

Employing Skilled Overseas Workers

**Monash University Berwick
Business and Education Group**

Faculty of Business and
Economics

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Who are Cope Thornton ?

- Specialist immigration law firm
- Prepare and manage business applications
- Advise companies on visa conditions

Employing Skilled Overseas Workers

Introduction

- Why attend this seminar?
- What are the objectives?

To help you in your business to understand the issues and the process so you can take action to supplement your existing workforce

The current climate

nationwide skills shortages

- impeding the progress of your business as well as other businesses
- DIMA strategy

Employing Skilled Overseas Workers

Introduction - Seminar structure

We will describe some of the key issues.

Please ask questions

Sources of potential employees

- Casual staff or permanent
- Working Holiday 417 –up to 3 mths
- Tourists 676 – no work but could sponsor
- Other visa holders
- Illegals ie expired/cancelled visa– need to be vigilant
- Direct approach by employee
- Recruitment agencies in Australia or overseas
- DIMA and Vic Govt databases

'What to consider when employing skilled overseas workers'

- Where Will I Source Them?
- How do know if they will be suitable?
- How do I get them here?
- What costs are involved?
- What salary?
- Am I responsible for family members?
- What legal obligations do I have?
- Can my employees seek permanent residence?
- What happens if I am unhappy with an employee or if they leave my employ?

Frequently Asked question

Will the person will be suitable?

- Transfers from related businesses overseas.
- Use of overseas employment agents
- 417 Working holiday – 3 month trial
- Employee/Manager within the company travelling overseas to vet

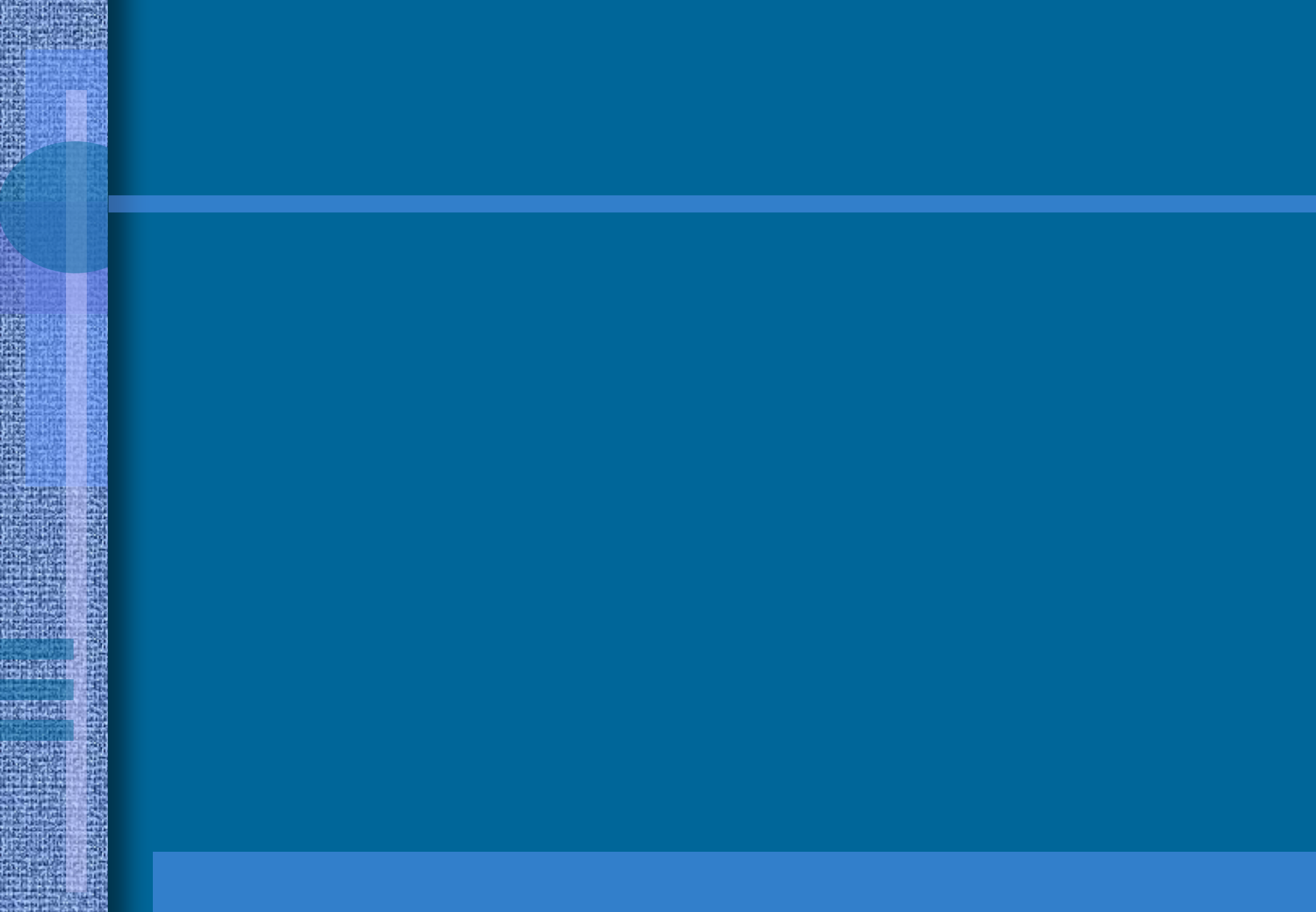
Frequently Asked question

If overseas how do I get them here?

Independent v sponsored

Eg 136/State Govt sponsored

- 457 visa
- 856 visa
- Regional sponsorship
- Clause in contract on early departure ?



You the audience

Type of business – manufacture/service ?

Have you had any prior dealings with the
Department of Immigration?

Reading a Visa

More than 160 visa subclasses

Key items to check :

Visa subclass

Visa Validity

Visa conditions

457 - What is the process ?



- Sponsorship

- Nomination

- Visa - Depends if they are in Australia or overseas

- Monitoring

Regional 457 visa

Wider range of occupations

Salary

Specified Postcodes of Employer's business :

3778-3781 incl Toolangi, Marysville, Cockatoo

3816-3909 incl Morwell, Neerim, Moe, Gippsland

3921-3925 incl Cowes, San Remo

3945-3974 incl Leongatha, Sandy Point

3979 Almerta/Kernot/Korrine/Glen Alvie

3981-3996 incl Koo Wee Rup, Poowong, Wonthaggi

Training Obligations

In order to be approved as a sponsor the Business needs to either :

- Have a record of training Australians ; or
- Introduce new technology or business skills

Salary

- General Rule : Temporary residence 457 requires minimum salary of \$39,100 (excluding benefits such as super, vehicle, cession, accommodation, etc)
- Exception 1 : IT occupations Sal > \$50,774
- Exception 2 : Regional Sponsorship Sal < 39K (includes Regional Development Victoria (Traralgon))

Advantages of employing a 457 temporary Resident

- Security of an employee for up to 4 years – a sponsored person on a 457 visa cannot easily change employers – potential savings in recruitment Costs
- highly motivated workers
- You can form a very close bond because of your need to understand their circumstances
- Known entity - if you or an employee know the worker eg head office secondment
- Benefits the economy by supplementing the skills pool

Disadvantages of employing a 457 temporary Resident

Costs of relocation, if borne by the company – flights, temporary assistance with accommodation

Medical Costs – a business sponsor makes an undertaking to meet medical costs to the Commonwealth (ie public hospital)

Repatriation Costs - costs of detention and flight home in the event the person is removed as an unlawful citizen

Language and Cultural Issues

Frequently Asked question

What costs must I meet?

- Sponsorship Undertakings
- return travel costs - ensure that the cost of all the sponsored person and any family members' are met;
- outstanding medical costs to the Commonwealth - Ensure that medical or hospital expenses for a sponsored person arising from treatment administered in a public hospital are met (other than expenses that are met by health insurance or reciprocal arrangements); and
- Immigration costs - Reimburse the Commonwealth for locating, detention and flights from Australia and for the cost of processing any protection visa application they may lodge.
- taxation
- monitoring – look out for the form
- notify DIMIA within 5 working days of person ceasing employment

Some employment contract issues

Condition that the employee and family to hold adequate visitor/non resident health cover

Health insurance Payment to be directly deducted from salary – to ensure the company is aware that policy

Not seek additional employment outside the company unless expressly authorised Salary

Migration Amendment (Employer Sanctions) Bill 2006

Bill introduced 2nd March 2006

Doesn't become law till 6 months after assent

**Remember to ask for evidence of work eligibility- eg
passport**

**s245AB Allowing or continuing to allow an unlawful
non-citizen to work**

**s245AC Allowing a non-citizen to work in breach of a
visa condition**

\$13,200 - individual / \$66,000 – company

And/or 2 years' imprisonment

In conclusion :

Immigration is a complex area

More than 160 visa subclasses

A fast changing area eg tax law

DIMA are highly professional but continuous staff turnover and rotation

You must take the time to understand the requirements and thoroughly prepare otherwise expect delays

Unintended consequences – poor occupational classification, incomplete or inaccurate information

A Note on Sources

Acknowledge sources including :

DIMA:

www.immi.gov.au/legislation/

www.immi.gov.au/employers/guide-work-rights/index.htm

Parliament : www.aph.gov.au Parliamentary debates, Bills & Explanatory Memoranda, Senate Legal and Constitutional Ctee)

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Questions ?