



Certification Form – Paying for visa sponsorship

You must print and sign this declaration, and attach as a supporting document to the associated nomination. *Electronic signatures will not be accepted.*

I have read and understood “**Paying for visa sponsorship – Certification Requirement**” as provided in the document checklist relevant to this application, that sets out section 245AR of the *Migration Act 1958* (the Act) which prohibits asking for or receiving a benefit in return for the occurrence of a ‘sponsorship-related event’, and the definition of ‘sponsorship-related event’ in s 245AQ of that Act.

- I certify that I have engaged in conduct in relation to this nomination that constitutes a contravention of subsection 245AR(1) of the *Migration Act 1958*.
- I certify that I have not engaged in conduct in relation to this nomination that constitutes a contravention of subsection 245AR(1) of the *Migration Act 1958*.

Signed: _____

Name: _____

Date: _____

Additional Information

Business Name: _____

Position Held: _____

Nomination TRN: _____

Certification Requirement (Sponsorships/Nominations)

On 14 December 2015 new criminal and civil penalties and visa cancellation provisions were introduced as part of a framework that allows for sanctions to be imposed on a person who asks for, receives, offers or provides a benefit in return for a visa sponsorship or employment (that requires visa sponsorship)(otherwise known as a 'sponsorship-related event').

The Certification Requirement

Following the introduction of these new laws, sponsors, nominators and visa applicants are required to provide a statement in relation to current or previous conduct that constitutes a breach in 'payment for visas' activity. For the purposes of sponsorship and nomination applications, this statement is referred to as a **certification**.

The mandatory declaration required from sponsors and nominators requires you to have an understanding of the relevant sections the *Migration Act 1958* (the Act), to which you are making your certification against. As a sponsor or nominator, sections 245AQ and 245AR of the Act are applicable.

This information is presented below for your reference.

245AQ Definitions

benefit includes:

- (a) a payment or other valuable consideration; and
- (b) a deduction of an amount; and
- (c) any kind of real or personal property; and
- (d) an advantage; and
- (e) a service; and
- (f) a gift.

sponsorship-related event means any of the following events:

- (a) a person applying for approval as a sponsor under section 140E in relation to a sponsor class;
- (b) a person applying for a variation of a term of an approval as a sponsor under section 140E in relation to a sponsor class;
- (c) a person becoming, or not ceasing to be, a party to a work agreement;
- (d) a person agreeing to be, or not withdrawing his or her agreement to be, an approved sponsor in relation to an applicant or proposed applicant for a sponsored visa;
- (e) a person making a nomination under section 140GB in relation to a holder of, or an applicant or proposed applicant for, a sponsored visa, or including another person in such a nomination;
- (f) a person not withdrawing a nomination made under section 140GB in relation to a holder of, or an applicant or proposed applicant for, a sponsored visa;

- (g) a person applying under the regulations for approval of the nomination of a position in relation to the holder of, or an applicant or proposed applicant for, a sponsored visa, or including another person in such a nomination;
- (h) a person not withdrawing the nomination under the regulations of a position in relation to the holder of, or an applicant or proposed applicant for, a sponsored visa;
- (i) a person employing or engaging, or not terminating the employment or engagement of, a person to work in an occupation or position in relation to which a sponsored visa has been granted, has been applied for or is to be applied for;
- (j) a person engaging, or not terminating the engagement of, a person to undertake a program, or carry out an activity, in relation to which a sponsored visa has been granted, has been applied for or is to be applied for;
- (k) the grant of a sponsored visa;
- (l) a prescribed event.

A prescribed event within 245AQ(l) of the Act, is defined at 5.19N of the *Migration Regulations 1994* (the Regulations) and includes:

- (a) a person becoming, or not ceasing to be, a party to a labour agreement that is not a work agreement;
- (b) a person nominating a position in accordance with such a labour agreement in relation to the holder of, or an applicant or proposed applicant for, a sponsored visa, or including another person in such a nomination;
- (c) a person not withdrawing a nomination of a position made in accordance with such a labour agreement in relation to the holder of, or an applicant or proposed applicant for, a sponsored visa.

245AR Prohibition on asking for or receiving a benefit in return for the occurrence of a sponsorship-related event

- (1) A person (the **first person**) contravenes this subsection if:
 - (a) the first person asks for, or receives, a benefit from another person; and
 - (b) the first person asks for, or receives, the benefit in return for the occurrence of a sponsorship-related event.
- (2) To avoid doubt, the first person contravenes subsection (1) even if the sponsorship-related event does not occur.
- (3) Subsection (1) does not apply if the benefit is a payment of a reasonable amount for a professional service that has been provided, or is to be provided, by the first person or a third person.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the Criminal Code).

Offence

- (4) A person commits an offence if the person contravenes subsection (1). The physical elements of the offence are set out in that subsection.

Penalty: Imprisonment for 2 years or 360 penalty units, or both.

Civil penalty provision

(5) A person is liable to a civil penalty if a person contravenes subsection (1).

Civil penalty: 240 penalty units.

(6) A person who wishes to rely on subsection (3) in proceedings for a civil penalty order bears an evidential burden in relation to the matter in that subsection.

Note: It is not necessary to prove a person's state of mind in proceedings for a civil penalty order (see section 486ZF).