

ANNEXURE 1: Health Matrix

halc

HIV/AIDS Legal Centre Incorporated (NSW) ABN 39 045 530 926



LAW AND JUSTICE
FOUNDATION

OF NEW
SOUTH WALES

9.2 The Health Matrix

<p>Health assessments required for temporary and permanent visa applicants</p> <p>How to use this form</p> <p>The table below should be used to determine what, if any, health assessments are required depending on your situation. To use the table, you should determine:</p> <p>1) <u>your</u> country level for TB risk as indicated in the rows of the table (refer to the 'Country level of risk' box in the table below to work out which country is relevant in your case).</p> <p>2) <u>the</u> total length of your intended stay in Australia as indicated in the columns of the table. Please note that a cumulative stay assessment is to be used to determine your total length of intended stay in Australia (see 'How to determine your length of stay' on page 1 for an explanation).</p> <p>3) <u>whether</u> your intended activities fall within special significance* circumstances as outlined in the table at the bottom of the page.</p> <p>Note: • Specific requirements are listed in the table for subclass 457 visa applicants (medium and higher risk applicants only).</p> <p>• The department can request additional tests beyond those indicated in the health assessment and special significance tables below. This may occur if there are indications that you may not meet the health requirement regardless of your proposed length of stay in Australia.</p>			
<p>Country level of risk</p> <p>This is the risk level of:</p> <ul style="list-style-type: none"> your country of citizenship as evidenced by your travel document; or a country in which you have spent more than 3 consecutive months in the last 5 years; <p><u>whichever</u> country has the greater risk level applies.</p> <p>For a complete list of countries please refer to: www.immi.gov.au/allforms/health-</p>	Minimum Health Assessments Required		
	Temporary stays of:		Permanent stay
	up to and including 12 months	more than 12 months	

requirements/1163i-supplement.pdf			
<p>Lower risk</p> <p><i>This includes but is not limited to:</i> American Samoa, Andorra, Antigua and Barbuda, Australia, Austria, Barbados, Belgium, Bermuda, Canada, Chile, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Grenada, Iceland, Ireland,, Israel, Italy, Jamaica, Jordan, Libyan Arab Jamahiriya, Lichtenstein, Luxembourg, Malta, Monaco, Netherlands, Netherlands Antilles, New Zealand, Norway, Oman, Puerto Rico, Saint Kitts and Nevis, Saint Lucia, San Marino, Slovakia, Slovenia, Sweden, Switzerland, Trinidad and Tobago, United Kingdom and Northern Ireland, United States of America, United States Virgin Islands and Vatican City.</p>	<p>No health assessment required unless special <u>significance*</u> applies.</p>	<p>No health assessment required unless special <u>significance*</u> applies.</p>	<p>All permanent and provisional visa applicants are required to complete:</p> <ul style="list-style-type: none"> • a medical examination • a chest x-ray^ • an HIV test if 15 years or over. <p>Pregnant applicants must also complete a Hepatitis B test.</p> <p>Please refer to form 1071i <i>Health requirement for permanent entry to Australia</i> for further information.</p>
<p>Medium risk</p> <p>Albania, Algeria, Anguilla, Argentina, Bahamas, Belize, Bosnia and Herzegovina, Brazil, Colombia, Cook Islands, Egypt, Fiji, French Polynesia, Guam, Hungary, Iran, Japan, Kuwait, Lebanon, Macedonia (former Yugoslav Republic of), Maldives, Mauritius, Mexico, Montenegro, New Caledonia, Panama, Poland, Portugal, Saint Vincent and the Grenadines, Samoa, Serbia, Seychelles, Singapore, Spain, Syria, Tahiti, Tonga, Tunisia, Turkey, United Arab Emirates, Uruguay, Venezuela, West Bank and Gaza Strip.</p>	<p>No health assessment required unless special <u>significance*</u> applies.</p>	<p>You must undergo a chest x-ray^ and a medical examination. Any special <u>significance*</u> requirements must be met.</p> <p>457 applicants – chest x-ray^ only unless special <u>significance*</u> applies.</p>	
<p>Higher risk</p> <p><i>This includes, but is not limited to:</i> China, India, Indonesia, Malaysia, Pakistan, Philippines, Russia, South Africa, South Korea, Thailand and Viet Nam.</p>	<p>You must undergo a chest x-ray^ if staying in Australia for more than 3 months.</p> <p>Any special <u>significance*</u> requirements must be met.</p>	<p>You must undergo a chest x-ray^ and a medical examination. Any special <u>significance*</u> requirements</p>	<p>* If you intend to undertake an activity listed below then your</p>

		must be met. 457 applicants – chest x-ray^ only unless special significance* applies.		health is considered to be of "special significance" and you will be required to undergo the specified health assessments.
Intended activities	Health assessments required due to 'special significance'			
Are you likely to enter a classroom situation for more than 3 months and are you from a medium or higher risk country?	• chest x-ray^ and a medical examination			
Are you from a medium or higher risk country and likely to enter a health care or hospital environment?	• chest x-ray^			
Are you pregnant and intending to have the baby in Australia?	• Hepatitis B test			
Do you intend to work as (or study to be) a doctor, dentist, nurse or paramedic?	• chest x-ray^, medical examination including HIV, Hepatitis B and C blood tests.			
Are you likely to work (or be a trainee) at an Australian childcare centre (including preschools and creches)?	• chest x-ray^			
Are you aged 75 years or older and applying for a Visitor visa (subclasses 676, 679, 456, 459 ONLY) and NOT already required to undergo a medical examination?	• Aged Visitor Health Check			
<p>^ Where a chest x-ray is required, this applies to applicants aged 11 years or more. Children under 11 years of age are required to complete a medical examination instead of a chest x-ray.</p> <p>The department does not recommend that pregnant visa applicants undergo a chest x-ray. Clients should contact their case officer to see if any alternative arrangements are available.</p> <p>For student visas - principal and <u>dependent</u> applicants are required to undergo the same health assessments unless special significance applies (exception - <u>dependants</u> not studying to be a health care professional are not required to undergo additional blood tests).</p>				

Note: The 3 months stay in Australia referred to above is considered equivalent to 92 days in the HAP.



Commonwealth of Australia

Migration Regulations 1994

VISA SUBCLASSES FOR THE PURPOSES OF THE HEALTH REQUIREMENT
(CLAUSES 4005, 4006A and 4007)

I, *CHRIS BOWEN*, Minister for Immigration and Citizenship, acting under subparagraph 4005(2)(b)(ii), subparagraph 4006A(1A)(b)(ii) and subparagraph 4007(1A)(b)(ii) of the *Migration Regulations 1994* ('the Regulations'):

1. SPECIFY the following current visa subclasses for the purposes of subparagraph 4005(2)(b)(ii), subparagraph 4006A(1A)(b)(ii) and subparagraph 4007(1A)(b)(ii):
 - Subclass 160 - Business Owner (Provisional),
 - Subclass 161 - Senior Executive (Provisional),
 - Subclass 162 - Investor (Provisional),
 - Subclass 163 - State / Territory Sponsored Business Owner (Provisional),
 - Subclass 164 - State / Territory Sponsored Senior Executive (Provisional),
 - Subclass 165 - State / Territory Sponsored Investor (Provisional),
 - Subclass 173 - Contributory Parent (Temporary),
 - Subclass 300 - Prospective Marriage,
 - Subclass 309 - Partner (Provisional),
 - Subclass 445 - Dependent Child,
 - Subclass 457 - Business (Long Stay) - as defined at subclause 457.223(7A),
 - Subclass 475 - Skilled Regional Sponsored,
 - Subclass 487 - Skilled Regional Sponsored,
 - Subclass 820 - Partner,
 - Subclass 884 - Contributory Aged Parent (Temporary); AND,

2. SPECIFY the following former visa subclasses for the purposes of subparagraph 4005(2)(b)(ii), subparagraph 4006A(1A)(b)(ii) and subparagraph 4007(1A)(b)(ii):

- Subclass 309 - Spouse (Provisional),
- Subclass 310 - Interdependency (Provisional),
- Subclass 457 - Business (Long Stay) – as defined at subclause 457.223(7),
- Subclass 495 - Skilled - Independent Regional (Provisional),
- Subclass 496 - Skilled - Designated Area-sponsored (Provisional),
- Subclass 820 – Spouse,
- Subclass 826 – Interdependency.

This Instrument, IMMI 11/032, commences on 1 July 2011, immediately after the commencement of the *Migration Legislation Amendment Regulations 2011 (No. 1)*.

Dated 20 June 2011

CHRIS BOWEN
Minister for Immigration and Citizenship

[NOTE 1: Clause 4005 of Schedule 4 to the Regulations specifies health requirements for the grant of specific visas as a public interest criterion.

NOTE 2: Clause 4006A of Schedule 4 to the Regulations specifies health requirements for the grant of specific visas as a public interest criterion.

NOTE 3: Clause 4007 of Schedule 4 to the Regulations specifies health requirements for the grant of specific visas as a public interest criterion.

NOTE 4: Subclause 457.223(7A) of the Regulations specifies the requirements to be met by an applicant applying for a Subclass 457 - Business (Long Stay) visa.

NOTE 5: Subclause 457.223(7) of the Regulations was repealed by the *Migration Amendment Regulations 2009*

(No 9) with effect from 14/09/2009. It specified the requirements to be met by an applicant applying for a Subclass 457 – Business (Long Stay) visa.]

ANNEXURE 3: EMPLOYER UNDERTAKING

EMPLOYER UNDERTAKING

I am authorised to represent (*name of proposed employer*), the proposed employer of (*name of main visa applicant*), an applicant for temporary entry to Australia.

I am aware the entry to Australia of (*name of the visa applicant who failed the health criterion*) (if applicable, a family member of the above named applicant) is estimated to result in health care and community services costs of approximately \$_____.

I understand that the health requirements for granting a visa to (*name of visa applicant who failed the health criterion*) may be waived if the proposed Australian employer gives an acceptable undertaking to meet all costs related to the disease or condition.

(*Name of proposed employer*) undertakes to meet all health care and community service costs related to the diseases or conditions that otherwise cause (*name of visa applicant who failed the health criterion*) not to satisfy visa health requirements, so that costs will not have to be met by any Commonwealth, State or Territory authority or by any public authority in Australia.

I attach evidence of the arrangements made for payment including the name of the receiving institution and the amounts (or approximate estimates).

ANNEXURE 4: FACTORS CIAC CONSIDERS IN THE HEALTH WAIVER

The following information is extracted from the DIAC Procedures Advice Manual 3 (PAM3) and is current at 1 January 2012.

Schedule 4007 considerations for Humanitarian visas

Factors afforded significant weight under policy

It can be particularly difficult to assess whether it is appropriate or not to exercise a waiver for humanitarian visa applications, given:

- the inherently compelling and compassionate nature of many of these cases and
- the fact that humanitarian applicants will rarely be able to mitigate the potential health costs involved.

Therefore, in considering whether the granting of a humanitarian visa would be likely to result in 'undue' cost or prejudice to access, delegates should focus on any compelling and compassionate circumstances (beyond those that make the applicant eligible for a humanitarian visa), taking into account:

- the applicant's family links to Australia
- the whereabouts of any close family members not included in their application and
- whether the case has been referred by the UNHCR.

Under policy, delegates should also give significant weight to cases involving a:

- "split family" situation or
- applicants in particularly vulnerable situations (for example, "woman at risk", or survivors of torture or trauma).

Other factors to be considered

Given the broad nature of the waiver power, all individual circumstances do, however, need to be taken into account. For example, although humanitarian visa applicants are unlikely to be able to mitigate the costs/prejudice to access, the following factors where relevant may still add weight to a decision to exercise a health waiver:

- any proposed care and/or support in Australia
- the applicant's employment history.

ANNEXURE 4: FACTORS CIAC CONSIDERS IN THE HEALTH WAIVER

Schedule 4007 considerations for Skilled visas

Factors afforded significant weight under policy

In considering whether the granting of the visa to the applicant would be unlikely to result in undue cost to the Australian community, or undue prejudice to the access to health care or community services of an Australian citizen or permanent resident, under policy, decision makers should give significant weight to the following:

- the view of the participating State/Territory (if it has been sought)
- the skills and qualifications of the main visa applicant and their migrating family members, for example, the occupational skills, qualifications, English language skills, work history and/or future employment prospects of the main applicant and any working family members
- whether the nominated occupation is one in critical demand or severe shortage, Australia-wide and in the jurisdiction/geographical area where they propose to reside
- whether the family is already settled or proposes to settle in a remote, rural or regional area
- whether the family's care obligations constrain their earning capacity or ability to fully deploy their skills or practice their trade/profession/occupation in the economy
- the extent to which the visa applicant and/or their family may be able to mitigate potential costs/prejudice to access issues identified by a MOC when assessing the health waiver applicant against the health requirement.

Other factors to be taken into account

Under policy for skilled health waiver cases, the delegate must, nevertheless, take into account all other relevant factors when making a health waiver decision, including any other compelling and/or compassionate circumstances that warrant a waiver being exercised (for example, close family links to Australia, and/or reasons why the family would find it difficult to return to their home country).

Where the individual who has failed to meet PIC [4007\(1\)\(c\)](#) is a non-migrating dependant, additional factors should be taken into account when deciding whether or not to exercise the health waiver - see [section 83.4 Other factors - non-migrating members of the family unit](#).

83.4 Other factors - non-migrating members of the family unit

If the person who has failed to meet PIC [4007\(1\)\(c\)](#) is a non-migrating family unit member, when considering whether to exercise a PIC [4007\(2\)](#) health waiver, officers should take into account:

- the arrangements (if any) that are (and were) in place for the person's care and welfare and
- the likelihood of their future migration

ANNEXURE 4: FACTORS CIAC CONSIDERS IN THE HEALTH WAIVER

Delegates must consider all relevant circumstances. In the case of waivers for non-humanitarian visas, such circumstances are likely to vary widely and may include:

- significant support from family or community groups
- the potential contribution of the visa applicant and their family to Australia including skills, qualifications, English language capacity and employment prospects that may assist the applicant and any dependants once in Australia
- any other compelling or compassionate factors including the location and circumstances of the applicant and/or sponsor's family members
- the immigration history of the applicant (and sponsor/proposer where applicable), including, for example, compliance to date with immigration requirements and any undertakings and
- any other relevant factors.

In the alternative, factors that would add weight to a waiver not being exercised include:

- the applicant, sponsor and their immediate family can reside in a 3rd country with no particular hardship (for example, they have another citizenship or they have been residing in another country for a significant period)
- a lack of family links to Australia or
- a lack of ties to Australia more generally (for example, if the applicant and sponsor have been absent from Australia for a significant period of time/majority of their life, and there is no reason why they cannot continue to reside in their current location).

If the individual who has failed to meet PIC [4007\(1\)\(c\)](#) is a non-migrating dependant, additional factors should be taken into account when deciding whether or not to exercise the health waiver - see [section 84.4 Other factors - non-migrating members of the family unit](#).

If the visa applicant is a provisional visa holder applying for a "2nd stage" permanent visa, see [section 84.5 Other factors - 2nd stage visa applicants](#).

84.4 Other factors - non-migrating members of the family unit

If the person who has failed to meet PIC [4007\(1\)\(c\)](#) is a non-migrating family unit member, when considering whether to exercise the waiver power in PIC [4007\(2\)](#), officers should take into account:

- the arrangements (if any) that are (and were) in place for the person's care and welfare and
 - the likelihood of their future migration
- for example, if it is assessed that it is very unlikely or impossible that the non-migrating family unit member will ever migrate to Australia this may add weight to arguments in favour of exercising the waiver.

ANNEXURE 4: FACTORS CIAC CONSIDERS IN THE HEALTH WAIVER

If:

- care arrangements are of a recent nature or
- the arrangements may not be appropriate for the long term (for example, very young child/children left in the care of elderly grandparents)

it is open to the case officer to assess that it is likely that the child/children will ultimately migrate.

ANNEXURE 4: FACTORS CIAC CONSIDERS IN THE HEALTH WAIVER

- for example, if it is assessed that it is very unlikely or impossible that the non-migrating family unit member will ever migrate to Australia this may add weight to arguments in favour of exercising the waiver.

If:

- care arrangements are of a recent nature or
- the arrangements may not be appropriate for the long term (for example, very young child/children left in the care of elderly grandparents)

it is open to the case officer to assess that it is likely that the child/children will ultimately migrate.

Schedule 4007 considerations for partner visas

Factors afforded weight under policy

Under policy, delegates should put substantial weight on the fact that a failure to exercise the PIC 4007(2) waiver would:

- negatively impact on Australian citizen children (particularly those of the relationship where a partner visa has been applied for, or those that are already residing in Australia) or
- result in immediate family members living apart.

Significant weight should also be given to the following factors:

- if an Australian citizen sponsor were forced to relocate it would negatively impact on their health
- the applicant and/or other working family members have occupational skills in high demand
- the applicant and/or other family members have substantial assets or an ability to mitigate the costs/prejudice to access involved (for example, due to private care arrangements and/or support being available*)
- an Australia citizen sponsor would not be able to migrate to the applicant's home country (for example, because same sex migration is not available); or
- the applicant has significant family links in Australia.

* Any available private care cannot, however, be at a level that the Australian community would find unacceptable. No person requiring care in Australia should be expected to accept a lesser standard of food, accommodation, work environment or social interaction than that which would be expected to be available to Australian residents.

Other factors to be taken into account

4006A Applies to the following

457 Temporary Business (longstay)

4007 Applies to the following

100 Partner

101 Child

102 Adoption

137 Skilled/Territory-nominated Independent (application must have been made by 1 September 2007)

143 Contributory Parent (only 4007 if the holder of a 'substituted subclass 676 visa' this being a visa subclass 676 issued by the Minister when exercising powers to substitute a more favourable decision)

151 Former Resident

200 Refugee

201 In-country Special Humanitarian

202 Global Special Humanitarian

203 Emergency Rescue

204 Woman at risk

300 Prospective Spouse

309 Partner (Provisional)

445 Dependent Child (dependent child of the holder of a provisional partner visa)

449 Humanitarian Stay (Temporary)

450 Resolution of Status – Family Member (Temporary)

461 New Zealand Citizen Family Relationship (Temporary)

487 Skilled – Regional Sponsored

801 Partner

802 Child

804 Aged Parent

820 Partner

846 State/Territory Sponsored Regional Established Business in Australia

850 Resolution of Status (Temporary)

852 Witness Protection (Trafficking) (Permanent)

855 Labour Agreement

856 Employer Nomination Scheme

857 Regional Sponsored Migration Scheme

864 Contributory Aged Parent (only 4007 if granted the temporary as the holder of a 'substituted subclass 676 visa' this being a visa subclass 676 issued by the Minister when exercising powers to substitute a more favourable decision)

883 Skilled – Designated Area-sponsored (Residence) (application must have been made before 1 September 2007)

884 Contributory Aged Parent (Temporary) (only 4007 if the holder of a 'substituted subclass 676 visa' this being a visa subclass 676 issued by the Minister when exercising powers to substitute a more favourable decision)

887 Skilled – Regional (all qualifying visas for this visa have a 4005 PIC – therefore difficult for someone with HIV and very difficult or near impossible if on treatment)

890 Business Owner

891 Investor

892 State/Territory Sponsored Business Owner

893 State /Territory Sponsored Investor