

Australia Business Migration – Residency By Investment

AUSTRALIA - THE NATURAL WONDERLAND

The Commonwealth of Australia is situated in the Southern Hemisphere comprising the mainland of the Australian continent, the island of Tasmania and numerous smaller islands in the Indian and Pacific Oceans.

High growth, low inflation and low interest rates are hallmarks of the Australian economy which is currently one of the most outstanding economies of the world. Service industries such as tourism, education, and financial services dominate Australia's economy. Agriculture and mining account for most of the country's exports. Australia is among the world's largest and most efficient producers of commercial livestock and a major exporter of red meat and livestock.

The country offers its residents a high quality of life. Its abundant physical resources attract huge foreign investment.

Residency by Investment in Australia:

The aim of Australia's business immigration program is to attract successful foreign businesspersons having a genuine and realistic commitment to be involved in investing or doing business in Australia. Business owners, senior executives and investors are considered eligible under this program.

Main features of the program:

- Applicants applying under business immigration category must reside in the state or territory whose government agency nominates them. They have to continue their business and investment activity in Australia during the duration of their provisional visa.
- Business immigration to Australia is a two-step process. The initial step is the Temporary Residence visa, known as Business Innovation and Investment (Provisional visa - 188), and the final step is the Permanent Residence visa, known as Business Innovation and Investment (Permanent visa class – 888).
- Under the Business Talent (Permanent visa – Subclass 132) businesspersons can obtain direct permanent residency of Australia along with their immediate family members.
- The applicant must be outside Australia when Temporary Residence visa is granted, unless he/she held a student visa at the time of application.
- The majority of business skills entrants enter Australia on a temporary visa for 4 years and, after satisfactory evidence of a specified level of business or investment activity, become eligible to apply for permanent residence.

Australia Business Migration Program:

Entrepreneurs, Start-up owners and Investors wishing to apply for business immigration to Australia can do so under the following five sub-categories of Provisional visa - 188:



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A. Business Innovation & Investment (Provisional visa - 188)

I. Business Innovation Stream (188A)

Before applying for 188A, an applicant needs to be nominated by an Australian state or territory government.

Program requirements:

To qualify under this category, the applicant must:

- Own and manage a business in his home country with an annual turnover of at least AUD 750,000.
- Have net assets of at least AUD 1,250,000. This can include business as well as personal assets.
- Have at least 51% ownership in a private company with turnover of less than AUD\$400,000, 30% ownership in a private company with turnover of AUD 400,000 or more and 10% ownership in a public company (when you have one or two businesses).
- Be under 55 years of age. However under certain circumstances, exceptions are possible.
- Score 65 points on the point grid.
- Must have functional knowledge of English (overall band of 4.5 in IELTS).
- Must be nominated by a province or territory in Australia.

188A is valid for 4 years and 3 months. This Temporary Residence visa can be converted to a Permanent Residence visa (Class 888) if the following conditions are fulfilled:

- Applicant possesses a 4.3 year temporary visa for Australia.
- Applicant's nomination is not withdrawn by the state/territory.
- Applicant has managed a business in Australia that has a turnover of at least AUD 300,000 in the last 12 months before applying for PR.
- Applicant has owned and managed a business in Australia for at least 12 months before applying for PR and fulfils two of the following:
 - (i) Applicant must own assets worth AUD 200,000 in the business
 - (ii) Applicant must create two full-time jobs for Australians
 - (iii) Applicant must own personal and business assets totalling AUD 600,000 in Australia
- Applicant should have lived in Australia for at least 1 year in the last 2 years before PR application.
- Applicant must not have violated Australian law, meet functional English requirement and health requirement.

Applicants can apply for 188A visa overseas or in Australia. If applicant is in Australia, he/she needs to hold a substantive visa or a bridging A, B or C visa.

Australia Investor Program:

Businesspersons with sufficient funds can opt for Investor Visa of Australia.



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These individuals must be willing to invest funds in a designated investment in Australia for four years. During this time they are issued a Temporary Residence visa after which they can apply for a Permanent Residence visa. Failure to maintain investment for four years may result in visa cancellation.

Those applying for this visa (subclass 188) must submit an Expression of Interest and be nominated by a state or territory government.

There are three sub-categories of the Australian Investor Program:

- (i) Investor – Investment of AUD 1.5 million
- (ii) Significant investor – Investment of AUD 5 million
- (iii) Premium Investor – Investment of AUD 15 million

II. Investor Stream – AUD 1.5 million (188B):

This category is for people who want to make a designated investment of at least AUD 1.5 million in an Australian state or territory and maintain business and investment activity in Australia. Applicants must be nominated by a state or territory government or Austrade.

Program requirements:

To qualify under this category, applicant must:

- Own and manage a business or an investment activity and invest at least AUD 1.5 million.
- Possess net assets (business and personal) of at least AUD 2.25 million that are available for legal transfer to Australia within two years of the visa being granted.
- Be nominated by a state or provincial government.
- Be under 55 years of age. Exceptions are possible if the proposed investment is of exceptional economic benefit to the nominating state or territory.
- Score at least 65 on the points test.
- Have managed a qualifying business in which the applicant, his/her spouse or both combined had at least 10% per cent ownership.
- Have a high level of management skill in relation to the eligible investment or qualifying business activity.
- Have at least three years' experience of managing the business or investment.
- Commit to continuing the business and investment activity in Australia after the original investment has matured.
- Have functional knowledge of English (overall band of 4.5 in IELTS).
- Have no criminal record.

Qualifying applicants who have been granted Temporary Residence visa can then apply for a Permanent Residence visa (888) if they fulfil the following conditions:

- Possess an active and valid nomination from a state/territory.
- Possess a 4 year temporary residence visa for Australia.
- Invest AUD 1.5 million in a designated investment for a period of 4 years in Australia.
- Live in Australia for at least 2 years within the 4 year period.



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- The applicant and his/her spouse must not be involved in any business or investment activity which is unacceptable in Australia.
- Have realistic commitment to continue business or investment activity in Australia.
- Applicant must not have violated Australian law, meet functional English requirement and health requirement.

Income earned from the investment in Australia is subject to tax under Australian taxation law.

III. Significant Investor Stream – AUD 5 million (188C):

This category is for people who are willing to invest at least AUD\$5 million into complying significant investments in Australia and want to maintain investment activity in Australia. Applicants must be nominated by a state or territory government or Austrade.

Program requirements:

To qualify under this category, applicant must:

- Invest AUD 5 million in Australia over four years (a range of investment options are available). This amount has to be legally acquired, unencumbered and available for transfer to Australia.
- Reside in the state or territory whose government agency has nominated the applicant.
- Investment must include at least AUD 500,000 in venture capital, AUD 1.5 million in managed funds dealing in emerging public companies and AUD 3 million in managed funds.
- Have functional knowledge of English (overall band of 4.5 in IELTS).
- Not be involved in any illegal or criminal activity.

Qualifying applicants who have been granted Temporary Residence visa can then apply for a Permanent Residence visa (888) if they fulfil the following conditions:

- Possess an active and valid nomination from a state/territory.
- Possess a 4 year Temporary Residence visa for Australia.
- Must have held the complying investment or complying significant investment for the required period of time.
- Live in Australia for at least 160 days of 4 years for the duration of the provisional visa or the applicant's spouse has to live for at least 180 days per year for the duration of the provisional visa.
- The applicant and his/her spouse must not be involved in any business or investment activity which is unacceptable in Australia.
- Have realistic commitment to continue business or investment activity in Australia.
- Applicant must not have violated Australian law, meet functional English requirement and health requirement.

Income earned from the complying investment in Australia is subject to tax under Australian taxation law.



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Applicants can apply for this visa along with immediate family members which include applicant's partner (spouse or de facto spouse), applicant's or applicant's partner's dependent children under the age of 18 years.

IV. Premium Investor Stream – AUD 15 million (188D):

This category is for people, living in or outside of Australia, who have been nominated by Austrade such as talented entrepreneurs and innovators. Unsolicited expressions of interest are not entertained under this category.

Program requirements:

To qualify under this category, applicant must:

- Submit an Expression of Interest (EOI) on Austrade portal. If Austrade accepts the EOI, applicant will be invited to apply under this visa category.
- Invest a minimum of AUD 15 million in Australian investments which include public limited companies, government and semi-government bonds and real property excluding residential properties and state/territory approved philanthropic contributions.
- The funds may come solely from the investor, his/her spouse or both combined.
- Have net assets of AUD 15 million and more.
- Not have violated Australian law, meet functional English requirement and health requirement.

Qualifying applicants who have been granted Temporary Residence visa can then apply for a Permanent Residence visa (888) if they fulfil the following conditions:

- Possess an active and valid nomination from a state/territory or Austrade.
- Must have held the complying investment or complying significant investment for the required period of time.
- The applicant and his/her spouse must not be involved in any business or investment activity which is unacceptable in Australia.
- Have realistic commitment to continue business or investment activity in Australia.
- Applicant must not have violated Australian law, meet functional English requirement and health requirement.

Applicants can apply for this visa along with immediate family members which include applicant's partner (spouse or de facto spouse), applicant's or applicant's partner's dependent children under the age of 18 years.

V. Entrepreneur Stream (188E):

Applicants must be nominated by a state or territory government to apply under this program.



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This category is for people who have received a funding from a third party of at least AUD 200,000 to undertake a business activity in Australia for the commercialisation of a product or service or the development of a business in Australia.

Program requirements:

To qualify under this category, the applicant must:

- Be under 55 years of age (exceptions are possible in some cases)
- Be competent in English (overall band of 4.5 in IELTS)
- Have secured a minimum of AUD\$200,000 in venture capital funding
- Not be involved in business related to residential real estate, labour hire and purchase of a franchise

Qualifying applicants who have been granted Temporary Residence visa can then apply for a Permanent Residence visa if they fulfil the following conditions:

- Possess a 4 year temporary visa for Australia
- Must be living in Australia for at least 2 of 4 years
- Must have started a business in Australia
- Must demonstrate the completion of at least two key success factors or a combination of one key success factor and three supporting success factors.

Key success factors include:

- Employing two or more Australians
- Business has an annual turnover of at least AUD\$300,000
- Filing or acquiring a provisional, standard or innovation patent
- Receiving on-going funding or investment for the enterprise
- Entering into a partnership with a University in Australia
- Selling an entrepreneurial venture for AUD\$2,000,000

Supporting success factors include:

- Expanding business activities into other business areas
- Receiving a statement of success from the nominating state or territory government
- Receiving sponsorship from the corporate sector in Australia
- Starting at least one other business or contributing to at least two other businesses
- Receiving formal awards or recognition individually or for the enterprise
- Raising or contributing to social capital.

General requirements for all the above programs:

It is a requirement that applicants for investor visas have knowledge of vocational/functional English. The applicant is required to provide proof of his/her English language ability (IELTS exam).

There are some conditions imposed on the provisional visa such as:

- The applicant must maintain the designated investment for the required period of time.



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- The applicant must not marry before entering Australia.
- The main applicant must enter Australia before anyone else included in the visa application. This means that the applicant's family members cannot enter Australia before the applicant.

Benefits of the Australian Business Immigration Programs:

- These programs allow applicants to operate and manage a business or an investment activity in Australia.
- Applicants can travel in and out of Australia any number of times as long as the visa is valid.
- Applicants can stay on the visa granted under these programs for a period of 4 years and 3 months.
- Immediate family members can accompany the applicant to Australia. They will have access to work and study rights.
- These programs establish a pathway to permanent residency of Australia.

B. Business Talent Permanent Visa (132)

I. Significant Business History Stream (132A):

Program requirements:

To qualify under this category, the applicant must:

- Be nominated by an Australian state/territory.
- Be able to demonstrate an overall successful business career and a genuine desire to own and manage a business in Australia.
- Own and manage a business with an annual turnover of at least AUD 3 million in at least two of the four fiscal years immediately before the applicant is invited to apply.
- Prove that the applicant, his/her spouse or both combined held total net assets of at least AUD 400,000 in one or more qualifying businesses in at least two of the four fiscal years immediately before the applicant was invited to apply for this visa.
- If the applicant's qualifying business is a publicly listed company, the applicant has to prove that he/she, his/her spouse or both combined own at least 10 per cent of the issued shares.
- Prove that the applicant, his/her spouse or both combined hold total net business and personal assets of at least AUD 1.5 million that are legally acquired and can be transferred to Australia within two years after the visa is granted.
- Applicant needs to submit a business plan that details how he/she plans to actively manage and operate a business in Australia and indicating how the business will benefit Australia economically.
- Be under 55 years of age (exceptions are possible in some cases).
- Applicant must have functional knowledge of English (overall band of 4.5 in IELTS).

Applicants have to prove that they have been involved in the day-to-day management of their business in their home country for two of the four fiscal years before they are invited to apply. They also need to demonstrate their involvement in decision-making in managing all or substantial parts of the business and demonstrate responsibility in areas of recruitment, pricing, business profitability and expenditure.



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For this purpose they will be required to provide documents such as -

- Financial statements of the business for two of the four fiscal years immediately before application. The statements must be prepared by an independent accountant to International Accounting Standards and include a balance sheet, profit and loss statement and notes to the accounts
- An one-page organizational chart of the applicant's business
- Photographs of the business premises and business activities
- Business contracts
- Minutes of meetings
- Documents initiated or authorized by the applicant

Applicants qualifying under this category are directly granted a Permanent Resident visa.

II. Venture Capital Entrepreneur Stream (132-B):

Program requirements:

To qualify under this category, the applicant must:

- Be nominated by an Australian state/territory.
- Have a genuine and realistic commitment to maintain a direct and continuous involvement in the day-to-day management of the eligible business and maintain substantial ownership interest in the business.
- Have secured at least AUD 1 million in venture capital funding for the high value business idea. The venture capital firm must be a member of the Australian Private Equity and Venture Capital Association Limited (AVCAL).
- The funding must be for a start-up, product commercialisation or business development of a promising high-value business idea in Australia.

There is no age limit to apply under this category. Applicants qualifying under this category are directly granted a Permanent Resident visa.



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