



Skilled Visa eNews – November 2019

New Migration Program Planning Levels

On 26 October 2019 the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs announced a change to the regional migration planning levels with an increase from 23,000 places to 25,000 places in 2019-20.

More information can be found at: [migration program planning levels](#)

New skilled regional visas

The new Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) and Skilled Work Regional (Provisional) visa (subclass 491) commence on 16 November 2019.

Procedural Instructions (PIs) have been developed to provide policy advice, and guidance on processes associated with these new visa arrangements, including:

- Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) – nominations
- Skilled Employer Sponsored Regional (Provisional) visa (subclass 494) – visa applications
- Skilled Work Regional (Provisional) visa (subclass 491) – visa applications
- Visa Condition 8608 – Approved Work Only
- Regional conditions – subclass 491 and 494
- Schedule 6D

These PIs will all be available on Legend from 16 November 2019.

The new regional visas will receive priority processing for complete applications. Applicants are strongly encouraged to front-end load medicals and to ensure that National Police Clearances for all relevant countries are lodged with their applications.

New Regional Postcodes

On 26 October 2019 the Hon. David Coleman MP, Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs announced a change to the definition of regional Australia.

Specific postcodes can be found in *Migration (LIN 19/217: Regional Areas) Instrument 2019*.

All applicants from outside Sydney, Melbourne and Brisbane will be able to access regional points, for State and Territory Nomination and Family Sponsorship and for regional study purposes. The table below highlights the regional areas.

Definition	Locations	Regional incentives
Major Cities	Sydney Melbourne Brisbane	NA
Cities and major regional centres	Perth; Adelaide; Gold Coast; Sunshine Coast; Canberra; Newcastle; / Lake Macquarie; Wollongong / Illawarra; Geelong; Hobart	Access to the dedicated 25,000 regional places. Priority processing on regional visas. Access to Regional Occupations Lists – more jobs compared to non-regional lists. International students studying at regional universities will be eligible to access an additional year in Australia on a post-study work visa.
Regional centres and other regional areas	All other locations	Access to the dedicated 25,000 regional places. Priority processing on regional visas. Access to Regional Occupations Lists – more jobs compared to non-regional lists. International students studying at regional universities will be eligible to access an additional 2 years in Australia on a post-study work visa. Priority in negotiating region-specific Designated Area Migration

Permanent Residence (Skilled Regional) visa (subclass 191)

Regulations for the Permanent Residence (Skilled Regional) visa (subclass 191) do not commence until 16 November 2022.

A PI will be developed for this visa in due course. A legislative instrument will be registered before the end of 2019 detailing the minimum taxable income that a subclass 491 or 494 visa holder will need to be eligible to be granted a subclass 191 visa.

Visa application charges (VAC) for both skilled regional visas

The first instalment VACs were indexed on 1 July 2019:

- Base application charge: \$4,045
- Additional applicant charge (18+): \$2,025
- Additional applicant charge (<18): \$1,010

Biometrics

Applicants for the new skilled regional visas may be required to provide biometrics as part of their application. More information can be found at: [meeting-our-requirements/biometrics](#)

New skilled regional visa secondary holders

A secondary holder of a new skilled regional visa can live, work and study in a different regional area to the primary visa holder so long as they are still in a designated regional area.

Medicare eligibility for new skilled regional visa holders

[Supporting legislation for the new skilled regional visas](#) provides that holders of these visas will be eligible for Medicare.

Onshore Bridging Visa A (BVA) work rights.

Work rights will automatically be attached to BVAs granted to onshore applicants for either of the new regional visas.

International school fees for children of new skilled regional visa holders

It will be up to each state / territory government whether international fees must be paid for the children at primary and high school of holders of the new skilled regional visas.

ImmiAccount

Changes have been made to the ImmiAccount 'New application' menu to cater for the new skilled regional visas.

- Standard business sponsorship and renewals have been removed from the TSS section and are now located in their own category
- A new Skilled Regional category has been created and includes subclass 489 renewal and sub entrant forms as well as the new 494 forms.

New application

- 482 - Temporary Skill Shortage
 - Nomination for a Temporary Skill Shortage Visa (482)
 - Temporary Skill Shortage Visa (482)
 - Temporary Skill Shortage Visa - Subsequent Entrant (482)
- Air & Sea Crew
- APEC
- Citizenship
- Family
- Health
- Labour Agreement
- Refugee & Humanitarian
- Resident Return
- Skilled Migration
 - Business Innovation and Investment Visa (Permanent) (888)
 - Business Innovation and Investment Visa (Renewal) (188)
 - Business Innovation and Investment Visa (Subsequent Entrant) (188)
 - Employer Nomination for a Permanent Appointment (186,187)
 - Permanent Employer Sponsored or Nominated Visa (186,187)
 - General Skilled Migration Visa (476, 887)
 - New Zealand Stream - Skilled Independent Visa (189)
- Skilled Regional**
 - Nomination for a Skilled Employer Sponsored Regional (Provisional) Visa (494)
 - Skilled Employer Sponsored Regional (Provisional) visa (494)
 - Provisional Skilled Regional Visa (Renewal) (489)
 - Provisional Skilled Regional Visa (Subsequent Entrant) (489)
- Standard Business Sponsorship
 - Standard Business Sponsorship (482, 494)
 - Standard Business Sponsorship Renewal (482, 494)
- Status Resolution
- Student
- Temporary Work (Activity)
- Visitor
- Working Holiday Maker

Further detail on 491 and related visas

Definition of designated regional area

The definition of designated regional area may change over time (see Table 2 below). In this circumstance, a designated regional area is defined at the time of the points assessment, for points tested visas (subclass 491, 189 and 190).

Table 2: New Regional Australia definition applied to subclass 489 holders		
Condition imposed on the s/c 489	Granted prior to 16 November 2019	Granted on or after 16 November 2019
Nominated by a State and Territory government agency Visa condition 8539	Definition in place at time of grant – Definition of Regional & Low Population Growth Metropolitan Areas in Instrument: IMMI 12/015 See: Skilled regional provisional 489 - regional-postcodes	Definition in place on 16 November 2019 – Migration (LIN 19/217: Regional Areas) Instrument 2019
Sponsored by an eligible relative Visa condition 8549	Definition of Designated Area as specified in: Instrument: IMMI 16/044 – Designated Areas See: Skilled regional provisional 489 - designated areas of Australia	

New 491 EOIs needed for unfinalised subclass 489 EOIs

A reminder that intending migrants who wish to be considered for a nomination/invitation for the Skilled Work Regional visa will need to lodge a new Skilled Work Regional Expression of Interest (EOI) in SkillSelect, regardless of whether they had a Subclass 489 EOI. All Subclass 489 EOIs have been closed. Intending migrants are encouraged to lodge a new Skilled Work Regional EOI ASAP after 16 November 2019.

New Schedule 6D points

New Schedule 6D points come into effect on 16 November 2019 for all undecided applications and EOIs in SkillSelect.

The new points are as follows:

- **15 points** for nomination by a State or Territory government agency or sponsorship by a family member residing in regional Australia, to live and work in regional Australia;

- **10 points** for a skilled spouse or de facto partner;
- **10 points** for certain Science, Technology, Engineering and Mathematics (STEM) qualifications;
- **5 points** for a spouse or de facto partner with 'competent English';
- **10 points** for applicants without a spouse or de facto partner;

SkillSelect will automatically update EOIs in 'Submitted' status to attribute any additional points, where the information was held in SkillSelect prior to 16 November 2019.

There are two sections of SkillSelect that intending migrants who have submitted an EOI will need to amend in order to claim additional points. These are if: they now wish to claim regional study points, due to the change in definition of Designated Regional Australia and/or if they wish to claim points for having a spouse or de facto partner with 'competent English'. It should be noted that if these are changed in the EOI this will change the 'date of effect' for this EOI.

A tip sheet will be sent out shortly to show how these points will be attributed.

Partner Points

To be eligible for partner points, applicants must satisfy skills assessment and/or English language requirements at time of invitation.

In assessing whether

- an applicant is single or has a spouse (as defined in section 5F of the *Migration Act 1958*) or a de facto partner (as defined in section 5CB of the Migration Act); and
- the citizenship or permanent residence status of any partner

the relevant time of the relationship status is the date of the points test assessment by the decision maker.

It is important to note that this means that if the applicant's relationship status or the residence status of their partner changes after the date of invitation or the date of application, the award of partner points may also change.

During the processing of any visa application any inconsistent information regarding the marital/de facto relationship status of the applicant will be closely scrutinised. The applicant will be provided the opportunity to comment and if there has been a change in relationship status, evidence should be provided to support this change. This will ensure

applicants who are married or in a de facto relationship are not able to be awarded points on the basis of claiming to be without a spouse or de facto partner.

SkillSelect

A reminder that the Department undertakes regular audits of SkillSelect. EOIs created without clear identity information, including name and date of birth details, will be removed from SkillSelect on a regular basis.

Professional Year – closely related occupations

Policy has been updated to provide clarity regarding closely related occupations in the Professional Year (PY).

If a PY provider has enrolled an applicant in a PY, the Department will be satisfied that their occupation has been assessed by that provider as being a closely related occupation and no further assessment will be required. The Department will verify completion of any PY course.

Further detail on 494 and related visas

Subclass 494 visa holders changing occupations

If a primary 494 visa holder wishes to engage in work in a different occupation, their current or proposed sponsor must lodge a new nomination and the visa holder must lodge a new visa application on the basis of the nomination. The 494 visa holder cannot work in the new occupation until the new visa is granted.

The Department's approach to monitoring compliance with the condition will make some allowance for temporary short-term work in a different occupation. As a guideline, the change of occupation should not exceed 60 consecutive days and should not occur on a regular basis. For other cases, the onus is on the employer and 494 holder to obtain a new nomination and new visa.

Registered nurses, whether in a public hospital, private hospital or private medical practice, may perform a range of duties in relation to their nominated occupation. The Department will adopt a flexible approach in relation to this occupation in situations where nurses are temporarily:

- performing tasks of a registered nurse that are not listed for their nominated occupation (specialisation); or
- performing higher duties.

Sponsors must keep records of such changes to ensure that appropriate information can be provided to the Department to demonstrate compliance with sponsorship obligations.

A new nomination and visa application will be required if a nurse receives a permanent or long-term promotion to an occupation different to that for which they are nominated.

Regional Certifying Bodies to provide advice on 494 Employer Sponsored stream nominations

All 494 nominations in the Employer Sponsored stream will need advice from an RCB. It is important to confirm the relevant RCB for the nomination, as not all RCBs for the 494 program are RCBs for the RSMS program.

It should be noted Ballarat City Council is no longer performing the RCB function for either program.

A link to the RCB instrument can be found at: [Migration \(LIN 19/267: Regional Certifying Bodies and Regional Postcodes\) Amendment Instrument 2019](#)

Annual Market Salary Rate arrangements

The Annual Market Salary Rate for the 494 program includes guaranteed overtime, penalty rates and annualised rates as per Temporary Skill Shortage nominations. The same definition of 'earnings' in regulation 2.57A applies to 494 nominations.

Advice from the relevant RCB on the Annual Market Salary Rate will be taken into consideration when the assessment against that requirement is made. If the RCB advice is negative, the applicant will be given the opportunity to comment before a decision is made.

Labour Market Testing arrangements

While there are no exemptions from the Labour Market Testing (LMT) requirement for the employer sponsored stream 494 nominations (no occupations are currently specified under the LMT exempt occupations instrument), flexible evidence arrangements still apply for select occupations and positions.

There are no international trade obligations that apply to the 494 visa program. Australia's international trade obligations are discharged via the standard TSS visa program.

Remote working arrangements

In certain circumstances, arrangements for remote work under the 494 program may satisfy the requirement for the position to be based in a regional area. Circumstances may include the scenario where full-time remote work arrangements are common for positions in the nominated occupation in the sponsor's business and the arrangement is reflected in the nominee's employment contract.

English language arrangements

Applicants for the Employer Sponsored stream of the 494 visa at the time of application must have Competent English.

A second VAC will apply to all secondary applicants aged 18 and over who do not have Functional English.

Please note: for applications lodged on or after 16 November 2019, all primary applicants for an Employer Nomination Scheme visa (subclass 186) visa, in the Temporary Residence Transition (TRT) stream, will need to demonstrate Competent English.

Transitional 482 and 457 worker definitions

Legislation for the new regional visas defines "transitional 482 worker" as a person who on 20 March 2019 either held a TSS visa (subclass 482) in the Medium-term stream, or was an applicant for a TSS visa in the Medium-term stream that was subsequently granted.

The cut-off date of 20 March 2019 for "transitional 482 workers" was the date the Australian Government made the announcement regarding the closure of the Regional Sponsored Migration Scheme (RSMS) visa (subclass 187) and the introduction of 494 visa.

The definition of a transitional 457 worker has been recently amended for the purposes of a nomination or visa application made for the RSMS under the TRT stream. It has been changed to:

- "Transitional 457 worker means a person who held a Subclass 457 (Temporary Work (Skilled)) visa at any time occurring on or after 18 April 2017".

Transitional arrangements do not apply to a secondary TSS holder, whose partner held a TSS visa in a MLTSSL occupation and later gets a TSS in their own right in a MTSSL occupation. The definition of "transitional 482 worker" refers to a subclass 482 visa in the Medium-term stream. Only primary visa holders hold a visa in a 'stream'.

RSMS transitional arrangements

No new RSMS Direct Entry (DE) nominations or visa applications can be lodged from 16 November 2019.

RSMS TRT nominations or visa applications will only be able to be lodged if the nominee is either:

- a transitional 457 worker, or
- a transitional 482 worker

No end date has been specified for these transitional provisions.

RSMS nominations lodged before 16 November 2019 are taken to be withdrawn on 16 November 2019 where the:

- nomination has not been approved or refused before 16 November 2019, and
- the nominee is not a transitional 457 worker or a transitional 482 worker, and
- the nominee has not lodged a 187 visa application before 16 November 2019.

The Department will identify affected nominations and refund the SAF without a written request. Agents are asked not to contact the Department in relation to such nominations in coming weeks to enable our officers to complete this exercise.

Written refund requests will still need to be made in relation to other transitional provisions.

The following table outlines some common scenarios:

I have...	I can...
an existing SBS sponsorship	nominate overseas workers under the TSS program or the new 494 program
an approved RSMS DE nomination but a visa application has not been lodged	not lodge an RSMS DE visa application request the SAF levy be refunded as my nomination cannot be used
an approved RSMS TRT nomination but a visa application has not been lodged, and my nominee is not a transitional 457 or 482 worker	not lodge an RSMS TRT visa application request the SAF levy be refunded as my nomination cannot be used
an approved RSMS TRT nomination but a visa application has not been lodged, and my nominee is a transitional 457 or 482 worker	lodge an RSMS TRT visa application
an RSMS nomination (DE or TRT) that hasn't been approved or refused, a visa application has not been lodged, and my nominee is not a transitional 457 or 482 worker	request the SAF levy be refunded as my nomination is deemed to be withdrawn

Changes to Labour Agreement Settings

From 16 November 2019, the 494 visa will be available for businesses requesting a **Meat, Dairy** or **Pork** industry Labour Agreement. The Temporary Skill Shortage (TSS) and Employer Nomination Scheme (ENS) visas will, however, continue to be available under these three templates. Existing salary, skills, English proficiency and age concessions currently available under these labour agreements for the TSS and ENS visas will be extended to the 494 visa where approved by the Department.

From 16 November 2019, the 494 visa will also be available for businesses seeking a Company Specific Labour Agreement. Approval of the 494 visa under a Company Specific Labour Agreement will be considered on a case-by-case basis along with any specifically requested terms or concessions. The TSS and ENS visas will also continue to be available for Company Specific Labour Agreements.

For businesses that have lodged a Meat, Pork, Dairy or Company Specific Labour Agreement request before 16 November 2019, these requests will be assessed on the basis that only the TSS and ENS visas are available.

On-line labour agreement request forms will be available in IMMI Account to include the 494 visa as an option from 16 November.

Businesses that currently hold a Meat, Dairy, Pork or Company Specific Labour Agreement will not be impacted by these changes and will be able to continue to sponsor overseas workers under the existing terms of their agreement. It will be open to these businesses, however, to request a variation to their existing agreements should they wish to access the 494 visa. Requests to vary existing labour agreements must be emailed to: labour.agreement.section@homeaffairs.gov.au

There will be no changes to the On-hire, Ministers of Religion, Fishing, Restaurant (Fine Dining) and Advertising industry Labour Agreements. There will also not be any changes to Global Talent Employer Sponsored agreement settings. The 494 visa will not initially be available under these agreement types.

In terms of Designated Area Migration Agreement (DAMA) Labour Agreement arrangements, the inclusion of the 494 visa for the seven approved DAMA regions will be considered as part of the next annual review process for each head agreement, and as part of negotiations for any new regions seeking a DAMA.

Labour agreement guidance and support information will be updated in coming weeks to reflect these changes.

All labour agreement enquires can be emailed to: labour.agreement.section@homeaffairs.gov.au

Penal clearance certificates – validity issues

There has been some confusion in relation the police certificate validity requirements. These are as follows:

- For visa assessment purposes, all police certificates issued are considered valid for 12 months from the date of issue, irrespective of the period specified by the issuing country.
- If the applicant returns to the country that issued the police certificate during the certificate's validity, it will generally not affect the validity.
- Where an overseas police certificate has expired and the applicant has returned to the country that issued the certificate for more than two months in total (as a cumulative period) since the certificate expired, a new certificate will need to be provided.
- Where a certificate has expired and the applicant has NOT returned to the country that issued the certificate, a new certificate is not required.

ANZSCO codes for Blockchain Strategist and Blockchain Planner/Manager

The Australian Bureau of Statistics has advised the new and emerging occupation of Blockchain Strategist should use the code 261111 ICT Business Analyst.

Blockchain Strategist definition:

- Provide guidelines for autonomous decision making within the organisation, and in the context of applying blockchain technologies. It is the disruptive nature of Blockchain technologies that requires the Blockchain Strategist to have specialist skills.
- Blockchain Strategists will generally have an Advanced Diploma of Applied Blockchain.

ANZSCO codes for Blockchain Planner / Manager

The Australian Bureau of Statistics has advised the new and emerging occupation of Blockchain Planner / Manager should use the code 135112 ICT Project Manager.

Blockchain Planner / Manager definition:

- Involved in developing the plans that will implement the strategic direction of the Blockchain Business Model, and deliver the planned flow of value. The Blockchain Planner / Manager will develop plans that inform how the Blockchain Strategy will be implemented.
- Blockchain Strategists will generally have a Diploma of Applied Blockchain.

Legislative instruments – skilled visas

A number of legislative instruments will commence on 16 November 2019 following the commencement of the *Migration Amendment (New Skilled Regional Visas) Regulations 2019*:

Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019

Migration (LIN 19/210: Pool and Pass Marks for General Skilled Migration Visas) Instrument 2019

Migration (LIN 19/212: Specification of Exempt Occupations) Instrument 2019

Migration (LIN 19/210: Pool and Pass Marks for General Skilled Migration Visas) Instrument 2019

Migration (LIN 19/209: Arrangements for Certain Skilled and Temporary Graduate Visa Applications) Instrument 2019

Migration (Specification of Occupations and Assessing Authorities) Amendment (LIN 19/243: Subclass 491 Visas) Instrument 2019

Migration (LIN 19/219: Occupations for Subclass 494 Visas) Instrument 2019

Migration (LIN 19/216: Exemptions from Skill, Age and English Language Requirements for Subclass 186, 187 and 494 Visas) Instrument 2019

Migration (LIN 19/260: Assessing Authorities for Subclass 494 Visas) Instrument 2019

Immigration (Education) (LIN 19/218: Temporary visa classes for eligibility for English Courses) Instrument 2019

Health Insurance (Eligible persons and Holders of Skilled Work Visa (subclass 491 and 494)) Order 2019

Migration (LIN 19/214: Regional Certifying Bodies) Instrument 2019

Migration (LIN 19/217: Regional Areas) Instrument 2019

Migration (LIN 19/267: Regional Certifying Bodies and Regional Postcodes) Amendment Instrument 2019

Migration (LIN 19/213: Specification of Income Threshold and Annual Earnings and Methodology of Annual Market Salary Rate) Amendment Instrument 2019

Migration (LIN 19/211: Arrangements for Skilled Employer Sponsored Regional (Provisional) Visa Applications) Instrument 2019

Migration (LIN 19/268: Period, Manner and Evidence of Labour Market Testing) Amendment Instrument 2019

Migration (LIN 19/215: Sponsorship Applications and Nominations for Subclass 407, 457, 482 and 494 Visas) Instrument 2019