

## Filipino Migrants Forum

### IS AN APPLICATION UNDER THE EMPLOYER NOMINATION SCHEME YOUR ALTERNATIVE?

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A new list known as Employer Nominations Skilled Occupations List (ENSOL) took into effect on 2 April 2005. It is a list of occupations which may qualify those whose occupations are in this list to apply for permanent residence under certain conditions. It is an alternative which can be available to applicant who would fail under the Skilled Migration Scheme because they are over 44 years old, cannot pass vocational English or their occupation is not in the Skilled Occupations List (SOL).

The ENSOL is a more extensive list than the Skilled Occupations List (SOL) or the restrictive Sydney and Selected Areas Skilled Shortage List (SSASSL). However, it requires an offer of employment for three years with an employer in Australia. The employer must be able to prove its financial capacity to employ the employee and provide a record of training of Australian citizens and permanent residents, among others. The sponsoring employer must be approved by the Department of Immigration, Multicultural and Indigenous Affairs for the visa application to succeed.

Under the current legislation, an applicant under the Employer Nomination Scheme must:

1. obtain a suitable skills assessment from the assessing authority similar to that required under the skilled migration scheme and must have been employed in the occupation to which the appointment relates for at least 3 years before making the application, unless exceptional circumstances apply or
2. be paid a salary for the position listed in the ENSOL that is at least the amount of salary specified in a Gazette Notice. or
3. has worked full time in the same occupation in Australia for two years as a holder of a qualifying visa and with the sponsoring employer for one year immediately before making the visa application.

Unlike applications under the Skilled Migration Scheme, the Employer Nomination Scheme may allow employment of visa applicants over 44 years old as well as those who do not meet [vocational English](#) (e.g passmark of at least 5 each of reading, writing, speaking and listening in IELTS) *in exceptional circumstances*.

Thus, even if your occupation is not in the s Skilled Occupations List (SOL) or the restrictive Sydney Sydney and Selected Areas Skilled Shortage List (SSASSL) as long as it is in the Employer Nominations Skilled Occupations List (ENSOL) and you are being paid the required minimum salary or even if you are over 44 years old or you cannot pass the English test, if the sponsoring employer can prove “exceptional circumstances” and that you are required for its business operations for at least three years, you could be granted permanent residence. **The key to this broad based permanent resident visa is finding a qualified sponsoring employer.**

The Employer Nomination Scheme (ENS) is designed to allow Australian Employers to recruit highly skilled staff from overseas or temporary residents already in Australia to fill vacancies which they have been unable to fill from the local labour market or their own training programs.

*This information is of a general nature and should not be taken as authoritative legal advice for specific cases. The writer, Atty. Imelda Argel is a practising Filipino lawyer and a registered migration agent in Sydney, Australia. She is a Solicitor of the Supreme Court of New South Wales, the High Court of Australia, Attorney at law in the Philippines and in the State of New York, USA. Her Registered Migration Agent no. is 9682957. More information is available at [www.iargel.com.au](http://www.iargel.com.au)*

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