



Australian Government
Department of Home Affairs

Introduction to Subclass 407

Visas

Item 1236 of Schedule 1

Item 1238 of Schedule 1 outlines the requirements for making a valid Subclass 407 visa application.

Form, fee and other

Other requirements

Requirements	
Item	Requirements
1	An application must be made at the place, and in the manner, (if any) specified by the Minister in a legislative instrument made for the purposes of this item under subregulation 2.07(5)
2	An applicant may be in or outside Australia, but not in immigration clearance.
3	An application must specify the person who has agreed to be the applicant's approved sponsor
4	The person specified in an application for the purposes of item 3 must be: (a) a temporary activities sponsor, or a person who has applied for approval as a temporary activities sponsor but whose application has not yet been decided; or (b) for an application lodged on or before 18 May 2017 - a professional development sponsor or a training and research sponsor, or a person who has applied for approval as a professional development sponsor or a training and research sponsor but whose application has not yet been decided.
5	<p>If the person specified in an application for the purposes of item 3 is not a Commonwealth agency;</p> <p>(a) in a case where the person is an approved sponsor of a kind referred to in item 4:</p> <p>(i) the person must have nominated a program of occupational training in relation to the applicant under paragraph 140GB(1)(b) of the Act; and</p> <p>(ii) if a decision in respect of the nomination has been made under subsection 140GB(2) of the Act, the nomination must have been approved under that subsection and the approval must not have ceased under regulation 2.75A; and</p> <p>(iii) the application must identify the nomination</p> <p>(b) in a case where the person has applied for approval as a sponsor of a kind refer to in item 4, but the application has not yet been decided:</p> <p>(i) the person must have made a nomination of a program of occupational training in relation to the applicant that would be a nomination under paragraph 140GB(1)(b) of the Act if the person were an approved sponsor of a kind referred to in item 4; and</p> <p>(ii) the application must identify the nomination</p>

6	<p>If an applicant holds a substantive visa, the visa must not be:</p> <ul style="list-style-type: none"> (a) a permanent visa; or (b) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular stream); or (c) a Subclass 771 (Transit) visa; or (d) a special purpose visa; or (e) a temporary visa specified by the Minister in a legislative instrument made for the purposes of this paragraph under subregulation 2.07(5)
7	<p>If an applicant is in Australia and does not hold a substantive visa:</p> <ul style="list-style-type: none"> (a) the applicant must have held a substantive visa; and (b) the last substantive visa held by the applicant must not have been: <ul style="list-style-type: none"> (i) a Subclass 403 (Temporary Work (International Relations)) visa in the Domestic Worker (Diplomatic or Consular) stream; or (ii) a Subclass 771 (Transit) visa; or (iii) a special purpose visa; and (c) the application must be made: <ul style="list-style-type: none"> (i) within 28 days after the date when the last substantive visa held by the applicant ceased to be in effect; or (ii) if that last substantive visa was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision of the Minister's decision not to revoke the cancellation - within 28 days after the day when the applicant is taken, under section 368D or 379C of the Act, to have been notified of the Tribunal's decision.
8	<p>An applicant seeking to satisfy the primary criteria must declare in the application (the primary application) whether or not each of the following:</p> <ul style="list-style-type: none"> (a) the applicant; (b) any person who has made a combined application with the applicant; has engaged in conduct, in relation to the primary application or the combined application, that constitutes a contravention of subsection 245AS(1) of the Act

Schedule 1 Continued

(4) An application by a person claiming to be a member of the family unit of a person (the primary applicant) who is an applicant for a Training(Class GF) visa may be made at the same time and place as, and combined with, an application by that person or any other member of the family unit who claims to be a member of the family unit of the primary applicant.

(5) Subclasses:

Subclass 407 (Training)

Schedule 2 407 visa criteria

Subdivision 407.2 provides the criteria that must be satisfied by all Subclass 407 primary visa applicants.

407.211

Either:

- (a) the applicant has turned 18; or
- (b) the applicant has not turned 18 and exceptional circumstances exist for the grant of the visa.

407.212

The applicant has [functional English](#).

Schedule 2 continued

407.213

Each of the following applies:

- (a) an [approved sponsor](#) has agreed, in writing, to be the [sponsor](#) of the applicant;
- (b) the sponsor is:
 - (i) a temporary activities sponsor; or
 - (ii) if the application was made on or before 18 May 2017—a professional development sponsor or a [training and research sponsor](#);
- (c) the [sponsor](#) has not withdrawn its agreement to be the [sponsor](#) of the applicant;
- (d) the [sponsor](#) has not ceased to be the [sponsor](#) of the applicant.

Schedule 2 continued

407.214

If the approved sponsor is not a Commonwealth agency:

- (a) the sponsor has nominated a program of occupational training in relation to the applicant under paragraph [140GB\(1\)\(b\)](#) of the Act; and
- (b) the nomination has been approved under section [140GB](#) of the Act on the basis of the criteria in regulation [2.72A](#); and
- (c) the approval of the nomination has not ceased under regulation [2.75A](#); and
- (d) either:
 - (i) there is no adverse information known to [Immigration](#) about the sponsor or a person associated with the sponsor; or
 - (ii) it is reasonable to disregard any adverse information known to [Immigration](#) about the [sponsor](#) or a person associated with the [sponsor](#).

407.215

The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

Schedule 2 continued

07.216

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay [in Australia](#).

407.217

The applicant genuinely intends to stay temporarily [in Australia](#) for the purpose for which the visa is granted, having regard to:

- (a) if the applicant has held a [substantive visa](#)—whether the applicant has complied substantially with the conditions to which the last [substantive visa](#), or any subsequent [bridging visa](#), held by the applicant was subject; and
- (b) whether the applicant intends to comply with the conditions to which the Subclass 407 visa would be subject; and
- (c) any other relevant matter.

Schedule 2 continued

407.218

The applicant does not hold:

- (a) a [permanent visa](#); or
- (b) a [temporary visa](#) specified by the Minister in a legislative instrument made for the purposes of this paragraph.

407.219

The applicant has:

- (a) adequate means to support himself or herself; or
- (b) access to adequate means to support himself or herself; during the period of the applicant's intended stay [in Australia](#).

Schedule 2 continued

407.219A

- (1) The applicant satisfies public interest criteria [4001](#), [4002](#), [4003](#), [4003B](#), [4004](#), [4005](#), [4013](#), [4014](#), [4020](#) and [4021](#).
- (2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion [4019](#).
- (3) If the applicant has not turned 18, the applicant satisfies public interest criteria [4012](#), [4017](#) and [4018](#).

407.219B

The applicant satisfies special return criteria [5001](#), [5002](#) and [5010](#).

Schedule 2 continued

407.219C

Either:

- (a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection [245AR\(1\)](#), [245AS\(1\)](#), [245AT\(1\)](#) or [245AU\(1\)](#) of the Act; or
- (b) both of the following apply:
 - (i) the Minister is satisfied that the applicant has engaged in such conduct in that period;
 - (ii) the Minister considers that it is reasonable to disregard the conduct.

Secondary criteria (Schedule 2)

407.311

The applicant is a [member of the family unit](#) of a person who holds any of the following visas granted on the basis of satisfying the primary criteria for the grant of the visa:

- (a) a [Subclass 402 \(Training and Research\) visa](#);
- (b) a [Subclass 407 \(Training\) visa](#).

407.312

The approved sponsor of the primary applicant:

- (a) has agreed, in writing, to be the [sponsor](#) of the applicant; and
- (b) has not withdrawn its agreement to be the [sponsor](#) of the applicant; and
- (c) has not ceased to be the [sponsor](#) of the primary applicant; and
- (d) either:
 - (i) there is no adverse information known to [Immigration](#) about the [sponsor](#) or a person associated with the [sponsor](#); or
 - (ii) it is reasonable to disregard any adverse information known to [Immigration](#) about the [sponsor](#) or a person associated with the [sponsor](#).

Secondary criteria (schedule 2) continued

407.313

Either:

- (a) the Minister is satisfied that the applicant has not, in the previous 3 years, engaged in conduct that constitutes a contravention of subsection [245AR\(1\)](#), [245AS\(1\)](#), [245AT\(1\)](#) or [245AU\(1\)](#) of the Act; or
- (b) both of the following apply:
 - (i) the Minister is satisfied that the applicant has engaged in such conduct in that period;
 - (ii) the Minister considers that it is reasonable to disregard the conduct.

407.314

The applicant has adequate arrangements for health insurance during the period of the applicant's intended stay [in Australia](#).

Secondary criteria (schedule 2) continued

407.315

The applicant genuinely intends to stay temporarily in Australia as a member of the family unit of the primary applicant, having regard to:

- (a) if the applicant has held a substantive visa—whether the applicant has complied substantially with the conditions to which the last substantive visa, or any subsequent bridging visa, held by the applicant was subject; and
- (b) any other relevant matter.

407.316

The applicant has:

- (a) adequate means to support himself or herself; or
- (b) access to adequate means to support himself or herself;
during the period of the applicant's intended stay in Australia.

Secondary criteria (schedule 2) continued

407.317

- (1) The applicant satisfies public interest criteria [4001](#), [4002](#), [4003](#), [4003B](#), [4004](#), [4005](#), [4013](#), [4014](#), [4020](#) and [4021](#).
- (2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion [4019](#).
- (3) If the applicant has not turned 18, the applicant satisfies public interest criteria [4012](#), [4017](#) and [4018](#).

407.318

The applicant satisfies special return criteria [5001](#), [5002](#) and [5010](#).

Circumstances applicable to grant

407.411

The applicant may be [in](#) or [outside Australia](#) at the time of grant, but not in [immigration clearance](#).

When visa is in effect

407.511

(1) If the applicant is [outside Australia](#) at the time of grant—[temporary visa](#) permitting the holder:

- (a) to travel to and [enter Australia](#) until a date specified by the Minister; and
- (b) to remain [in Australia](#) during a period (the **period of stay**) beginning on the day the applicant first [enters Australia](#) as the holder of the visa and ending at the end of a period specified by the Minister, which must not exceed 2 years; and
- (c) to travel to and [re-enter Australia](#) during the period of stay.

(2) If the applicant is [in Australia](#) at the time of grant—[temporary visa](#) permitting the holder:

- (a) to [remain in Australia](#) during a period (the **period of stay**) beginning on the date of grant of the visa and ending at the end of a period specified by the Minister, which must not exceed 2 years; and
- (b) to travel to and [re-enter Australia](#) during the period of stay.

Conditions

407.611

If the applicant is a primary applicant:

- (a) the visa is subject to conditions [8102](#), [8303](#), [8501](#) and [8516](#); and
- (b) conditions [8106](#), [8107](#), [8301](#), [8502](#), [8503](#), [8525](#) and [8526](#) may be imposed.

407.612

If the applicant is a secondary applicant:

- (a) the visa is subject to conditions [8104](#), [8303](#) and [8501](#); and
- (b) conditions [8106](#), [8301](#), [8502](#), [8503](#), [8516](#), [8522](#), [8525](#) and [8526](#) may be imposed.

[LEGEND Comment - for amendment history, please see [Table of Amendments](#)]

Genuine temporary entry

Clause [407.217](#) provides that the primary applicant genuinely intends to stay temporarily in Australia for the purpose for which the visa is granted.

The genuine temporary entrant requirement aims to protect the integrity of the Subclass 407 visa program by ensuring that Subclass 407 visa holders present a minimum risk while in Australia. This includes the risk of attempting to circumvent proper migration channels by using the Subclass 407 visa to maintain ongoing residence in Australia, to work, or undertake any other activities not appropriate on a Subclass 407 visa.

Officers must consider the following three matters when assessing the genuine temporary entrant requirement:

- if the applicant has held a substantive visa—whether the applicant has complied substantially with the conditions to which the last [substantive visa](#), or any subsequent [bridging visa](#), held by the applicant was subject; and
- whether the applicant intends to comply with the conditions to which the Subclass 407 visa would be subject; and
- any other relevant matter.

Genuine temporary entry cont'd

Previous visa compliance

Officers are to assess whether the applicant complied with the conditions of their last visa and departed Australia before their last visa ceased. If the applicant was non-compliant, officers are to consider the seriousness of the applicant's non-compliance, how recently the non-compliance occurred and whether there were any circumstances beyond the applicant's control which caused the non-compliance.

Intention to comply

When determining the applicant's intention to comply with the conditions to which the Subclass [407](#) visa would be subject, officers may consider whether there is any evidence that suggests the applicant's primary intention is to work (rather than undertake training).

Genuine temporary entry cont'd

Any other relevant matter

Below is a non-exhaustive list of other relevant matters that may be considered:

- the applicant's economic, employment, financial and family circumstances in their home country that may present as a significant incentive for the applicant to return to their home country;
- the applicant's ties (including family) to Australia and incentives to [remain in Australia](#);
- whether the applicant has sound reasons for not undertaking the training in their home country;
- any evidence that the Subclass [407](#) visa is being used to circumvent the intention of the migration program; and
- whether the Subclass 407 visa is being used to maintain ongoing residence in Australia.

Officers are to raise any questions with their supervisor/manager in the first instance when assessing the genuine temporary entry requirement. If necessary, officers may contact Student and Graduate Visas section mailbox for further guidance.

When the visa is in effect - Period of stay

407.511

(1) If the applicant is [outside Australia](#) at the time of grant—[temporary visa](#) permitting the holder:

- (a) to travel to and [enter Australia](#) until a date specified by the Minister; and
- (b) to remain [in Australia](#) during a period (the **period of stay**) beginning on the day the applicant first [enters Australia](#) as the holder of the visa and ending at the end of a period specified by the Minister, which must not exceed 2 years; and
- (c) to travel to and [re-enter Australia](#) during the period of stay.

(2) If the applicant is [in Australia](#) at the time of grant—[temporary visa](#) permitting the holder:

- (a) to [remain in Australia](#) during a period (the **period of stay**) beginning on the date of grant of the visa and ending at the end of a period specified by the Minister, which must not exceed 2 years; and
- (b) to travel to and [re-enter Australia](#) during the period of stay.

Conditions

407.611

If the applicant is a primary applicant:

- (a) the visa is subject to conditions [8102](#), [8303](#), [8501](#) and [8516](#); and
- (b) conditions [8106](#), [8107](#), [8301](#), [8502](#), [8503](#), [8525](#) and [8526](#) may be imposed.

407.612

If the applicant is a secondary applicant:

- (a) the visa is subject to conditions [8104](#), [8303](#) and [8501](#); and
- (b) conditions [8106](#), [8301](#), [8502](#), [8503](#), [8516](#), [8522](#), [8525](#) and [8526](#) may be imposed.

Schedule 8 – visa conditions applicable to 407 visas

Subsection 41(1) of the Act provides that the Regulations may provide that visas, or visas of a specified class, are subject to specified conditions.

Visa conditions are applicable to 407 visas are as follows:

Primary applicant

Mandatory conditions: 8102, 8303, 8501 and 8516

Discretionary conditions: 8106, 8107, 8301, 8502, 8503, 8525 and 8526 may be imposed

Secondary applicant

Mandatory conditions: 8104, 8303 and 8501

Discretionary conditions: 8106, 8301, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Mandatory conditions 8102 and 8303

8102:

Condition 8102 provides that the holder must not engage in work [in Australia](#) (other than in relation to the holder's course of study or training)

Note: Work means an activity that, in Australia, normally attracts remuneration – refer to regulation [1.03](#).

8303:

The holder must not become involved in activities disruptive to, or violence threatening harm to, the Australian community or a group within the Australian community.

Mandatory conditions 8102 and 8303

8501

The holder must maintain adequate arrangements for health insurance while the holder is [in Australia](#).

8516

The holder must continue to be a person who would satisfy the primary or secondary criteria, as the case requires, for the grant of the visa.

Discretionary conditions

There are numerous discretionary conditions that may be imposed.

Feel free to review these at your leisure.

Changing sponsors

There is nothing in the terms of the Act or the Regulations that expressly allows or prohibits a Subclass [407](#) visa holder from transferring their existing Subclass 407 visa to a new sponsor if condition [8107](#) is not imposed.

Condition 8102 work restrictions

Condition [8102](#), which is mandatory for all persons who satisfy the primary criteria for the grant of a Subclass [407](#) visa, restricts the visa holder from engaging in work in Australia other than work that is "*in relation to*" the holder's course of study or training.

Whether the training being undertaken by a visa holder for a different organisation (to the organisation that nominated the visa holder for the visa) constitutes a breach of condition 8102 will therefore depend on the type of work engaged in and the particular training program that was approved by the Minister.

As a matter of policy, a visa holder who seeks to train with a different sponsor should lodge a new visa application to avoid the potential for any breach of condition 8102 and cancellation of their visa. The prospective sponsor should lodge a new nomination application. The applicant may recommence training when the visa is granted.

An exception to this may be:

- the sponsor organisation is sold to the new sponsor; and
- the training program, and the training personnel, related to nomination for which the visa was granted will continue.

In such circumstances, a new Subclass 407 visa nomination and application may not be needed and the visa holder may commence training with the new sponsor immediately.

Changing activity/occupation with the same sponsor

If a Subclass [407](#) visa holder remains with the same sponsor, but changes their activity/occupation, a new nomination for the visa holder in relation to the new training program must be approved and a new Subclass 407 visa application lodged. As soon as the new visa application is approved, the visa holder may commence the new occupation/activity.

If, however, the new nomination is not approved, the visa may be cancelled if the visa holder does not continue to undertake the approved occupation/activity.

Part-time, classroom-based study that is unrelated to the occupational training is permitted by the visa holder, provided condition [8107](#) has not been applied, and provided it does not interfere with the occupational training program. The unrelated classroom study does not count towards any component of the training program