

Filipino Migrants Forum

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This is the second of five parts of the submission to the Joint Standing Committee on Migration in the Federal Parliament. The remaining three parts will appear over the next three issues.

In this issue, we will reproduce our submission on what we believe is the current situation for overseas skills recognition and associated issues of licensing and registration for Skills stream migrants who obtain assessment prior to migrating, in particular, Trades Recognition, with our recommendations.

Current situation:

All skills assessments for this category are carried out by Trades Recognition Australia (TRA) - the DIMIA authorised assessing authority. An unsuccessful applicant receives written advice from TRA, which includes a copy of the assessment sheet and a reader's guide, both of which are confusing and contain very little useful information. The assessment report consists of a tick in a box and up to six (6) lines of hand written comments that usually follows the text in the reader's guide quite closely, and necessitates clarification from TRA before either an appeal or a fresh application can be made. The uniform assessment criteria is attached at Annexure '1'.

Issues:

1. Conflicting definitions of trade occupations between TRA and DIMIA.

TRA does not follow the ASCO (Australian Standard Classification of Occupations) definitions used by DIMIA. TRA apparently has its own criteria, the exact details of which are not published. Thus, an application which addresses all the ASCO criteria for a trade but which doesn't include the unpublished requirements of TRA is likely to fail. On the other hand, even if TRA provides a successful skill assessment, DIMIA may refuse the visa application because the certificate of employment falls short of the ASCO definitions.

2. Evidence required by TRA is not clear as to details.

TRA has recently published Uniform Assessment Criteria on its website. However, it is still difficult for an applicant to prepare an assessment application that will meet TRA's requirements on the basis of that information, as while there is general criteria published, there are no detailed guidelines as to what evidence the applicant must submit to

satisfy the required training pathway in order to obtain recognition in his/her particular trade.

3. Change of circumstances allowing evidence to be obtained:

Previously, an applicant would have only needed to prove that they have had 6 years work experience in their trade. Now, an applicant needs to demonstrate 6 years work experience including a verifiable 'skill level transition process' under the supervision and direction of a fully qualified tradesperson. This is often difficult to prove, as:

- In many occupations overseas there are no set formal training procedures for recognition. For example, in a home industry, in-house training would be hard to prove;
- It is often difficult for applicants to acquire a certificate of training/employment from their former employers where they have worked for a small business that has folded up;
- If an applicant was a sole proprietor, there are difficulties for them in obtaining proof of having done work for clients.
- Proving supervision of a fully qualified tradesperson would seem to entail a separate skills assessment of the supervisor.

4. TRA requires applicants to describe the duties /responsibilities of their trade in their own words. Because it is difficult to determine exactly what TRA is looking for when there are no sufficient published guidelines to follow, this creates a major problem for applicants, especially where English is not their first language and they can more easily express themselves in their own language. Applicants in such a position may need to go through the expensive process of having their statements translated and notarised.

5. The assessment report is inadequate in stating the reasons why an assessment application was unsuccessful. It is very difficult to determine, without further consultation with TRA, whether to seek review or prepare a fresh application with additional documentation (See Annexure '2').

Recommendations:

We recommend that:

1. TRA publish their own definitions of what work experience in ‘Skill Pathway D’ is involved in *specific* occupations.
2. TRA publish a checklist of skills, duties and the range of work under ‘Skill Pathway D’ that is required to obtain recognition for *each* trade occupation in order to make it easier for migration agents or applicants to determine if applicants have the relevant skills.
3. Reasons for refusal in a Skills assessment decision should be more specific. The application assessment report must provide more specific details of deficiencies in ‘plain English’ instead of the existing generic tick list as in Annexure ‘2’.

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 Migration Agent Registration no. is 9682957. More information is available at www.iargel.com.au