



Freedom of Information Request – FA 25/07/01238

Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) - Nominations [Div2.11-Div2.23]

3.2.6. Required information (extract)

Important: The postcode of a nominated position can change after lodgement of a nomination application as long as the new postcode remains in a Designated Regional Area (DRA). However, where the regular location of work changes, the sponsoring employer must advise the Department by either emailing sponsor.notifications@homeaffairs.gov.au or completing a 'Notification of Sponsorship Change' form in ImmiAccount.

3.4.4. Position must be in a designated regional area

Under sub-regulation 2.72C(6), the position must be located in a place in a part of Australia that was a designated regional area at the time the nomination was made.

The term designated regional area is defined in regulation 1.03 as having the meaning set out in regulation 1.15M, which provides that the Minister may specify a part of Australia to be a designated regional area by legislative instrument. The current legislative instrument specifies all of Australia for this purpose, except for Sydney, Melbourne and Brisbane.

3.2.3 Subclass 494 holders

Condition 8579 provides that, while in Australia, Subclass 494 holders must live, work and study only in a part of Australia that was a DRA at the time the relevant nomination in relation to the primary visa holder was made.

If there has only been one nomination approved in relation to the primary visa holder (i.e. the nomination identified in their visa application), then that is the relevant nomination.

If, however,

- another nomination (a later nomination) has been approved in relation to the primary visa holder to allow them to change employer, and
- the primary visa holder has commenced working for the new employer,

then the later nomination is the relevant nomination and the visa holder must live, work and study only in an area that was a DRA at the time the later nomination was made.

The requirement to live, work and study only in an area that was a DRA at the time the later nomination was made does not apply until the visa holder commences work in the new position. This means that, even if the area that their original position was located in is no longer a DRA, they can continue to live in this area until they commence work in their new position. This ensures that visa holders are not inadvertently in breach of the condition during the period between the nomination being approved and the date on which they commence work in their new position.

Note: a visa holder is not affected if the postcode that their position is located in is removed from the legislative instrument and is no longer an area that is specified as a DRA. They are only affected if they want to move to a position with a new sponsor and their prospective new position is in an area that is not specified as a DRA.

3.2.4 Permanent residence eligibility

All subclass 491 and 494 visa holders must have complied with the requirements of condition 8579 for the period they held the visa to be eligible to be granted permanent residence via the Subclass 491 - Skilled Work Regional (Provisional) visa.

Notes

1. Source: Department of Home Affairs (internal documents)

Caveats:

- *This information is provided for the specific purpose of this request.*
- *It is the responsibility of the area providing the Department of Home Affairs information to external stakeholders to ensure that the disclosure is in accordance with the ABF Act, Australian Privacy Principles or other relevant legislation.*

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