



## Trade & Investment

### NSW BUSINESS MIGRATION PROGRAM REFORMS 1<sup>st</sup> NOVEMBER 2011

#### FREQUENTLY ASKED QUESTIONS

The NSW Government previously announced a number of reforms to its business migration program from 1 September 2011 including:

- removal of requirements for business research visits on a 456 visa
- removal of the requirement to provide a detailed business plan
- the opportunity for all applicants to present their business proposal during an interview.

The Government is now announcing further reforms to take effect from 1 November 2011. These reforms are designed to make NSW more competitive in attracting high value immigration. The changes include:

- Introduction of separate thresholds for NSW sponsorship for business migration to Sydney and regional NSW
- Revised thresholds for NSW sponsorship for Business Talent visa sub class 132
- Revised arrangements for applicants who wish to change their proposed business activity in NSW
- Relaxation of the requirement for an applicant's Business Commitment to be consistent with their business skills and experience
- Exclusion of a limited number of industry sectors from business migration to Sydney. Applicants in these sectors can still migrate to regional NSW.

The details of these changes are outlined in a Fact Sheet and in this Frequently Asked Questions (FAQ) sheet.

Business migration is a two stage process and there are a number of provisional visa holders who may be affected by these changes. Transitional arrangements have been developed to ensure that existing provisional visa holders are not adversely affected by these changes. These transitional arrangements are also outlined in these documents.

#### **New Thresholds for NSW Sponsorship**

1. *I was sponsored by NSW in 2009 and was granted a Business Owner (Provisional) visa sub class 163 in September 2011. Does the requirement to invest at least \$500,000 in business in NSW apply to me?*

No. You are only required to invest at the level put forward in the business plan you submitted for NSW sponsorship.

New applicants sponsored after 1 November 2011 for a Provisional 163 or 164 (Sydney) visa to establish a business in Sydney must invest at least \$500,000 in their business. New applicants sponsored after 1 November 2011 for a Provisional 163 or 164 (Regional NSW) visa to establish a business in Regional NSW must invest at least \$300,000 in their business.

2. *I was interviewed by NSW in September 2011 and received a satisfactory response to my business proposal. I plan to open a noodle shop in a suburb in Sydney. I am finalising my application and plan to apply for NSW sponsorship in early December 2011. Do the new thresholds and list of excluded industry sectors in Sydney apply to me?*

No. As you were interviewed by NSW prior to 1 November 2011 and received a satisfactory response you can apply based on NSW selection criteria prior to 1 November 2011 provided you apply before 31 December 2011.

### **Sydney and Regional NSW**

3. *I want to apply for NSW sponsorship for a Business Owner (Provisional) (Regional NSW) visa sub class 163. I want to establish a business in Wollongong and live in Hurstville in Sydney. Can I do this?*

Yes. To qualify for NSW sponsorship for the Business Owner (Residence) (Regional NSW) visa sub class 892, you must establish your business in regional NSW. You can live in Sydney if this is practicable. Remember that the Department of Immigration and Citizenship (DIAC) will require you to be actively involved in the day to day management of your business.

4. *I want to apply for NSW sponsorship for a Business Owner (Provisional) (Sydney) visa sub class 163. I want to live on the Central Coast and establish a business in Sydney. Can I do this?*

Yes. To qualify for NSW sponsorship for the Business Owner (Residence)(Sydney) visa sub class 892, you must establish your business in Sydney. You can live in regional NSW if this is practicable. Remember that the Department of Immigration and Citizenship (DIAC) will require you to be actively involved in the day to day management of your business.

5. *Can I establish a restaurant in regional NSW?*

Yes. In regional NSW you can qualify for NSW sponsorship by establishing a business in any sector to qualify for permanent residence.

6. *If I apply for NSW sponsorship for a Business Owner (Provisional) (Sydney) visa sub class 163 can I later decide to establish my business in regional NSW?*

Yes. You should consult with NSW Trade & Investment about any changes to your Business Commitment but NSW will not stop you relocating to regional NSW.

7. *Can I apply for NSW sponsorship for a Business Owner (Provisional) (Regional NSW) visa sub class 163 and then establish a business in Sydney and qualify for NSW sponsorship for the Business Owner (Residence) (Sydney) visa sub class 892 if I meet the other criteria?*

If you were sponsored by NSW for a Business Owner (Provisional) (Regional NSW) visa sub class 163 you are expected to establish a business in regional NSW. If you later decide that you wish to establish a business in Sydney you must reapply for NSW sponsorship for a Business Owner (Provisional) (Sydney) visa sub class 163. NSW will then assess whether you meet the higher threshold requirements for NSW sponsorship in Sydney and review your new Business Commitment. NSW will not sponsor you for a Business Owner (Residence) (Sydney) visa sub class 892 unless you reapply before establishing your business in Sydney.

### **Changing Business Commitments**

8. *I was granted a NSW sponsored provisional visa before 1 October 2009. My original business proposal was in property development. I want to change my business proposal and buy a coffee shop in Sydney. Can I?*

Yes. As you were granted your visa prior to 1 October 2009 you do not require NSW agreement to change your business activity. NSW will consider an application from you for NSW sponsorship for the Business Owner (Residence) visa sub class 892 in the food services sector.

9. *I was granted a NSW sponsored provisional visa after 1 October 2009. My original business proposal was in property development. I want to change my business proposal and buy a coffee shop in Sydney. Can I?*

No. As you are seeking to change the primary nature of your proposed business you cannot establish a business in Sydney in an excluded sector and successfully apply for NSW sponsorship for the Business Owner (Residence) visa sub class 892. You can consider seeking NSW agreement to changing your proposed business activity to another sector in Sydney or seek NSW agreement to open a coffee shop in Regional NSW.

10. *I was granted a NSW sponsored provisional visa after 1 October 2009. My original business proposal was to open a Chinese restaurant in*

*Chatswood. I want to amend my business proposal and open a Korean restaurant in Eastwood. Can I?*

Yes. As you were sponsored to establish a business in food services and are not changing the primary nature of your proposed business (only the type of cuisine and suburb) you can amend your plan and you do not need to seek NSW agreement.

11. *I was sponsored by NSW in 2010 and granted a Business Owner (Provisional) visa sub class 163 in June 2011. My original business proposal was in financial services. I committed to invest \$200,000 in the business and create 1 new full time job. I want to change my proposed business activity to residential property development. Can I?*

You should make a submission to NSW Trade & Investment explaining why you wish to change your business activity and outline a new Business Commitment in property development.

NSW will consider if your request is genuine, why you wish to change and how the new Business Commitment will complement NSW.

Your new Business Commitment must deliver at least \$200,000 in business investment and create at least one new full time job.

### **Business Commitment Consistent with Business Skills & Experience**

12. *Does NSW still require an applicant's Business Commitment to be consistent with their business skills and experience?*

No. But you should recognise the importance of relevant industry experience and consider transferability of your skills across industry sectors to ensure the success of your business.

13. *I am an experienced restaurateur. Can I apply for NSW sponsorship for the Business Owner (Provisional) (Sydney) visa sub class 163 after 1 November 2011 based on a Business Commitment to buy a restaurant?*

No. NSW will no longer sponsor applicants for a Business Owner (Provisional) (Sydney) visa sub class 163 based on a Business Commitment in one of the excluded industry sectors, including food services. You can apply for NSW sponsorship for a Business Owner (Provisional) (Regional NSW) visa sub class 163 and establish a restaurant in regional NSW.

### **Applicants Released From Other States**

14. *I was sponsored by Victoria and was granted a release to move to NSW before 1 November 2011. Can I buy a coffee shop in Sydney and qualify for NSW sponsorship for a Business Owner (Residence) visa sub class 892?*

Yes. As your release was granted prior to 1 November 2011 you can establish a business in Sydney in any sector and still qualify for NSW sponsorship for a Business Owner (Residence) visa sub class 892.

15. *I was sponsored by Victoria and plan to seek release to move to NSW in the near future. Can I buy a restaurant in Sydney and qualify for NSW sponsorship for a Business Owner (Residence) visa sub class 892?*

No. As your release, if agreed, will be granted after 1 November 2011 you cannot establish a business in Sydney in one of the excluded industry sectors and qualify for NSW sponsorship for the Business Owner (Residence) visa sub class 892. You can however move to Regional NSW and establish a restaurant and qualify for NSW sponsorship for a Business Owner (Residence) visa sub class 892. Alternatively you can establish a business in Sydney in another industry sector that is not excluded for business migrants moving to Sydney.

16. *I was sponsored by Victoria for a Business Owner (Provisional) visa sub class 163 and was granted a release to move to NSW. Do I need to submit a new application to NSW for sponsorship for this visa?*

No. You do not need to submit a new application for sponsorship to NSW for your provisional visa. However if you will need NSW sponsorship for permanent residence in future you need to ensure that you meet NSW requirements. If you were released after 1 November 2011 this includes avoiding business activity in an excluded industry sector if you are in Sydney. If you have any queries contact NSW Business Migration on 9338 6692 or email [bizmigration@business.nsw.gov.au](mailto:bizmigration@business.nsw.gov.au)

17. *I was sponsored by Victoria for a Business Owner (Provisional) visa sub class 163 and have been released to move to NSW. I now intend to put forward my spouse as the primary applicant for NSW sponsorship for my Business Owner (Residence) visa sub class 892. Do I need agreement from NSW to change the primary applicant for my 892 visa application?*

No. NSW is not aware of who was the primary applicant for your provisional visa application. NSW will consider an application for NSW sponsorship for the Business Owner (Residence) visa sub class 892 from either yourself or your spouse.

18. *I was sponsored by South Australia but have purchased a clothing shop in Sydney and have not obtained a release from South Australia. Can I qualify for NSW sponsorship for the Business Owner (Residence) visa sub class 892?*

No. NSW cannot sponsor applicants for the Business Owner (Residence) visa sub class 892 if they have not been released of their

commitment by their first sponsoring State. You can apply for an unsponsored Business Owner (Residence) visa sub class 890.

### **Change in Primary Applicant for Business Owner (Residence) visa sub class 892**

19. *I was sponsored by NSW before 1 October 2008 for a Business Owner (Provisional) visa sub class 163 and now want to make my spouse the primary applicant for NSW sponsorship for my Business Owner (Residence) visa sub class 892. Do I need NSW agreement to do this?*

No. As you were sponsored by NSW before 1 October 2008 you do not need to seek NSW agreement to change the primary applicant for your Business Owner (Residence) visa sub class 892.

20. *I was sponsored by NSW after 1 October 2008 for a Business Owner (Provisional) visa sub class 163 and now want to make my spouse the primary applicant for NSW sponsorship for my Business Owner (Residence) visa sub class 892. Do I need NSW agreement to do this?*

Yes. As you were sponsored by NSW after 1 October 2008 you need to make a submission seeking NSW agreement and demonstrate that your spouse has an overall successful business career.

### **Seminar**

An information seminar for stakeholders to explain these changes and answer any questions will be held at the NSW Trade and Investment Centre, Level 47 MLC Centre 19 Martin Place on Thursday 10 November 2011 from 5.00 pm to 7.00 pm . If you wish to attend please RSVP to [bizmigration@business.nsw.gov.au](mailto:bizmigration@business.nsw.gov.au)

### **Further Questions**

If you have any questions or require further information please contact the NSW business migration team at:

02 9338 6692 (tp)  
[bizmigration@business.nsw.gov.au](mailto:bizmigration@business.nsw.gov.au)