined application with the non-dependent holder, a dependent child of the applicant or the or the non-dependent holder, has suffered family violence committed by the primary applicant.

Subclause [858.321\(4\)](#) provides that the applicant can satisfy the subclause if:

- the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
- the spouse or de facto partner meets the requirements of subclause 858.321(3); and
- the applicant made a combined application with the non-dependent holder; and
- the spouse or de facto partner has been granted a Subclass 858 visa.

For policy and procedural guidance concerning family violence see, [VM-1095: Division 1.5 - Special provisions relating to family violence](#).

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3.4.2.7 Primary applicant must be visaed first

Under clause [858.321](#) a member of the family unit cannot be granted their visa unless and until the primary applicant has been granted a Subclass 858 visa, irrespective of whether the applicant satisfied subclause 858.321(2), (3) or (4).

3.4.2.8 PICs

Clause [858.322](#) provides that an applicant seeking to satisfy the secondary criteria must satisfy PICs [4001](#), [4002](#), [4003](#), [4004](#), [4005](#), [4009](#), [4010](#) and [4021](#). If the applicant had turned 18 at the time of application, they must also satisfy PIC 4019. For policy and procedural guidance see:

- [LS-1855: Sch4 - Public interest criteria](#); and
- [VM-1027: Sch4 – 4005-4007 – The health requirement](#).

3.4.2.9 If a minor

Clause [858.324](#) requires an applicant who has not turned 18, to satisfy PIC [4017](#) and [4018](#). PIC 4017 relates to custody/child orders whilst PIC 4018 relates to the best interests of the child.

- For policy and procedural guidance on PIC 4017 see: [VM-3066: s5G - Relationships and family members - Custody \(parental responsibility\) for minor children](#)
- For policy and procedural guidance on PIC 4018, see [VM-3057s5G - Relationships and family members - Best interests of minor children](#).

3.4.2.10 Integrity PIC 4020

Clause [858.326](#) requires an applicant to satisfy PIC 4020 unless they are a member of the family unit of a person who satisfied subclause 858.212(4) (relating to the provision of specialised security assistance to the Australian Government). For policy and procedural guidance see: [VM-974: Sch4/4020 - The integrity PIC](#).

3.5 Subclass 858 visa grant

3.5.1 Where the applicant must be located to be granted a Subclass 858 visa

Clause [858.411](#) requires the applicant to be in Australia but not in immigration clearance when the visa is granted.

The second instalment of the visa application charge must also be paid before the visa can be granted. For further guidance refer to [LS-1849: GenGuideA –All visas - Visa application procedures](#).

3.5.2 When the Subclass 858 visa is in effect

The Subclass 858 visa is a permanent visa permitting the holder to travel to and enter Australia for a period of five years from the date of grant.

3.5.3 Subclass 858 visa conditions

No condition is attached to the Subclass 858 visa.

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4. Accountability and Responsibility

| Role | Description |
|--|--|
| Director, Global Talent & Regional Outreach | Ensure policy information is provided |
| Director, General Skilled Migration | Ensure that Visa Processing is correct and in line with procedural instructions |
| Director, Skilled Migration Programme Management | Ensure this PI is up to date and accurate |
| AS Skilled & Family Visa Program | The document owner who is required to approve the Procedural Instruction prior to publication. |

5. Version Control

| Version number | Date of issue | Author(s) | Brief description of change |
|----------------|---------------|--|---|
| 1.0 | 06 Apr 2020 | Global Talent & Regional Outreach | Incorporated changes after consultation with PPCF Legal Advice section |
| 0.9 | 03 Apr 2020 | PPCF Legal | Minor wording changes to schedule 2 requirements |
| 0.8 | 01 Apr 2020 | Global Talent & Regional Outreach | Incorporated changes after consultation with PPCF Legal Advice section |
| 0.7 | 27 Mar 2020 | PPCF Legal | Changes in relation to schedule 2 requirements for students |
| 0.6 | 19 Mar 2020 | Global Talent & Regional Outreach | Incorporated changes after consultation with PPCF Legal Advice section |
| 0.5 | 27 Feb 2020 | PPCF | PPCF changes incorporated - minor changes to PI references and formatting |
| 0.4 | 25 Feb 2020 | Skilled Migration Policy Skilled Migration Programme Management | Minor wording changes |
| 0.3 | 19 Feb 2020 | Skilled Migration processing network | No changes |
| 0.2 | 19 Feb 2020 | Director, Global Talent Initiative | Updates to nominator assessment – removal of references to company names. |
| 0.1 | 14 Feb 2020 | Global Talent & Regional Outreach | Updates and elaborations as identified by the Global Talent & Regional Outreach section and Skilled Migration processing network. |

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Attachment A – Definitions

| Term | Acronym (if applicable) | Definition |
|--|----------------------------|--|
| Act | | The <i>Migration Act 1958</i> |
| Department, the | | The Department of Home Affairs, including its operational arm the Australian Border Force. |
| Fair Work High Income Threshold | FWHIT | The high income threshold is defined under section 333 of the <i>Fair Work Act 2009</i> . The high income threshold changes at the start of each financial year and is published on the Fair Work website. |
| Integrated Client Services Environment | ICSE | The processing system used to record and process citizenship, sponsorship and nomination applications and a multitude of onshore and offshore visa applications. |
| Public Interest Criteria. | PIC | As defined in regulation 1.03 of the <i>Migration Regulations 1994</i> . A PIC is a criterion set out in a clause of Schedule 4, and a reference to a public interest criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule. A PIC is a criterion for visa grant for those visas to which it is attached. |
| Regulations | | The <i>Migration Regulations 1994</i> |
| Total Records and Information Management | TRIM8 | TRIM is the Department of Home Affairs Electronic Document and Record Management System that provides the framework to capture, manage and share critical business information. |

Attachment B – Assurance and Control Matrix

1.1. Powers and Obligations

Implementation of this procedural instruction supports the requirements of Schedule 1 and certain Schedule 2 regulations in relation to the subclass 858 – Distinguished Talent visa, as well as other related regulatory provisions.

| Legislative Provision | | | Is this a delegable power? | If delegable, list the relevant instruments of delegation |
|-----------------------------|-----------------------------|---|----------------------------|---|
| Legislation | Reference (e.g. section) | Provision | | |
| <i>Migration Act (1958)</i> | s65 | s65 Decision to grant or refuse to grant visa | Yes | Citizenship and Social Cohesion Group AND Immigration and Settlement Services |

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| Legislative Provision | | | Is this a delegable power? | If delegable, list the relevant instruments of delegation |
|-----------------------|--------------------------|-----------|----------------------------|---|
| Legislation | Reference (e.g. section) | Provision | | |
| | | | | Group (Minister) Instrument 2019/226 |

1.2. Controls and Assurance

| | |
|---|--|
| Related Policy | Not applicable |
| Procedures / Supporting Materials | <p>VM-3108: Subclass 124 (Distinguished Talent) visa</p> <p>FM-1209: Div 2.2A – Visa application charge</p> <p>LS-1849: GenGuideA - All visas - Visa application procedures</p> <p>LS-1854: Sch3 - Additional criteria applicable to unlawful non-citizens and certain bridging visa holders.</p> <p>LS-1855: Sch4 - Public interest criteria</p> <p>LS-4855: Sch4/4021 - The passport requirement</p> <p>VM-974: Sch4/4020 - The integrity PIC</p> <p>VM-1027: Sch4 – 4005-4007 – The health requirement</p> <p>VM-1095: Division 1.5 - Special provisions relating to family violence.</p> <p>VM-3057: s5G - Relationships and family members - Best interests of minor children</p> <p>VM-3066: s5G - Relationships and family members - Custody (parental responsibility) for minor children</p> <p>VM-3067: s5G - Relationships and family members - Dependent family members</p> |
| Training/Certification or Accreditation | Migration (and Citizenship) training applicable to all officers undertaking duties under the <i>Migration Act 1958</i> and <i>Migration Regulations 1994</i> (as well as <i>Australian Citizenship Act 2007</i>). |
| Other required job role requirements | NIL |
| Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction) | Decision makers should raise any questions with their supervisors/managers in the first instance. Internal enquiries should be forwarded to: GlobalTalent@homeaffairs.gov.au |
| Escalation arrangements | Escalation of concerns or issues regarding this PI can be sent to the Director of Global Talent & Outreach section |

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| | |
|--|---|
| Recordkeeping (e.g. system based facilities to record decisions) | All decisions in relation to Distinguished Talent visa applications are recorded in ICSE and saved in TRIM8 |
| Control Frameworks (please refer to a specific document outlining QA or QC arrangements) | It is anticipated that the revised quality management framework, a key element of the Visa and Citizenship Operating Model (VCOM2020) , will be implemented in the 2019-20 program year. This will enhance consistent, lawful, high quality decision making across visa programs, Divisions and Branches. Migration and Citizenship have been identified as one of the first caseloads to be incorporated into the revised quality management framework. |
| Job Vocational Framework Role | Visa Processing |

Attachment C – Consultation

1.1. Internal Consultation

- Skilled & Migration visa processing network
- Global Talent & Regional Outreach
- Skilled Migration Program Management
- Skills & Innovation Policy
- PPCF Legal Advice Section

1.2. External Consultation

N/A

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Subclass 124 (Distinguished Talent) visa

Procedural Instruction

| | |
|--------------------|---|
| Document ID (PPN) | VM-3108 |
| TRIM record number | ADD2020/825190 |
| BCS Function | VISA AND MIGRATION MANAGEMENT - Visa Processing |
| Risk | Medium |
| Document owner | ASSISTANT SECRETARY, Skilled and Family Visa Program Branch |
| Approval date | 8 Apr 2020 |
| Document Contact | Global Talent & Regional Outreach section GlobalTalent@homeaffairs.gov.au |

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1. Purpose

The purpose of this procedural instruction (PI) is to identify the legal requirements and related policy and procedures that apply to the Subclass 124 (Distinguished Talent) visa (the Subclass 124 visa).

Officers are required to understand and apply the relevant law as set out in the *Migration Act 1958* (the Act) and the *Migration Regulations 1994* (the Regulations). Many of the requirements in the Act are expressed in objective terms and do not allow any discretion for officers. To the extent that the Act and the Regulations allow for discretion, officers should consider the Department's approved policy and procedures where relevant and appropriate in decision-making. This ensures that decision-making is consistent to the extent that it is appropriate, allowing arbitrary outcomes to be avoided.

However, policy and procedures do not have the force of law. When exercising powers or making decisions under legislation, officers should give policy documents due weight, but they should not apply policy inflexibly, and instead consider the merits of each individual case. In order to make a fair, reasonable and lawful decision, it may be necessary to depart from the approved policy and procedures, depending on the facts of the particular case. Before departing from approved policy and procedure, officers should first discuss with their immediate manager, and escalate to the instruction owner only when required. In all cases, a note of the reasons for departing from approved policy and procedure must be added to the client record in ICSE.

2. Scope

This PI covers administering migration law in relation to the Subclass 124 visa. It applies to all officers as defined in subsection 5(1) of the Act and in particular, officers who are visa decision makers exercising powers delegated to them under the Act. Other persons reading this PI should keep in mind that they are not the primary audience and therefore should not utilise contact channels specified for departmental officers only.

3. Procedural Instruction

3.1. Policy Intent

3.1.1 Objectives of the Subclass 124 visa

The Subclass 124 visa is for persons who wish to settle permanently in Australia and who have an internationally recognised record of exceptional and outstanding achievement in an eligible area or have provided specialised assistance to the Australian Government in matters of security.

3.1.2 Order for considering Distinguished Talent visas

Direction No. 85 – Order of Consideration – Distinguished Talent visas

Direction No 85 commenced on 4 November 2019 and gives direction to the processing of the Subclass 124 visa and the Subclass 858 (Distinguished Talent) visa. It applies to applications made on or after this date, as well as to applications made but not decided at this date. It gives highest priority to Distinguished Talent visa applications made in relation to the sectors listed below and where:

- there is written communication from an Australian employer offering employment in Australia with an annual salary equivalent to or higher than the Fair Work high income threshold (FWHIT); or
- the primary applicant's current earnings are an amount equal to or greater than the FWHIT; or

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- there is evidence the primary applicant is likely to attract a salary that is equal to or greater than the FWHIT.

Note: The FWHIT is indexed every year effective 1 July. A specific threshold would apply to the period from 1 July to 30 June of the next year. For the purposes of assessing whether the applicant is paid above the FWHIT, income should be assessed on the same basis as the FWHIT, which is by reference to 'earnings' as defined in section 332 of the *Fair Work Act 2009*. For further information regarding the FWHIT go to the Fair Work Ombudsman website at www.fairwork.gov.au.

The relevant sectors are:

- (a) AgTech (the application of technology to agriculture and food production);
- (b) FinTech (technology that seeks to improve and automate the delivery and use of financial services);
- (c) MedTech (medical technologies and pharmaceuticals);
- (d) Cyber Security;
- (e) Quantum Information, Advanced Digital, Data Science and ICT;
- (f) Space and Advanced Manufacturing; and
- (g) Energy and Mining Technology.

Applications made in relation to the above-mentioned sectors and who provide evidence of their current earnings or future salary equal to or above the FWHIT will be afforded priority processing of their Distinguished Talent visa application.

The Australian Government, is actively encouraging people who have:

- completed a Doctoral degree (PhD) in the last 3 years, or are submitting their thesis in the next 6 months; or
- completed a Bachelor Honours degree or Masters degree in the last 3 years, and have an overall grade-point average of 80 (or above) out of 100

to consider applying for a Distinguished Talent visa. These graduates/students would also be eligible to receive the highest visa processing priority under Direction 85 if their studies were in one of the seven priority sectors and they can demonstrate a current or future annual salary equivalent to or higher than the FWHIT.

All other Distinguished Talent visa applications receive the second highest priority under Direction No 85.

The rationale for the direction is to give priority to applicants viewed as 'highly desirable' because of their skills and knowledge in sectors identified by the Australian Government as a priority for future industry growth and with emerging opportunities for Australia's economy. These sectors have been highlighted as priorities through the Industry Growth Centre initiative and through targeted consultation with key industry stakeholders including Austrade; Department of Industry, Innovation and Science; Department of Employment, Skills, Small and Family Business; and academia.

3.2. Schedule 1 visa application validity requirements

3.2.1 Item 1112 of Schedule 1 Distinguished Talent (Migrant) (Class AL)

Item 1112 of Schedule 1 to the Regulations sets out the requirements for making a valid Subclass 124 visa application.

- For general policy and procedural advice on visa application validity requirements, refer to [LS-1849: GenGuideA - All visas - Visa application procedures](#).

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- For policy and procedural advice on the visa application charge, refer to FM-1209: Div 2.2A – Visa application charge.

3.2.2 Application form

In accordance with subitem 1112(1), applications for a Subclass 124 visa must be made using the form specified by legislative instrument for this subitem and made under subregulation 2.07(5). The forms specified are form 47SV or the online form 47DT (Internet).

3.2.3 Visa application charge (VAC)

Paragraph 1112(2)(a) of Schedule 1 to the Regulations prescribes the first instalment of the VAC. Paragraph 1112(2)(b) prescribes the second instalment of the VAC, payable before visa grant, by applicants who were at least 18 years old at the time of application and did not have a functional level of English. See subsection 5(2) of the Act for the definition of 'functional English'.

3.2.4 Where and how the application must be made

Under paragraph 1112(3)(a) of Schedule 1 to the Regulations, a Subclass 124 visa application must be made at the place, and in the manner (if any), specified by the Minister in a legislative instrument made for this item under subregulation 2.07(5). Applicants utilising Form 47SV must post (with correct prepaid postage) or deliver the application by courier service, to the addresses specified, or send as an email using the Global Talent contact form. Applicants using form 47DT (Internet) are to apply as an internet application.

3.2.5 Where the applicant must be

An applicant may be in or outside of Australia, but not in immigration clearance at the time of application – see paragraph 1112(3)(aa) of Schedule 1 to the Regulations.

3.2.6 Combined applications

Paragraph 1112(3)(b) of Schedule 1 to the Regulations provides that an application by a person claiming to be a member of the family unit of a person who is an applicant for a Subclass 124 visa may be made at the same time and place as, and combined with, the application by that person.

3.2.7 Application to be accompanied by approved form 1000

Paragraph 1112(3)(c) of Schedule 1 to the Regulations provides that an application by an applicant seeking to satisfy subclause 124.211(2), which relates to the applicant's internationally recognised record of exceptional and outstanding achievement in a specified area, must accompany their application with a completed approved form 1000. This form is known as the 'Nomination for Distinguished Talent' form.

Note: 'Approved form' is defined in regulation 1.03 of Part 1 of the Regulations and means a form approved by the Minister under section 495 of the Act or regulation 1.18, and a reference to an approved form by number is a reference to the form so approved and numbered.

The requirement for a completed 'approved form' does not mean that the form needs to be assessed in order for a valid application to be made. It simply must be completed.

3.2.8 Applicant to have provided assistance to the Government in matters of security

Paragraph 1112(3)(d) provides that an application by an applicant seeking to satisfy subclause 124.211(4), requires the Minister to have received advice that the applicant has provided specialised assistance to the Australian Government in matters of security, from:

- (a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*, (ASIO Act); or
- (b) the Director-General of Security.

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Section 4 of the ASIO Act defines '*intelligence or security agency*' as meaning any of the following:

- (a) the Australian Secret Intelligence Service;
- (aa) the Australian Signals Directorate;
- (b) the Office of National Intelligence;
- (c) that part of the Defence Department known as the Australian Geospatial-Intelligence Organisation;
- (d) that part of the Defence Department known as the Defence Intelligence Organisation.

3.3. Schedule 2 criteria - primary criteria

Division 124.2 sets out the primary criteria that must be satisfied by primary applicants. The primary criteria must be satisfied by at least one member of the family unit. The other members of the family unit who are applicants for this subclass only need to satisfy the secondary criteria.

Subdivision 124.21 sets out the criteria that must be satisfied at time of application and subdivision 124.22 sets out the criteria that must be satisfied at time of decision by an applicant seeking to satisfy the primary criteria.

3.3.1 Criteria to be satisfied at time of application

An applicant seeking to satisfy the primary criteria for grant of a Subclass 124 visa, must meet the requirements of either subclause [124.211\(2\) or \(4\)](#) of Schedule 2 to the Regulations, at the time of application.

3.3.1.1 Must have an internationally recognised record of exceptional and outstanding achievement

Subclause [124.211\(2\)](#) provides that the applicant:

- (a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas (as defined in accordance with their ordinary dictionary meaning):
 - i. a profession (refers to 'a vocation requiring knowledge of some department of learning or science');
 - ii. a sport (refers to 'an activity pursued for exercise or pleasure, usually requiring some degree of physical prowess');
 - iii. the arts (refers to 'the theoretical or physical expression of creativity found in human cultures and societies. Major constituents of the arts include visual arts, literature, and performance arts');
 - iv. academia and research (refers to 'scholarly and systematic inquiry into a subject to discover facts or principles'); and
- (b) is still prominent in the area; and
- (c) would be an asset to the Australian community; and
- (d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and
- (e) produces a completed approved form 1000; and

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- (f) if the applicant has not turned 18, or is at least 55 years old, at the time of application—would be of exceptional benefit to the Australian community.

3.3.1.1.1 Policy requirements of international recognition

Under policy, 'internationally recognised record of exceptional and outstanding achievement' means that a person's achievements have been or would be acclaimed as exceptional and outstanding in any country.

An achievement that may attract national acclaim would be considered 'internationally recognised' if that achievement is in an area practised in other countries and has or would attract similar acclaim in those countries.

3.3.1.1.2 Assessing international recognition

In determining the international standing of the applicant, under policy, officers are to consider:

- the international standing of the country (or countries), where the applicant's achievements were realised, in respect of the particular area;
- the standing of the achievement in relation to Australian standards such as Australian tertiary education quality standards, in relation to achievements in the area of academia and research; and
- the standing of the achievement in relation to international standards.

For example, an applicant rated at or near the top of their field in their home country would be considered to have an internationally recognised record of exceptional and outstanding achievement if:

- the field is undertaken and recognised in a number of countries; and
- the achievement would be similarly recognised in relation to international and Australian standards (where such standards apply) for that area.

The following examples would meet the 'internationally recognised' threshold:

- an individual holding a senior position (such as senior manager, lead technician, or lecturer) in a highly competitive 'international organisation'. An organisation with an internationally renowned reputation would be considered as an 'international organisation';
- an individual with a track record of holding senior positions in organisations, in a number of countries;
- an individual completing major international projects which have had a wide reaching impact. For example, a pharmaceutical executive who has led projects and as a result, successfully accelerated the clinical trial process to achieve a medical outcome, would be considered as an individual who has had a wide-reaching impact on the health benefits of society.

3.3.1.1.3 Policy requirements of 'record', 'exceptional' and 'outstanding' achievement

'Exceptional' and 'outstanding achievement' is not defined in the Regulations. Therefore, the ordinary dictionary meaning of the words applies. As such, exceptional and outstanding achievement is the act of accomplishing something extraordinary that places the individual above the average. Individuals with an internationally recognised record of exceptional and outstanding achievement are usually those who are leaders in their particular field.

It is anticipated that an applicant would generally have a record of sustained and multiple achievement. However, a single achievement by an applicant may still be regarded as a record of 'exceptional and outstanding' achievement if that achievement is cutting edge and highly innovative in nature.

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3.3.1.1.4 Assessing 'exceptional and outstanding achievement'

In assessing the applicant's record of achievement, officers may take into account information such as indicated in the following examples:

- information provided by an accepted nominator who has a national reputation in relation to the applicant's area of claimed achievement. This may include a full account of the reasons why the nominator believes the applicant has an exceptional and outstanding record of achievement;
- supporting statements and material provided by the applicant detailing relevant aspects of their record of achievement, including their qualifications, awards, and professional or academic positions held. This should include information relating to achievements both in Australia and overseas;
- supporting statements from internationally recognised individuals or organisations in the applicant's claimed area of achievement who are qualified to comment on the applicant's achievements and the applicant's reputation within the area; or
- awards received from internationally recognised institutions or organisations.

Academia and research

- If the applicant's area of achievement is in the area of academia and research, evidence of exceptional and outstanding achievements including:
 - reports commissioned;
 - books published;
 - articles published in professional journals, magazines and newspapers;
 - awards received;
 - recognition by peers (including citation in journals);
 - statements of achievement from government, professional, scientific or other relevant bodies;
 - honours and accolades (for example, a Nobel Prize in Medicine);
 - professional designation such as Professor, PhD, or M.D, whether this be purely honorary or symbolic, or associated with credentials attesting to specific competence, learning or skills;
 - membership of international groups and organisations associated with the area of learning;
 - evidence of government/private grants associated with the applicant's research;
 - evidence of receiving a fellowship or an honorary appointment such as Professor or Associate Professor in one or more highly regarded educational institutions that specialises in the same field;
 - academic qualifications associated with the applicant's area of expertise;
 - scale and audience of research undertaken or completed;
 - statements from the applicant's research supervisor (or professor) that the student's thesis/ research has strong prospects of being published;
 - academic statement of results (demonstrating high academic achievement) from an internationally recognised university;
 - one or more peer reviewed publications in the applicant's area of study/research;
 - links to any reputable websites which refer to the applicant and what they have done/achieved.

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A profession

- If the applicant's area of achievement is in the area of a profession, evidence of exceptional and outstanding professional achievements including:
 - national and international industry awards and accolades;
 - references from current and past employers;
 - statements from prominent business and industry peers;
 - academic degrees or professional designations associated with the applicant's profession;
 - personal/professional titles (such as CEO, Director, Department Head and Professor) indicating an earned rank or position within the formal structure of an organisation;
 - newspaper and magazine articles attesting to achievements and/or awards; and
 - links to any reputable websites which refer to the applicant and what they have achieved.

A sport

- If the applicant's area of achievement is in the area of a sport, evidence of exceptional and outstanding sporting achievements; including:
 - national and international rankings;
 - membership of national sporting teams;
 - results in international competitions or tournaments;
 - statements from international sporting bodies;
 - sporting scholarships received;
 - newspaper and magazine articles attesting to achievements; and
 - links to any reputable websites which refer to the applicant's sporting achievements.

The arts

- If the applicant's area of achievement is in the arts, evidence of exceptional and outstanding achievements in the arts including:
 - books published;
 - national and international sales achieved;
 - awards and commissions received;
 - galleries in which works are displayed;
 - scale and audience of displays held;
 - recognition by peers;
 - honours and accolades (for example, an Academy Award, or a Nobel Prize in Literature);
 - academic qualifications associated with the applicant's area of the arts;
 - statements from national and international artistic bodies;
 - newspaper and magazine articles attesting to achievements;
 - links to any reputable websites which refer to the applicant's artistic achievements.

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The internet may be used by officers to source additional material and as a method of confirming the accuracy of any claims made. Officers should only consider information that is relevant, credible and significant. Officers should also have regard to their obligations under the *Privacy Act 1988* when sourcing information. Any adverse or conflicting information obtained from reliable internet sources that is relevant to the decision being made, should be put to the applicant, in writing, for comment.

3.3.1.1.5 'Exceptional and outstanding achievement' and international recognition for certain students

Masters degree or Bachelor Honours degree graduates must have an overall grade-point average of 80 (or above) out of 100 if they are relying on these academic qualifications as the sole basis for demonstrating a record of exceptional and outstanding achievement. This requirement does not apply to PhD students.

Achievements by a PhD student/graduate, Masters degree or Bachelor Honours degree graduate will be considered internationally recognised if:

- their research is of international interest and significance; or
- their research would be relevant to an international audience; or
- they have presented their research at international forums; or
- their research could be used to inform academia, governments and industry abroad; or
- their research is relevant to Australian academia, governments and industry in respect to advancing Australia's international competitiveness; or
- their research highlights the potential for innovation and productivity increases for Australian organisations and industries operating in an international or globalised context; and
- they have achieved a grade-point average of 80 (or above) out of 100, if they are a Masters degree or Bachelor Honours degree graduate.

3.3.1.2 Must still be prominent

3.3.1.2.1 Policy requirements of prominence

Paragraph 124.211(2)(b) requires an assessment of the applicant's prominence in their identified area at the time of application.

3.3.1.2.2 Assessing prominence

An applicant may provide the following information/documentation to demonstrate they are prominent in their field/area of expertise:

- details of recently completed projects;
- details of recent publications;
- details of current and recently held senior positions in a sizable business or organisation;
- evidence of delivering a presentation at professional forums, conferences and events;
- reference letter from a university or employer;
- evidence of patents, trademarks, copyrights, and other intellectual property held;
- evidence of recent national and international awards;

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- evidence of membership of prominent international bodies, professional associations and current registrations/ licences;

The information/documentation described under '**Error! Reference source not found.**' is also relevant to the assessment of this criterion. It would be expected that they are currently active.

3.3.1.2.3 Assessing 'Prominence' for certain students

Under policy, Bachelor Honours degree or Masters degree graduates would be taken to have met the requirement to still be prominent in their area of academia and research at the time of application if they have completed their studies in the last 3 years.

PhD students must have completed their studies in the last 3 years, or demonstrate that they will submit their thesis within the next 6 months in order to satisfy the requirement to still be 'prominent in their area of academia and research at the time of application. A full academic transcript and letter from the applicant's university must be provided detailing the submission date of their thesis.

3.3.1.3 Must be an asset to Australia

3.3.1.3.1 Policy requirements of being an asset

Paragraph 124.211(2)(c) requires an applicant to demonstrate that they would be an asset to the Australian community. The term 'asset' is not defined in the Regulations. Therefore the ordinary dictionary meaning of the word applies. As such, an applicant would be considered an asset, if the applicant's settlement in Australia will be 'useful' to and benefit the Australian public, not limited to the applicant and/or nominator, prospective employer or the applicant's local community.

'Asset' does not only refer to economic benefit. It could also refer to social and/or cultural benefit to the Australian community.

3.3.1.3.2 Assessing whether the applicant would be an asset to Australia

An applicant will be an asset to the Australian community if they:

- raise Australia's technical and/or academic standards internationally;
- will introduce and/or transfer skills to Australia;
- will elevate Australia's competitiveness and reputation in sports and the arts; or
- will make a significant positive social or cultural impact on the Australian community.

An applicant may provide the following information/documentation to demonstrate they will be an 'asset':

- evidence that they have created a product/ technological advancement that is unique, and cutting edge in nature;
- evidence demonstrating that the applicant's research fills a significant knowledge gap and will be of benefit to industry, business or academia in Australia; or
- evidence of their involvement in establishing a start-up company.

An applicant would not be an asset to the Australian community if the applicant was involved in an area that:

- is outside the generally accepted social or cultural norms of most people in Australia;
- is likely to be offensive to large segments of the Australian community; or

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- would otherwise give rise to controversy were the applicant to enter Australia as a distinguished talent.

3.3.1.4 Employability

3.3.1.4.1 Policy requirements of employability

To satisfy paragraph 124.211(2)(d), the applicant must demonstrate that they would have no difficulty in obtaining employment, or in becoming established independently, in Australia within their area of achievement.

The policy intent is to ensure that the applicant will be economically independent in Australia, either from employment or becoming independently established in the applicant's area of talent, and not be reliant on social welfare. Importantly, both the ability to obtain employment or become established independently must be in the applicant's area of achievement and take place in Australia. Hence, employment which is not related to the applicant's area of achievement cannot be used to satisfy paragraph 124.211(2)(d).

An applicant would be unable to demonstrate that they would become independently established in their area of achievement should they migrate to and settle in Australia, solely by the existing funds and/or assets held by them. They must also show that they can continue to maintain this independence through their skills in their area of achievement.

3.3.1.4.2 Assessing employability

Officers can consider a combination of the following when assessing this criterion:

- employment contracts or offers of employment related to the area of achievement for work in Australia. This may be evidenced by current and future employment opportunities from employers, employment/recruitment agencies, universities or organisations involved with the area of achievement in Australia;
- evidence of self-employment or opportunities to establish a viable business within the area of achievement;
- evidence of sponsorships, scholarships, grants or other payments intended to support the applicant while they are engaged in activities related to the area of achievement;
- evidence of academic qualifications in the applicant's area of achievement. E.g. PhD or Masters degree;
- evidence of high scores (overall grade-point average of 80 out of 100) during the completion of the applicant's Masters degree or Bachelor Honours degree, or
- demonstrated track records of previous employment in the applicant's area of achievement.

3.3.1.5 Nomination

3.3.1.5.1 Must be nominated

For paragraph 124.211(2)(e), the applicant is required to produce a completed approved Form 1000 (Nomination for Distinguished Talent). This form requires the applicant's record of achievement to be attested to by a nominator who has a national reputation in relation to the area of achievement. A nominator must be:

- an Australian citizen; or
- an *Australian permanent resident*; or
- an *eligible New Zealand citizen*; or
- an Australian organisation.

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Note: *Australian permanent resident* and *eligible New Zealand citizen* are defined in regulation 1.03 of Part 1 of the Regulations.

3.3.1.5.2 Status of nominator

To satisfy paragraph 124.211(2)(e), form 1000 requires the applicant's record of achievement in an area (a profession, sport, the arts, academia and research) to be attested to by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen, or an Australian organisation who has a national reputation relevant to the area of the applicant's achievement.

3.3.1.5.3 National reputation

'National reputation' generally means an image or opinion which is held by the Australian public about an individual or an organisation.

A number of factors may be considered to gain insight on the nominator's reputation, which may attribute to the credibility of the nominator's attestation to the applicant's achievements. These factors may include the nominator's:

- solid track record of achievements;
- evidence of high calibre;
- leadership in the relevant field of expertise;
- professional associations with lead organisations and industry bodies;
- current and previous employment history;
- their participation at conferences both in Australia and internationally; and
- their contribution to a number of international journals which would be utilised by researchers, academics and organisations undertaking work in the same field of research.

National reputation qualified by association

In assessing the national reputation of a nominator, consideration should be given to their professional associations with organisations/ industry bodies renowned in the field. For example, an individual employed as a lecturer at a university recognised internationally for teaching excellence and cutting edge research would be taken to have satisfied requirements around national reputation. An individual nominator employed by a lead ICT company as an ICT professional would be assessed as having a national reputation if that company is a multi-national technology company, one of the world's largest employers, or a leader in creating technological innovations.

National reputation qualified by international standing

If a nominator has a leading international reputation that would be of national significance to Australia this would be considered acceptable. This broad interpretation of 'national reputation' ensures that the program is not excluding quality Australian citizen, Australian permanent resident or eligible New Zealand citizen nominators living abroad. For example, a nominator living abroad would be considered to have satisfied the requirement to have a national reputation if they have a strong international record of achievement thereby making them reputable at a national level.

3.3.1.5.4 Meaning of 'Australian organisation'

The term 'Australian organisation' may be given a broad interpretation and includes any organisation registered in Australia or authorised to carry on business in Australia. It also includes an Australian organisation that also operates outside Australia.

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Organisations operating a business in Australia will have an Australian Business Number (ABN) that is registered with the Australian Business Register. Officers can conduct a simple search on the ABN Lookup website at <https://abr.business.gov.au/> to determine the existence of the organisation.

Australian organisations which operate both in and outside Australia will have an ABN. If the organisation only operates overseas but not in Australia, they must have been established by an Australian parent company, or an Australian citizen or Australian permanent resident who continues to operate the business in order to be considered an Australian organisation.

3.3.1.6 If under 18 years old, or 55 years or older

3.3.1.6.1 Exceptional benefit

Paragraph [124.211\(2\)\(f\)](#), requires applicants who are less than 18 years old or over 55 years old, at the time the visa application is made, to demonstrate that they would be of exceptional benefit to the Australian community. Under policy, exceptional benefit to the Australian community would be a contribution that would elevate the international standing of the particular area in Australia. The applicant would also need to demonstrate that this benefit would be immediately realised and ongoing in the future. An applicant who intended to retire from their area of achievement or no longer participate in this area shortly after arriving in Australia would be unable to demonstrate that they would be of exceptional benefit to the Australian community.

3.3.2. Security assistance

Subclause [124.211\(4\)](#) provides that an applicant meets the requirements of this subclause if, acting on the advice of the Minister responsible for an intelligence or security agency within the meaning of the ASIO Act or the Director-General of Security, the applicant has provided specialised assistance to the Australian Government in matters of security. Under policy, subclause [124.211\(4\)](#) may only be satisfied where written advice is provided by the instruction owner to an officer indicating that advice from the responsible Minister or the Director-General of Security has been received in relation to an applicant.

3.3.3 Skilled Regional Provisional visa holders

Clause [124.212](#) provides that if, at the time of application, the applicant is the holder of a Subclass 491 (Skilled Work Regional (Provisional)) visa or a Subclass 494 (Skilled Employer Sponsored Regional (Provisional)) visa, or the last substantive visa held by the applicant was one of those visas, then the applicant must have held that visa for at least three years at the time of application unless circumstances specified in an instrument exist. No circumstances are currently specified.

3.3.4 Criteria to be satisfied at time of decision

3.3.4.1 Public interest criteria (PIC)

Clause [124.221](#) provides that the applicant must satisfy PICs [4001](#), [4002](#), [4003](#), [4004](#), [4005](#), [4009](#), [4010](#) and [4021](#). If the applicant had turned 18 at the time of application, PIC [4019](#) must also be satisfied.

For policy and procedural guidance see:

- [LS-1855: Sch4 - Public interest criteria;](#)
- [VM-1027: Sch4 – 4005-4007 – The health requirement; and](#)
- [LS-4855: Sch4/4021 - The passport requirement.](#)

3.3.4.2 Special return criteria (SRC)

Clause [124.222](#) requires an applicant that has previously been in Australia to satisfy SRCs [5001](#), [5002](#) and [5010](#). For policy and procedural guidance see: [VM-990: Exclusion periods.](#)

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3.3.4.3 If a minor

Clause [124.226](#) requires an applicant that has not turned 18 to satisfy PICs [4017](#) and [4018](#). For policy and procedural guidance see:

- [VM-3066:s5G - Relationships and family members - Custody \(parental responsibility\) for minor children](#); and
- [VM-3057: s5G - Relationships and family members - Best interests of minor children](#).

If the primary applicant is a minor, they cannot be granted a visa if granting it would prejudice the custody (or similar) rights of another person.

3.3.4.4 'One fails, all fail' criteria

3.3.4.4.1 PICs

For:

- subclause 124.224(1), the primary applicant cannot be granted a visa unless each **member of the family unit** of the primary applicant who is a Subclass 124 visa applicant satisfies PIC [4001](#), [4002](#), [4003](#), [4004](#), [4005](#), [4009](#), [4010](#), and if aged at least 18 years at time of application, PIC [4019](#);
- subclause 124.224(2), the primary applicant cannot be granted a visa unless each **member of the family unit** of the primary applicant who are **not** a Subclass 124 visa applicant satisfies:
 - PIC [4001](#), [4002](#), [4003](#), [4004](#) and [4010](#); and
 - PIC [4005](#) unless the Minister is satisfied it would be unreasonable to require the person to undergo assessment in relation to that PIC.

Note: Subregulation 1.12(7) provides the definition of **member of the family unit** that is specific to the Subclass 124 and Subclass 858 (Distinguished Talent) visas applies in circumstances where the primary applicant is under 18 years old at time of application.

3.3.4.4.2 SRCs

Paragraph 124.224(1)(b) applies to each member of the family unit of the primary applicant who has previously been in Australia. The primary applicant cannot be granted a visa unless those **members of the family unit** of the applicant satisfy SRCs [5001](#), [5002](#) and [5010](#).

3.3.4.4.3 Custody of children

Under clause [124.225](#) the primary applicant cannot be granted a visa if an applicant who is a member of the family unit of the primary applicant, aged less than 18 years and who made a combined application with the primary applicant does not satisfy PIC [4015](#) and [4016](#). For further policy and procedural guidance see:

- [VM-3066 s5G - Relationships and family members - Custody \(parental responsibility\) for minor children](#); and
- [VM-3057 s5G - Relationships and family members - Best interests of minor children](#).

3.3.4.5 Integrity PIC 4020

Clause [124.228](#) provides that unless the applicant satisfies subclause 124.211(4), (relating to the provision of specialised security assistance to the Australian Government), the applicant and each member of their family unit must satisfy PIC 4020. For policy and procedural guidance see:

- [VM-974: Sch4/4020 - The integrity PIC](#).

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3.4 Schedule 2 secondary criteria

3.4.1 Eligibility

Division 124.3 sets out the secondary criteria that must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Subdivision 124.31 sets out the criteria that must be satisfied at time of application, and subdivision 124.32 sets out the criteria that must be satisfied at time of decision by an applicant seeking to satisfy the secondary criteria.

3.4.2 Criteria to be satisfied at time of application

3.4.2.1 Relationship

Clause [124.311](#) requires the applicant to be a **member of the family unit** of, and to have made a combined application with, a person who satisfies or has satisfied the primary criteria in subdivision 124.21.

For the definition of member of the family unit see:

- subregulation [1.12\(2\)](#), applicable where the primary applicant is aged at least 18 years of age; and
- subregulation [1.12\(7\)](#), applicable where the primary applicant is under 18 years old at time of application.

For policy and procedural guidance see:

- [VM-3067: s5G - Relationships and family members - Dependent family members.](#)

3.4.2.2 Adding a member of the family unit to an application

Clause [124.311](#) requires a member of the family unit to have made a combined application with the primary applicant. A member of the family unit can only be added to a Subclass 124 visa application (after it has been made but before a decision to grant or refuse the visa), in accordance with regulations 2.08 or 2.08A.

- [Regulation 2.08](#) adds newborn children to the visa application of a non-citizen; and
- [Regulation 2.08A](#) enables a spouse or de facto partner, or dependent child to be added to the application of the original applicant.

Subject to meeting the requirements of regulation 2.08 or 2.08A, the applicant added to the application, is taken to have made a combined application with that of the primary applicant. For policy and procedural advice regarding adding a member of the family unit see: [LS 1849: GenGuideA –All visas - Visa application procedures.](#)

3.4.3. Criteria to be satisfied at time of decision

3.4.3.1 Continued eligibility

Clause [124.321](#) provides that an applicant seeking to satisfy the secondary criteria must, at the time of decision, continue to be a member of the family unit of a person who is the holder of a Subclass 124 visa as a result of satisfying the primary criteria.

Officers may without further enquiry consider this criterion satisfied provided:

- there is no evidence (or notification) to the contrary; and
- no significant time has elapsed since the application was made.

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Note: All applicants are required (under section 104 of the Act) to notify changes in their circumstances to an officer as soon as possible and in writing. For example, changes in the composition of the applicant's family unit as a result of birth, death or change in marital status.

3.4.3.2 Primary applicant must be visaed first

Under clause 124.321, a member of the family unit cannot be granted their visa unless and until the primary applicant has been granted a Subclass 124 visa.

3.4.3.3 PICs

Clause 124.322 provides that an applicant seeking to satisfy the secondary criteria must satisfy PICs 4001, 4002, 4003, 4004, 4005, 4009, 4010, and 4021. If the applicant had turned 18 at the time of application, they must also satisfy PIC 4019. For policy and procedural guidance see:

- [LS-1855: Sch4 - Public interest criteria](#); and
- [VM-1027: Sch4 – 4005-4007 – The health requirement.](#)

3.4.3.4 SRCs

Clause 124.323 requires applicants that have previously been in Australia to satisfy special return criteria 5001, 5002 and 5010. For further policy and procedural guidance see: [VM-990: Exclusion periods.](#)

3.4.3.5 If a minor

Clause 124.325 requires an applicant who has not turned 18, to satisfy PIC 4017 and 4018. PIC 4017 relates to custody /child orders whilst PIC 4018 relates to the best interests of the child.

- For policy and procedural guidance on PIC 4017, see [VM-3066: s5G - Relationships and family members - Custody \(parental responsibility\) for minor children.](#)
- For policy and procedure on PIC 4018, see [VM-3057s5G - Relationships and family members - Best interests of minor children.](#)

3.4.3.6 Integrity PIC 4020

Clause 124.327 requires an applicant to satisfy PIC 4020, unless they are a member of the family unit of a person who satisfied subclause 124.211(4) (relating to the provision of specialised security assistance to the Australian Government). For policy and procedural guidance see:

- [VM-974: Sch4/4020 - The integrity PIC.](#)

3.5 Subclass 124 visa grant

3.5.1 Where the applicant must be located to be granted a Subclass 124 visa

Clause 124.411 requires an applicant to be outside Australia when the visa is granted.

The second instalment of the visa application charge must also be paid before the visa can be granted. For further guidance, refer to [LS-1849 GenGuideA –All visas - Visa application procedures.](#)

3.5.2 When the Subclass 124 visa is in effect

The Subclass 124 visa is a permanent visa permitting the holder to travel to and enter Australia for a period of five years from the date of grant.

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3.5.3 Subclass 124 visa conditions

3.5.3.1 First entry date

Clause [124.611](#) requires the holder of a Subclass 124 visa to make their first entry to Australia before a date specified by the Minister for the purpose. For policy guidance on determining the 'first entry date', refer to the following:

- [VM-1226: Sch8 – 8504 – '\(First\) Entry date' condition](#); and
- [LS-1858: Sch8 – Visa conditions – Breach of entry-related conditions \(inc. first entry date\)](#).

3.5.3.2 Other conditions

Clause [124.612](#) provides that condition [8502](#) may be imposed as a condition on the Subclass 124 visa. Condition 8502 provides that the holder of the visa must not enter Australia before the entry to Australia of a person specified in the visa.

For policy and procedural guidance refer to:

[LS-1858: Sch8 – Visa conditions – Breach of entry – related conditions \(inc. first entry date\)](#).

3 Accountability and Responsibility

| Role | Description |
|--|--|
| Director, Global Talent & Regional Outreach | Ensure policy information is provided |
| Director, General Skilled Migration | Ensure that Visa Processing is correct and in line with procedural instructions |
| Director, Skilled Migration Programme Management | Ensure this PI is up to date and accurate |
| AS Skilled & Family Visa Program | The document owner who is required to approve the Procedural Instruction prior to publication. |

4 Version Control

| Version number | Date of issue | Author(s) | Brief description of change |
|----------------|---------------|-----------------------------------|--|
| 1.0 | 06 Apr 2020 | Global Talent & Regional Outreach | Incorporated changes after consultation with PPCF Legal Advice section |
| 0.9 | 03 Apr 2020 | PPCF Legal | Minor wording changes to schedule 2 requirements |
| 0.8 | 01 Apr 2020 | Global Talent & Regional Outreach | Incorporated changes after consultation with PPCF Legal Advice section |
| 0.7 | 27 Mar 2020 | PPCF | Changes in relation to schedule 2 requirements for students |
| 0.6 | 19 Mar 2020 | Global Talent & Regional Outreach | Incorporated changes after consultation with PPCF Legal Advice section |

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| Version number | Date of issue | Author(s) | Brief description of change |
|----------------|---------------|--|---|
| 0.5 | 27 Feb 2020 | PPCF | PPCF changes incorporated - minor changes to PI references and formatting |
| 0.4 | 25 Feb 2020 | Skilled Migration Policy Skilled Migration Programme Management | Minor wording changes |
| 0.3 | 19 Feb 2020 | Skilled Migration processing network | No changes |
| 0.2 | 19 Feb 2020 | Director, Global Talent Initiative | Updates to nominator assessment – removal of references to company names. |
| 0.1 | 14 Feb 2020 | Global Talent & Regional Outreach | Updates and elaborations as identified by the Global Talent & Regional Outreach section and Skilled Migration processing network. |

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Attachment A – Definitions

| Term | Acronym (if applicable) | Definition |
|--|----------------------------|---|
| Act | | The <i>Migration Act 1958</i> |
| Department, the | | The Department of Home Affairs including its operational arm the Australian Border Force. |
| Fair Work High Income Threshold | FWHIT | The high income threshold is defined under section 333 of the <i>Fair Work Act 2009</i> . The high income threshold changes at the start of each financial year and is published on the Fair Work website. |
| Integrated Client Services Environment | ICSE | The processing system used to record and process citizenship, sponsorship and nomination applications and a multitude of onshore and offshore visa applications |
| Public Interest Criteria. | PIC | As defined in regulation 1.03 of the <i>Migration Regulations 1994</i> . A PIC is a criterion set out in a clause of Schedule 4, and a reference to a public interest criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule. A PIC is a criterion for visa grant for those visas to which it is attached. |
| Regulations | | The <i>Migration Regulations 1994</i> |
| Special return Criteria | SRC | As defined in regulation 1.03 of the <i>Migration Regulations 1994</i> . A SRC is a criterion set out in a clause of Part 1 of Schedule 5, and a reference to a special return criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule. A SRC is a criterion for visa grant for those visas to which it is attached. |
| Total Records and Information Management | TRIM8 | TRIM8 is the Department of Home Affairs Electronic Document and Record Management System that provides the framework to capture, manage and share critical business information. |

Attachment B – Assurance and Control Matrix

1.1. Powers and Obligations

Implementation of this procedural instruction supports the requirements of Schedule 1 and certain Schedule 2 regulations in relation to the subclass 124 – Distinguished Talent visa, as well as other related regulatory provisions.

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| Legislative Provision | | | Is this a delegable power? | If delegable, list the relevant instruments of delegation |
|-----------------------------|--------------------------|---|----------------------------|--|
| Legislation | Reference (e.g. section) | Provision | | |
| <i>Migration Act (1958)</i> | s65 | s65 Decision to grant or refuse to grant visa | Yes | Citizenship and Social Cohesion Group AND Immigration and Settlement Services Group (Minister) Instrument 2019/226 |

1.2. Controls and Assurance

| | |
|---|--|
| Related Policy | Not applicable |
| Procedures / Supporting Materials | <p>VM-3114: Subclass 858 (Distinguished Talent) visa</p> <p>FM-1209: Div 2.2A – Visa application charge</p> <p>VM-1226: Sch8 – 8504 – ‘(First) Entry date’ condition</p> <p>LS-1849: GenGuideA - All visas - Visa application procedures</p> <p>LS-1855: Sch4 - Public interest criteria</p> <p>LS-1858: Sch8 – Visa conditions – Breach of entry-related conditions (inc. first entry date).</p> <p>LS-4855: Sch4/4021 - The passport requirement</p> <p>VM-974: Sch4/4020 - The integrity PIC</p> <p>VM-990: Exclusion periods</p> <p>VM-1027: Sch4 – 4005-4007 – The health requirement</p> <p>VM-3057: s5G - Relationships and family members - Best interests of minor children</p> <p>VM-3066: s5G - Relationships and family members - Custody (parental responsibility) for minor children</p> <p>VM-3067: s5G - Relationships and family members - Dependent family members</p> |
| Training/Certification or Accreditation | Migration (and Citizenship) training applicable to all officers undertaking duties under the <i>Migration Act 1958</i> and <i>Migration Regulations 1994</i> (as well as <i>Australian Citizenship Act 2007</i>). |
| Other required job role requirements | NIL |

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| | |
|---|---|
| Other support mechanisms (e.g. who can provide further assistance in relation to any aspects of this instruction) | Decision makers should raise any questions with their supervisors/managers in the first instance. Internal enquiries should be forwarded to: GlobalTalent@homeaffairs.gov.au |
| Escalation arrangements | Escalation of concerns or issues regarding this PI can be sent to the Director of Global Talent & Outreach section |
| Recordkeeping (e.g. system based facilities to record decisions) | All decisions in relation to Distinguished Talent visa applications are recorded in ICSE and saved in TRIM8 |
| Control Frameworks (please refer to a specific document outlining QA or QC arrangements) | It is anticipated that the revised quality management framework, a key element of the Visa and Citizenship Operating Model (VCOM2020) , will be implemented in the 2019-20 program year. This will enhance consistent, lawful, high quality decision making across visa programs, Divisions and Branches. Migration and Citizenship have been identified as one of the first caseloads to be incorporated into the revised quality management framework. |
| Job Vocational Framework Role | Visa Processing |

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Attachment C – Consultation

1.1. Internal Consultation

- Skilled & Migration visa processing network
- Global Talent & Regional Outreach
- Skilled Migration Program Management
- Skills & Innovation Policy
- PPCF Legal Advice section

1.2. External Consultation

N/A

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AgTech

AgTech (Agricultural Technology) is the intersection of technological processes and developments in traditional agriculture at all stages of the food supply chain (production, supply, demand and distribution).

Agricultural technology, or AgTech, can support the growth of Australia's agricultural sector through such measures as a more efficient use of energy, labour, land resources, fertiliser, seeds and herbicides.

The United States Studies Centre (2018) found that Australia was the 12th largest exporter of Agricultural products globally. AgTech now has the potential to be a leading source of technological manufacturing in Australia. The opportunity exists to export high tech products to a global market in need of innovative solutions to meet exploding demand for food.

Opportunities within this Industry:

AgTech innovation creates value across the food supply chain in three key areas:

- Agronomic productivity & efficiency: generating more yield per input by using data-driven insight and the right equipment and systems to hone in on the 4 R's – right product, right rate, right time, right location.
- Farm operations & logistics: optimising equipment, personnel, and work orders to maximise equipment utilisation, minimise transportation costs, and limit staff down-time.
- Financial planning & analysis and business management: using integrated IT platforms and enterprise resource planning to leverage management time and improve economic and operational decision-making. Better analytics and forecasting enable improved commodity marketing.

Areas of focus within this industry include:

- agricultural big data analytics
- Block Chain technology
- data packaging and cloud storage, automation, robotics and drones and sensor integration with farm machinery

- individual technologies or a combination of technologies related to farm equipment, weather, seed optimisation, fertiliser and crop inputs, and irrigation
- precision measurement and/or application of farm inputs such as nitrogen and pesticides, gene editing, nanomaterials and synthetic biology
- predictive technologies around planting times, climatic forecasting and crop cycles
- wearables, including ear-tag trackers for animal management
- computer hardware and software.

AgTech in Australia

Australia's AgTech investment market is small and at an early stage. Open-source research into AgTech investments in Australia determined that whilst there has been an explosion of investment activity, the majority of investments are early stage and small value. In 2017, for example, 80% of all investments were less than \$1m, with most being government grants and accelerator programs.

Australia is keen to attract higher value and later stage investments. Known globally for its clean, green and safe produce, Australia's reputation as a leading agricultural producer is well established. Exporting two-thirds of its agricultural production, Australia is ideally positioned within growing global markets and is well connected through established trade channels and free trade agreements. Australia's strategic location offers international enterprises an ideal base to build sustainable export businesses.

Australia is promoting opportunities for investment and partnership through Austrade's *Agriculture 4.0: Australia: Shaping the Future of Food and Agriculture*.

Future Growth Potential

In 2017, the Ministry of Data reported that digital solutions are already being sought to overcome some of the key challenges facing the agriculture industry including a dry climate, limited arable land, increasing food demand (forecast to grow 60% by 2060) crop resilience and planting cycles to find ways to optimise farm production and processes.

AgTech in Australia has seen rapid growth since 2016. This trend reflects major global growth in the AgTech sector – there are statistics available in the AgFunder Annual Reports, PitchBook analysis reports, and the University of Sydney US Studies Reports (on ag-tech and ag-tech VC investment) about the rapidity of this growth and the scale of global investment. As food security and sustainability becomes a growing issue, it is a sector that is increasingly attracting investment globally.

We would anticipate the growth of Australian AgTech and its demand for diverse relevant skills will continue on an upward trajectory as the sector and its markets (local and international) mature.

Opportunities

Australia is attracting innovative start-ups to trial and develop solutions in Australia, making it possible to help embed the R&D component of the business in Australia.



Cyber Security

Cyber security is the protection of digital systems connected to the internet, including the prevention of technical exploitation and mitigating the risk of such exploitation occurring.

Technology development and the growth of emerging technology sectors creates an increasing need for developments in cyber security to protect existing and emerging technologies, data and products. Cyber security has a role enabling growth opportunities across digital sectors.

Opportunities within this industry:

There are three categories of products and services that fall within this sector of Industry:

- **Prevention:** Products and services for supporting cyber security by discovery and understanding of threats, vulnerabilities and opportunities.
- **Detection:** Products and services for detecting and assessing intrusions and breaches.
- **Response:** Products and services that help recover systems/data following a breach.

Cyber security in Australia

As an enabler for industry and a source of economic growth itself, Australia has a unique opportunity to deliver services and solutions in a globally-competitive, export-facing industry. According to the Australian Cyber Security Growth Network's (trading as AustCyber) Sector Competitiveness Plan, there were around 19,500 cyber professionals in Australia in 2017. However, job market analysis indicates the sector may be short around 2300 workers already, costing Australia an estimated \$400 million in revenue. While a talent pipeline is being established by education institutions, workers are needed in the short to medium term.

Future Growth Potential

According to AustCyber, Australia may need 18,000 additional cyber security workers by 2026 for the sector to harness its full growth potential. The workforce shortfall has significant economic consequences. In 2017, the domestic cyber security sector is estimated to have forfeited up to \$405 million in revenue, which companies could have generated if they had been able to find enough cyber security workers to fill existing vacancies.

There is significant growth potential for the Australian cyber security sector. AustCyber's most recent Sector Competitiveness Plan suggests that Australian cyber security revenue could triple from \$2 billion to \$6 billion by 2026.

Opportunities

There is a prevalence of start-ups in cyber security as the Australian cyber ecosystem is growing. Support for these companies to scale up will continue to drive growth.



Energy and Mining Technology

Energy and Mining Technology refers to the sectors of industry related to the development and improvement of energy and mining technologies.

The Australian Government has identified the Energy and Mining industries as two of the six sectors of competitive strength and strategic priority (Industry Growth Centre Initiative). These include the Growth Centre for the Mining Equipment, Technology and Services (METS) sector, METS Ignited; and the Growth Centre for Oil, Gas and Energy Resources sector, National Energy Resources Australia (NERA).

The multi-billion dollar Australian METS industry is a global leader in mining innovation and is a significant contributor to the national economy. Improved processes, products and services will have a major impact on the METS sector with potential for further growth through exporting, technology development and the creation of new processes, services and products. METS Ignited is seizing these opportunities by supporting collaboration, commercialisation of new mining technologies, and skills development.

Australia's energy resources sector (including the exploration, development and extraction of energy and fuels from oil, gas, coal and uranium) contributes strongly to Australia's position as a leading energy exporter.

NERA is unlocking the potential of the Australian energy resources sector, by improving the sector's competitiveness and transforming the sector for the low carbon future of tomorrow. NERA is uniquely positioned to support sector-wide transformation and unlock over \$10 billion of new value and potentially 200,000 jobs for the Australian economy.

Opportunities within this Industry:

- data analytics
- automation and robotics
- advanced visualisation technologies, e.g. sensors
- artificial intelligence and machine learning technologies
- digitisation

- beneficiation technologies (improving the economic value of ore etc.)
- clean technologies, renewables and hybrids.

Energy and Mining Technology in Australia

METS Ignited reports that Australia's mining industry accounts for more than 1.1 million jobs in the Australian economy, creating and sustaining over 148,000 direct jobs. Our mining sector is at the forefront of innovation, constantly developing new ways to identify and develop new resources and meet rising community standards. Over the past five years Australia's mining research and development (R&D) spend has been around \$1.9 billion and there continues to be investment into R&D, demonstrating the sector is well placed to harness the opportunities of automation and technology.

The International Energy Agency's 2018 World Energy Outlook sees global primary energy demand expanding by over 25% between 2017 and 2040.

Future Growth Potential

Energy and Mining Technology supports increased productivity and competitiveness through the development and use of improved and innovative technology in these sectors.

Harnessing new technologies in the resources and METS sectors is set to add \$74 billion to the Australian economy by 2030 and create more than 80,000 new local jobs across the country, as highlighted in the recent Staying Ahead of the Game report commissioned by Industry Growth Centres METS Ignited and NERA.



FinTech

FinTech (Financial Technology) is the intersection of finance and technology, with a focus on enhancing financial services through new technology.

FinTech refers to technologically-enabled innovation in financial services – and captures both new entrants into financial services using technology as a core part of their business model, as well as innovation throughout the financial sector.

Ernst and Young's FinTech Australia Census 2019 has found that 43% of FinTech leaders agree Australia lacks experienced start-up and FinTech talent. Attracting suitable or qualified talent is one of the top three internal challenges identified by FinTech firms.

Having access and the ability to attract global talent and technological expertise for both Australian FinTech start-ups and established financial services firms is vital to bringing international financial services and FinTech experience back into the local market. It also helps create connections to influencers and business leaders in international markets, a major benefit to local FinTech seeking offshore expansion.

Opportunities within this Industry:

Opportunities for growth exist in both FinTech start-ups and established financial services firms, and could capture the use of business and consumer technologies in a wide range of activities, including:

- Block Chain technology
- online banking
- payments (e.g. contactless)
- lending
- investment and wealth management
- insurance
- micro-savings
- financial advice (e.g. automated and digital)
- data analytics
- compliance and 'RegTech'.

The range of skills and expertise required also varies – including both financial sector expertise and technological skills.

FinTech in Australia:

In the Australian Government's 2016 report *Backing Australian FinTech*, the then Treasurer, the Hon Scott Morrison MP, highlighted the value of FinTech in making financial markets and systems more efficient and consumer-focused.

The report noted the Government's drive to provide offshore FinTech innovators with the opportunity to develop and refine new products and services in the Australian market and further revolutionise how consumers and businesses interact, for the benefit of Australia's economy.

"The accelerating rate of technological change and increasing penetration of mobile devices, combined with shifting customer preferences, will have dramatic implications for the ways in which financial services are structured, delivered and consumed."

According to KPMG analysis:

- there are currently over 600 FinTech companies in Australia, mostly startups
- the FinTech ecosystem continues to grow, with around US\$600 million invested in 2018
- the scope of opportunities presented by FinTech in Australia is substantial, given the potential to deliver benefits across the financial services sector. Australia's financial services sector, in terms of share of GDP, is the single largest sector in the economy at around 10%. The sector employs around 440,000 people and contributed \$163 billion to the Australian economy in 2017–18.



MedTech

MedTech (Medical Technology) is the intersection of medical practices or research and technology, with a focus on making medicines or medical devices more effective, accessible and affordable through new technology, knowledge and techniques.

MedTech was responsible for 3% of the world's biomedical research, contributed AUD1.5 billion gross value to economy in 2015 and since 2016, the MedTech and Pharma (MTP) sector has achieved promising and steady growth. MTP Connect's Sector Competitiveness Plan found that 'the sector (Medical Technology, Biotechnology & Pharmaceutical) added \$4.9 billion in Gross Value Added (GVA) to the Australian economy, the same contribution as in 2016. The sector also supported a total of 70,000 industry and research jobs in 2018, an addition of 8,000 jobs since 2016. There has been a 2% p.a. increase in the total number of MTP companies since 2016, and a 34% increase in the ASX market capitalisation of listed MTP companies from 2017 to 2018.'

This focus on MedTech is consistent with the Australian Government's Industry Growth Centre initiative, in which Medical Technologies and Pharmaceuticals was identified as a key industry growth centre. One key objective includes improving management and workforce skills necessary for sector growth – which is supported through the Global Talent – Independent (GTI) Program.

Emerging Focus Areas within MedTech:

- Clinical specialty/therapy, examples include:
 - adaptive clinical trials
 - healthy aging
 - infectious disease
 - immunology
 - precision medicine.
- Areas of science, examples include:
 - antimicrobial resistance
 - biochemistry and cell biology

- biomedical engineering
- microbiology and immunology
- neuroscience and neurology
- regenerative medicine.
- Devices and diagnostics, examples include:
 - bionics
 - digital health
 - implantables (e.g. 3D printed custom devices and bionics)
 - medical biotechnology
 - nanotechnology
 - point of care diagnostics
 - wearable devices (e.g. prosthetics).

Opportunities within this Industry

One of the MTP Growth Centres priority areas is 'improving workforce skills'. Identified priority areas for skills are outlined in the Sector Competitive Plan (2019). This reflects the megatrends of the MTP sector, which highlight the Digital Evolution as being at the centre of shaping the sector over the next 20 years.

According to a 2015 Deloitte report, within the Medtech industry there is a skills gap of around three per cent of current employment. 84% of the Medtech industry believe that this skills gap has adversely impacted their business. Skilled migration through programs such as GTI offer Australian Medtech companies the opportunity to employ much needed highly skilled employees.



Quantum Information, Advanced Digital, Data Science and ICT

Sectors of industry related to building capability in quantum technologies and advanced digital, data science and ICT industries.

Quantum Information

Governments around the world are investing vast sums of money in different quantum technologies and platforms.

Migration programs which attract the world's top talent can help to foster and grow a quantum technology ecosystem here in Australia – creating new Australian jobs and growth opportunities across a range of sectors.

In supporting the development and commercialisation of quantum research, technologies and platforms, Australia must leverage global capabilities and know how to gain a competitive advantage.

Advanced Digital, Data Science and ICT

The broader technology 'tech' sector employs nearly 580,000 workers. It is forecast that the sector workforce will increase to 792,000 workers by 2024, as demand for technology workers continues to outpace the broader Australian labour market.

However, Australia faces shortages in key digital skills including data management and analysis, cyber security, AI and machine learning, robotics and advanced mathematics and statistics. The tech sector currently relies heavily on skilled migration as a source for ICT graduates as the Australian education system does not produce enough domestic ICT graduates to meet industry needs.

The contribution of digital technologies to the Australian economy between 2014–2020 was forecast to grow 75% to \$139 billion.

Demand for technology workers is forecast to grow by 100,000 between 2018–2024. Average trend growth in the workforce has been 2.5% p.a. between 2011–2018. This has outpaced overall labour market growth over the same period.

ICT services exports grew from \$2.93 billion in 2016–17 to \$3.78 billion in 2017–18. This may not be reflective of jobs in the narrower field of Advanced Tech and ICT, but trends for the digital sector at large can be taken as an indicator of market need and expected growth.

Opportunities within these Industries:

- artificial intelligence (AI)
- automation
- big data
- Block Chain technology
- cloud computing
- disruptive technologies
- data analysis and architecture
- data and eResearch infrastructure
- data science
- front-end development
- Internet of Things
- IT integrated with control systems for plant and machinery
- machine learning engineering
- network engineer/architect
- product management
- quantum information and computing
- software and product development
- systems integration
- smart cities
- smart tech
- 3D printing.



Space and Advanced Manufacturing

The Space sector refers to the area of industry dedicated to space technology and manufacturing, involving a highly skilled and innovative workforce.

Advanced Manufacturing reaches across the entire value chain of manufacturing to research, design, logistics and after-sales service of manufacturing products.

The Space and Advanced Manufacturing sectors are both focus areas for the Australian Government. These sectors are undergoing significant global transformation and are important parts of our economy, now and into the future. They share many similar opportunities and challenges.

The Government is committed to creating an environment to encourage investment and job growth, assisting businesses to transform and remain competitive. This includes programs such as the Industry Growth Centres initiative, particularly the Advanced Manufacturing Growth Centre (AMGC); \$50 million Manufacturing Modernisation Fund; \$100 million Advanced Manufacturing Fund; Entrepreneurs' Programme; Cooperative Research Centres (CRC) Program, including the Innovative Manufacturing CRC; R&D Tax Incentive; and CSIRO.

On 21 September 2019, the Prime Minister also announced a \$150 million investment to support more hi-tech skilled and innovation in the field of space technology and manufacturing. The announcement follows the establishment of the Australian Space Agency in May 2018. It is proposed that space travel and technology be a focus area of industry for the GTI as this will support Australian businesses in becoming more competitive in international supply chains.

Opportunities within this Industry:

- aerospace/aviation/space
- digital design and rapid prototyping
- sustainable manufacturing and life cycle engineering
- additive manufacturing, materials resilience and repair

- bio-manufacturing and biological integration
- nano-manufacturing and micro-manufacturing
- precision manufacturing
- digitisation and automation
- defence
- civil security.

Space and Advanced Manufacturing in Australia

As of August 2019, Australia's manufacturing sector employs 871,000 people, the seventh largest employing industry in Australia. In addition, manufacturing exports are continuing to increase, up \$177 million, compared to last year. AMGC is also supporting 40 collaborative projects across Australia, projected to generate up to \$290 million in revenue for Australian businesses and create an estimated 1215 new high-skill jobs.

Growth Potential

AMGC summarises that Australia's ability to compete on the global stage for Advanced Manufacturing is dependent on its ability to offer customers something different from the rest of its competition, this includes remaining innovative and forward focused.

Global Talent Independent program - parameters for consideration

| Expression of Interest - Candidate details | |
|---|--|
| Name - BCC | |
| Nationality: Location: | |
| ICSE check | <ul style="list-style-type: none"> - Note candidate's CID, age (DOB:), s. 47E(d) - Check candidate currently holds an eligible visa - Check for no further stay conditions - Check candidate against Schedule 3 if not currently holding an eligible substantive visa - Complete ICSE checks for s. 47E(d) - Note any relevant information regarding s. 47E(d) |

| Global Talent - Expression of Interest | |
|---|---|
| GTI Target Sector | Remove all other sectors not selected: <ul style="list-style-type: none"> - AgTech - Cyber Security - Energy and Mining Technology - FinTech - MedTech - Quantum Information, Advanced Digital, Data Science and ICT - Space and Advanced Manufacturing |
| <ul style="list-style-type: none"> ➤ Internationally recognised record of exceptional and outstanding achievement in the target sector ➤ Is still prominent in the area (field). E.g. Current occupation ➤ Would be an asset to the Australian community | |
| <ul style="list-style-type: none"> ➤ Evidence that applicant's current/future earnings is equal to or above the FWHIT, or is to likely attract a salary that is equal to or greater than the FWHIT ➤ Would have no difficulty in obtaining | |

Global Talent Independent program - parameters for consideration

| | |
|--|-------------------------|
| employment, or in becoming established independently, in Australia in the area | |
| Exceptional benefit for applicants less than 18 and over 55 years of age | N/A for all other ages. |
| Nominator information, if provided. Note if Form 956 provided. | |

| | |
|----------------------------------|----------------|
| Recommendation | Invite: Yes/No |
| Assessment undertaken by (name): | |
| Date: | |



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Global Talent Team – EOI process guidance

January 2020

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1. Global Talent – onshore mailboxes

1.1. Overview

There are two Global Talent Support Team mailboxes onshore:

Global Talent (GlobalTalent@homeaffairs.gov.au) – the external mailbox:

- Any engagement emails to/from external stakeholders – these include: Federal Agencies, industries, individuals, organisations etc
- Global Talent Officer weekly engagement tracker – what engagements the GTOs have done, and future engagements with any possible GT stakeholder
- GTI referrals / EOIs / invitations
- Pre and post lodgement queries for filtering to GTI Delivery mailbox (Adelaide processing team).

GT Internal Support s. 47E(d) – the internal mailbox for logistical co-ordination (this has limited access due to the sensitivities of recruitment).

- GTIP processes and procedures, policy questions/queries
- Recruitment for GTOs and LE5s
- GTO Support
 - Logistics or questions around the GTO STM (accommodation, visas queries)
 - GTO travel queries (ITRs)
 - LE5 queries.
- Comms products – brochure, factsheets etc
- Expenditure and Budget Approval (for GTOs)
- Briefings (Senate Estimates, DIBs, Meetings, Submissions, TPs, Media, Committees (IEC))
- Standard wording for HOM, pitches, talking points, presentations etc
- Dashboards and reporting
- Data/reporting analysis
- Media and LinkedIn posts
- System changes/ImmiAccount
- Form 47SV and Form 1000 changes
- Procedural Instructions updates

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2. Expressions of Interest

2.1. Managing and assessing EOIs

The GT EOI Tracker is saved in the s. 47E(d) [REDACTED] and is a shared document.

The EOI Tracker is used to record all EOIs for the global talent program including the source of the EOI and the outcome of the EOI.

EOIs are received via the Global Talent Contact Form:

<https://immi.homeaffairs.gov.au/help-support/departmental-forms/online-forms/global-talent-contact-form>

<https://immi.homeaffairs.gov.au/global-talent-contact-form> (vanity link)

2.1.1. Process guidance

2.1.1.1. Onshore

GLOBAL TALENT MAILBOX

- EOI is received into the mailbox and categorised with a yellow flag [EOI received].
- EOI is registered on the Master Tracker.
 - Check the Bulk Email List (ie cross reference email address with bulk email lists) to determine the source of the candidate. Record source as TSS / PhD grad / SkillSelect if email matches.

Distribution:

- If candidate resides in a region where GTOs are located, forward to the relevant region for assessment.
 - Ensure the Tracker is updated to record which region is assessing the case.
- If candidate is located onshore or in a region where there is no GTO, the EOI will be assessed onshore.
 - Categorise Blue [Assessment] in the Mailbox.

TRIM:

- Create BCC for all EOIs to be assessed onshore and record the BCC on the Tracker:
Naming convention: *SURNAME, Other names – Global Talent Independent Program – EOI*

Assessment:

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- Send all correspondence to the candidate from the GT Mailbox, including RFIs, invited to apply or not invited to apply.
- File the EOI email into the relevant mailbox folder: Invited to apply, not invited to apply, RFI.

ICSE:

- ICSE: enter a 'Note' in the candidate's Client Additional Information (see [Attachment A](#) for instructions).
- If client does not have an existing ICSE record, you will need to create one.
 - Refer to:
 - ICSE Summary Sheet – Create a Client, or
 - eLearning course ICSE Fundamentals – Client Records (21 modules). Select No. 10 – Create a Client.

2.1.1.2. Offshore

GLOBAL TALENT – REGION - MAILBOX

- GTO receives EOI from the GT mailbox.

TRIM:

- Create BCC (TRIM container) for all EOIs
Naming convention: *SURNAME, Other names – Global Talent Independent Program – EOI*
- TRIM EOI email in the BCC (the forwarded email from the GT Mailbox is fine).

Assessment:

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- Copy the GT Mailbox into the email sent to the candidate advising of the EOI outcome.
 - The Global Talent Support Team will update the Master Tracker and attribute the assessment to the relevant region.

ICSE:

- ICSE: enter a 'Note' in the candidate's Client Additional Information (see [Attachment A](#) for instructions).
- If client does not have an existing ICSE record, you will need to create one.
 - Refer to:
 - ICSE Summary Sheet – Create a Client, or
 - eLearning course ICSE Fundamentals – Client Records (21 modules). Select No. 10 – Create a Client.

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IMPORTANT: If a region does not have a GTO for available to review case assessments and the case assessment is being done by a Global Talent Support Officer (GTSO), the GTSO must refer the assessment onshore to review the decision before advising the candidate of the outcome.

2.1.2. Processing times

2.1.2.1. Expression of Interest (EOI)

The processing time to assess an EOI and respond (either with an outcome or an RFI) is two weeks.

2.1.2.2. Request for Information (RFI)

The timeframe for response is 28 days (if information is requested in writing).

Please note, if a response to an RFI has not been received after 28 days, the EOI will be marked as 'CLOSED' in the master Tracker and reported as such.

2.1.2.3. Distinguished Talent visa application

The processing time for visa application is one month.

2.1.3. Record keeping:

Ensure the following documents are saved into the candidate's BCC TRIM folder:

- The Global Talent referral submission / EOI (from the Contact Form).
- The GT parameter assessment.
- An RFI email (if sent) and candidate's response.
- The outcome email to the candidate.
- Any other correspondence with candidate and/or nominator regarding the EOI.

2.1.4. Direct invitations from GTOs

Where a GTO invites a candidate to apply for a Distinguished Talent visa, the candidate's details should be sent to the Global Talent Support Team in a Global Talent Tracker. The Global Talent Support Team will record the number of invitations in a master spreadsheet and ensure the invitation is attributed to the relevant region for reporting.

The invitation email does not need to be copied to the Global Talent Support Team. The email must be trimmed in the BCC and the GT Tracker sent onshore at least once a week (by COB Friday, *for Monday*).

2.1.5. Request for information (RFI)

If further information is required from a candidate during the assessment of Global Talent parameters, an RFI can be sought.

The RFI template is available in the Stationery folder in the GT Mailbox.

Note: Ensure only the relevant information is requested.

The candidate should be provided 28 days to respond to the RFI.

The Tracker must be updated to record that an RFI has been sent and on what date.

When the information is received, assess the candidate as per the process outlined above.

2.1.6. Queries from migration agents or organisations

The online contact form is for individuals to express an interest in applying for the Global Talent Program.

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Migration agents or organisations may send queries to the mailbox about the EOI process. It should be noted that the contact form was previously a 'referral form' where a third party was expected to refer an individual to the program however the process changed in late 2019.

Migration agents and organisations should be advised that the department cannot assess a candidate unless a formal EOI has been received. The information provided in an EOI should include an individual's experience and record of exceptional achievements. An agent can submit the EOI on behalf of an individual

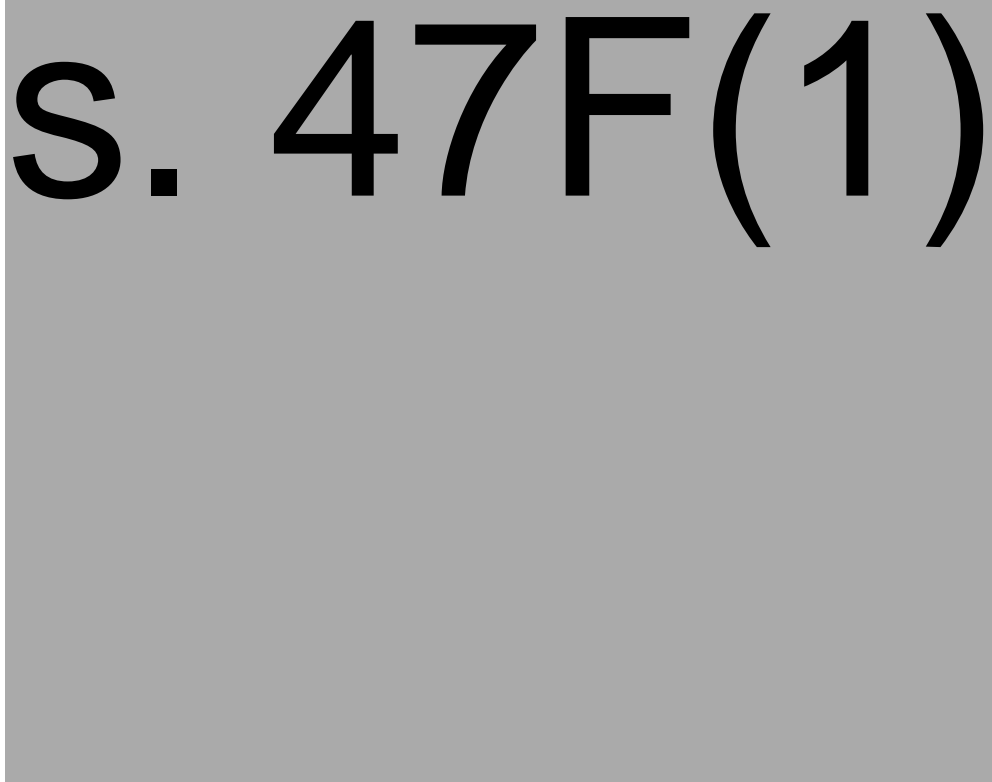
2.1.7. Complex cases

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1. Locate client in ICSE.
2. Select second tab Client Additional Information.



3. Click on arrow, as per screenshot below.



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4. Select Note.

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5. Click Add Information

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6. Insert the following text: Global Talent Independent Program – expression of interest documents at BCC2020/xxxxxx and click Save.

Note: you do not need to select any specific dates or insert an 'Effective To' date.

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7. The Note will appear in the client's 'Additional Information' tab as follows:

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For Official Use Only**ATTACHMENT B**

Global Talent candidates who are lodging a Distinguished Talent visa (subclass 858) – onshore – cannot apply onshore if they hold one of the following visas:

Subclass 858 requires the applicant not to hold a:

- Business (Short Stay) visa (subclass 456)
- Electronic Travel Authority (Subclass 601)
- eVisitor (subclass 651)
- Maritime Crew visa (subclass 988)
- Special Purpose visa
- Superyachy Crew visa (subclass 488)
- Temporary work visa (subclass 400)
- Tourist visa (subclass 676)
- Visitor visa (subclass 600).

Note: candidates lodging a Distinguished Talent visa (subclass 124) offshore do not have any prerequisite visa requirements.

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