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Training Requirements for Sponsors of Subclass 457 Visas

The Temporary Business (Long Stay) Subclass 457 visa is an employer sponsored work visa designed to allow highly skilled foreign workers to work in Australia for up to 4 years. In order for a business to sponsor foreign workers for a Subclass 457 visa, it must first be approved as a sponsor. A sponsorship approval lasts for 3 years.

In order for a business to be approved as a sponsor for Subclass 457 visas, the business must meet one of the following benchmarks in relation to training set by the Department of Immigration & Citizenship (DIAC):

A. Training Benchmark A – Industry Training Fund: recent expenditure (i.e. in the last 12 months) to the equivalent of at least 2% of the payroll of the business, in payments allocated to an industry training fund relevant to the business; or

B. Training Benchmark B – Employee Training: recent expenditure (i.e. in the last 12 months) by the business, to the equivalent of at least 1% of the payroll of the business, in the provision of training to those employees of the business who are Australian citizens or permanent residents.

Please note that for both benchmarks, it is also a requirement that the business is committed to maintaining the training expenditure equivalent to Benchmark A or Benchmark B in each fiscal year while the business is approved as a sponsor.

In relation to Training Benchmark B – Employee Training, only training expenditure for Australian citizens and/or permanent residents is relevant for DIAC. Any training expenditure for temporary residents (e.g. foreigners holding student visas, working holiday visas, Subclass 457 visas etc) cannot be included in the training benchmark amount.

The following may be included in the figure for training costs under Training Benchmark B – Employee Training:

1. flights, accommodation and other costs related to training undertaken by employees;
2. paying for formal courses of study for employees or for TAFE or university students, as part of the company's training strategy;
3. funding scholarships in formal courses of study approved under the Australian Qualification Framework or for TAFE or university students, as part of the company's training strategy;
4. salaries of apprentices, trainees or recent graduates on an ongoing basis;
5. part of the salary of a person who trains the company's employees as a key part of their job;
6. paying external providers to deliver training for employees; and

7. cost of on-the-job training which is structured with a timeframe and clearly identifying the increase in skills at each stage and demonstrating:

- 7.1. the learning outcomes of each employee at each stage;
- 7.2. how the progress of the employee will be monitored and assessed;
- 7.3. how the training will provide additional and enhanced skills;
- 7.4. the use of qualified trainers to develop the program and set assessments; and
- 7.5. the number of employees participating and their skill or occupation.

As apprenticeships and traineeships are training positions, 100% of the salary of a trainee and/or apprentice can be counted towards the training benchmark. Please note that wages of other employees for the time they receive training may not be included as a training expense.

In order for a business to be approved as a sponsor for Subclass 457 visas, it must demonstrate to DIAC in the sponsorship application that it met one of the above benchmarks in the last 12 months and that it has a commitment to maintaining training expenditure to that level while the business is a sponsor.

We recommend that any business which wishes to become or remain an approved sponsor for Subclass 457 visas should ensure that it:

- a) has an up-to-date, detailed training plan;
- b) keeps detailed training records including invoices and a training ledger; and
- c) spends an amount on training in relation to Australian citizens and/or permanent residents which meets one of the above training benchmarks.

For further information in relation to the Subclass 457 visa program, please contact Michael Kobras at mkobras@schweizer.com.au.



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