

How to Claim the 5 extra Spouse Points

Under the skilled migration visa categories where the Schedule 6A points test is used there is category where you are able to claim what is commonly called "Spouse Points". Currently your spouse can contribute an extra 5 points to your score. In the past this option was not often used since most applicants could reach the pass mark without claiming these points. As the pass mark for the Independent skilled categories however gets higher (unlike the Australian Sponsored classes) many couples are realising they need to plan in advance to meet the basic threshold requirements so they gain the extra five points.

Basic Threshold Requirements

All applicants for the skilled migration visa's (880, 136 etc) must meet the Basic Threshold Requirements. These are Skill, Skill Employment Experience, Age and English

Skill – A positive skill assessment from an occupation from the Skilled Occupation List (SOL).

Skilled Employment Experience

At least twelve months (in the last 18months) for the 60 point occupations and two years (in the last 36 months) for 50 or 40 point occupations. An exemption is given from this if the applicant has studied at least two years full time in Australia. Please read the previous newsletters about this (Vol. 6 & 7).

Age - Under 45 years of age

English- At least 5.0 on each of the 4 IELTS bands.

Your spouse must also be eligible for the grant of the visa to be able to gain the 5 points. For example, with the onshore 880 visa they must be able to be included in your application. If not you may have to use the offshore 136 visa class which is more flexible in adding secondary applicants.

What does your spouse need to prove?

Skill – The Skill Assessment-The spouse needs to undergo the formal skill assessment procedures just as the main applicant

has done. This will entail paying the required fee and providing the documentation required by the particular skill assessment body authorised by DIMIA.

Work Experience or Study- There are two main options here, either your spouse has finished two years of full time study just as you may have or they need to prove the work experience required. Usually it can be difficult for spouses to be working in Australia on a Student Dependent visa to find the work in a skilled occupation on the SOL.

Age -The only criterion is that the age of the spouse is under 45.

English- Vocational English is a mandatory requirement. This can be demonstrated by an IELTS result on the General examination of at least 5.0 on each category. The Academic IELTS result can be also used but still 5.0 on each will be required. Of course it may be possible to demonstrate this English level in other ways. Please refer to our newsletter on English (Vol. 1).

Time of Application

With all the skilled migration visa's there are two important concepts to be aware of, time of application and time of decision. It is crucial to understand which of these threshold requirements are affected by each of these two concepts.

With the time of application criteria some things are set that will not alter with the passing of time after you apply. This can be viewed as if they are frozen in time, such as;

Age – The points allocated for age is set at the time the application is lodged. With regard to the spouse points, if the spouse turns 45 after you apply then it does not matter.

Skilled Employment Experience- Unfortunately the employment criteria must be met at the time you apply. You are not able to use more work experience gained to your advantage after your application is lodged. For example the spouse will have to either meet the twelve month or the two year work experience rule before the application is lodged. You are not able to work extra time and then ask for this to be considered afterwards.

Exemption of the Skilled Work Experience- This can only be granted if you have studied two years full time in Australia (Vol 6 & 7). This exemption is given for only the usual 6 month period, no exceptions. When the application is lodged, to gain this exemption your spouse must still be within the six month period of completing their studies. They cannot finish their studies after the application is lodged and then try to gain the exemption from the work experience.

Time of Decision

English – Fortunately this can be looked at after you apply. This will please many people who have sent their spouses to do the IELTS test but they are struggling to reach the 5.0 required. You may not get a great deal of extra time to prove this but at least you will have a chance.

Skill – You can provide a positive skill assessment for your spouse after you apply. This is the complete opposite of what applies for the main applicant who must provide the assessment at the time the application is lodged. Again you may not be given months to present this but it is possible. Remember you can use only the 40 point occupations if you need to. With any Australian Diploma you can find a 40 point occupation to use. If your spouse has never studied before this is an excellent option to take. There are many Diplomas' in Australia you can study for two years full time and some them as little as about \$6,000 per year of fees.

Proof of Spouse Relationship – You may be asked for significant evidence to prove you are in a genuine spouse relationship, especially if you have been together for less than two years. If DIMIA wishes to look into this then they will do so after you make your application. In the next newsletter I will cover what precisely is the definition of spouse.