

Filipino Migrants Forum

IS YOUR SPONSOR LIVING IN VICTORIA OR ANOTHER DESIGNATED AREA?

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The amendments to the Migration Regulations which came into effect on 01 July 2006 have radically changed the visa category of applicants under the Skilled – Designated area Sponsored visa. (SDAS).

Before 01 July 2006 successful applicants under this category were granted a permanent residence visa (subclass 139). From 01 July 2006 this visa has been replaced by a two-stage visa process – initial Temporary Entry with eligibility to apply for a Permanent visa after a qualifying period.

Successful applicants under the new category will initially be granted a Skilled-Designated Area Sponsored visa (provisional) Subclass 496. The second stage involves a visa application for the grant of a subclass 883 (Residence).

At the time of preparation of this article the PAM 3 and the amendments to the Regulations have not been published on the Legendcom website. However, on the basis of the information available on the website of the Department of Immigration (DIMA), to qualify for the grant of a subclass 496 temporary visa, an applicant must:

- Be under 45 years of age;
- Have good English skills;
- Have recent skilled work experience;
- Be sponsored by an eligible relative living in a designated area of Australia; and
- Have skills and qualifications assessed by a relevant assessing authority as suitable for an occupation on the Skilled Occupation List (SOL).

To qualify for the grant of a subclass 883 (Residence), an applicant must:

- Have held a SDAS (Provisional) visa for at least two years;
- Be sponsored by an eligible relative;
- Have lived in a designated area for two years;
- Have worked full-time in a designated area for at least 12 months;
- Have good English skills.

A notable *similarity* between the old Subclass 139 visa and the new two stage process is that like the old subclass 139 visa, neither the subclass 496 nor the subclass 883 visa is subject to the points test.

Both the subclass 496 and 883 visas have an English skill requirement but this is described only as “Good English skills” presumably like the subclass 139 where a passmark of 4.5 was acceptable rather than the minimum “vocational English” required

of sponsored skilled visa subclass 138 where the minimum passmark of 5 in the IELTS general module is required.

Whilst DIMA has published no reasons for the changes to the SDAS category, it seems to be in line with other permanent visas e.g partner visa as well as to counter the abuse by persons who have changed their official (not actual) residence to one in a designated area purely to become eligible to sponsor a relative under this category as well as applicants who have never had any intention of living in the designated area from which they drew their eligibility.

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.

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