

Which Visa Class to Apply For?

Australian Immigration Law provides a number of avenues which applicants can choose when they apply for permanent residence under the skilled stream. For brevity we will focus on two important distinctions, Onshore and Offshore visas.

These titles are deceptive as they are primarily a carry over from years past where the skilled visa applications were all processed at the overseas Australian Embassy's. Now however as most people are already aware, all applications are processed in Adelaide, yet the terms Offshore and Onshore remain.

Onshore or Offshore?

The term "Offshore" basically means that when the visa is granted you must be outside of Australia. In nearly all of these visa classes it does not matter where the applicant is physically when the application is lodged and what visa they hold, if any. The major subclasses in the Skilled Migration scheme that are of interest to students and workers overseas are the 136, 137, 138 and 139 visa's.

The logical opposite "Onshore" means that the visa can only be granted when the applicant is in Australia. These visa's also require the applicant to be in Australia when the application is lodged. The visa of most interest to students studying in Australia are the 880, 881 and 882 subclasses.

Onshore Applications

I will cover onshore applications first as they are generally the most popular for international students. These are the applications, which also grants applicants Bridging Visas to enable them to remain in Australia until permanent residency is granted. It is easy to understand why they are the most popular.

The legal requirements are very strict with these applications and unfortunately many students run into trouble by making

invalid applications. It would seem the Immigration Department (DIMIA) made all the strict rules in an effort to force students to gather most of the necessary documents before they could apply. This may be fine for DIMIA but it has caused great heartache for many students who have made mistakes.

Onshore Applications – Processing Times

The logic in forcing students to meet a strict set of rules compared to the Offshore classes was to ensure quick processing times. Currently you can expect to wait up to seven months before your visa is granted but in some cases where all the documents are complete, you should get a result within three months.

As mentioned, when the application reaches the Adelaide Skilled Processing Centre (DIMIA) you must ensure you are physically present in Australia (even Tasmania will do). A warning, please do not send your application off in the post and then later that night take a flight back home. In cases like this you will find when it arrives at the ASPC you will not be here and your application will not be accepted.

Similarly when the visa is granted you must be in Australia. Due to the existence of the Graduate Skilled 497-visa (it has multiple travel rights) the ASPC will not reject your application if they find you are outside of Australia when the visa is ready to be granted. In these cases they would normally contact you (or your Agent) and ask you to return to Australia so the visa can be granted. The ASPC prefer that you remain here during the processing but you are not a prisoner. If DIMIA really didn't want you to travel the 497 visa would have no travel permission.

Of course if you do leave Australia after you apply for your residency, then be sure you return before the 497-visa expires otherwise you may not be permitted to return to Australia! If for some reason you cannot return to Australia through any other visa, your P/R application will be refused.

Offshore Applications

These visa's have been in existence for a number of years (since July 1999). They were the only paths available to students who finished studying in Australia wishing to apply for permanent residence. At this time using the new rule began where they were given an exemption from having to prove recent work experience. Before July 1999, students who recently finished their courses could not apply for residency in Australia without proving at least six months of work experience.

The Offshore classes can be used by both students who recently complete their studies in Australia and people who were able to meet the recent work experience requirement no matter which country that might be in.

Offshore Applications – Processing Times

These classes generally take about twice the processing time of the Onshore classes. Currently this processing time is approximately 1 year. The requirements to make valid applications are not as complicated as the Onshore classes. These visa's DO NOT automatically grant applicant's a bridging visa to make their residency in Australia lawful while their applications are processed. You can remain here if you wish but you will need to have some other visa organised that will give you this permission.

If you only have a 50-point skill and no sponsorship is possible (and you can reach the pass mark) then you will have to use the 136-visa class. Many students who can use the Onshore classes still choose an Offshore class for they wish to return home and work for a while before they move back to Australia. In these situations they are not in a hurry to gain their P/R and do not mind the processing wait.

You do have a choice!

Both Onshore and Offshore classes have their own advantages so choose wisely before you apply, as you cannot change your application after you send it to DIMIA.