

Temporary Work (Short Stay Activity) Visa (Subclass 400) – Installation and Commissioning of Plant and Machinery –

This article gives a brief overview of the Temporary Work (Short Stay Activity) Visa (Subclass 400). The Subclass 400 visa may be of special interest to companies wishing to send highly skilled workers to Australia to install and/or commission plant and machinery.

Many of European companies and their Australian subsidiaries are faced with the problem that the installation and commissioning of highly complex plant and machinery imported into Australia often requires the assistance of experienced technicians employed by the European parent. For bigger installations, this may take many months. In order to work in Australia, every foreigner is required to hold an appropriate Australian visa. Different visas are required, depending on the work to be undertaken and/or the length of the stay in Australia. A business ETA is rarely sufficient in these circumstances, and working with a tourist visa is most certainly illegal.

A Temporary Work (Short Stay Activity) Visa (Subclass 400) is the suitable visa for workers who need to travel to Australia to do short-term, highly specialised, non-ongoing work. Generally, this visa allows for one continuous stay for up to 3 months and, in limited circumstances, for up to 6 months. In some cases, the visa will permit multiple entries, however, the total stay may not exceed 3 (or 6) months in any 12 month period.

To apply for this visa, the applicant must show that the work to be undertaken is short term and non-ongoing, and that the applicant needs to be in Australia to do the work. The applicant must also demonstrate that he has the relevant qualification and/or employment experience. Additionally, the applicant is required to hold sufficient funds to support himself and his family in Australia and must meet health and character requirements. The visa holder is not allowed to study in Australia during his stay.

Highly specialised work is work that requires certain unique skills, knowledge or experience that cannot reasonably be found in the Australian labour market. This requirement is usually satisfied if the worker possesses skills, knowledge and experienced specific to an international company, such as required for installing newly imported equipment as well as for after sales service or emergency repairs. However, the visa is not intended for workers seeking to perform a role that is generic to their profession such as, for example, an electrician to wire newly constructed premises which can reasonably be performed by a licensed Australian electrician. However, if an electrical engineer employed by an overseas mining equipment manufacturer is required to diagnose and correct electrical problems related to a newly imported machine then the worker has particular specialist skills that are not reasonably available in Australia.

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For a position to be non-ongoing, the work to be undertaken must be capable of being completed within the allowed time period. It is not appropriate for overseas workers to be “rotated” through a position. If the work is indeed on-going even though the individual employment contracts are not, and will take longer than 3 (or 6) months, the appropriate visa for the worker is a Temporary Work (Skilled) Visa (Subclass 457). This allows the applicant to stay and work in Australia for up to 4 years.

The applicant must not be in Australia both at the time the application is made and also when the visa is granted. The processing time for such visas is one week to one month depending on which country issued the applicant’s passport. Once the visa is granted, the applicant must arrive in Australia within 6 months of the date of the grant. The fee charged by the Department of Immigration and Border Protection (DIBP) for the main applicant is currently \$175.00. The family of the visa applicant may be included in the visa application for an extra fee.

If you have any queries about working visas for Australia, please contact Michael Kobras who is a registered Migration Agent (MARN: 0638733).

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