



# **Migration (IMMI 17/045: Specification of Training Benchmarks and Training Requirements) Instrument 2017**

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I, Peter Dutton, Minister for Immigration and Border Protection, make the following instrument.

Dated 23 June 2017

Peter Dutton

THE HON PETER DUTTON MP  
Minister for Immigration and Border Protection

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## **Part 1 – Preliminary**

### **1 Name**

This instrument is the *Migration (IMMI 17/045: Specification of Training Benchmarks and Training Requirements) Instrument 2017*. It may be cited as IMMI 17/045.

### **2 Commencement**

This instrument commences on 1 July 2017.

### **3 Authority**

This instrument is made under paragraphs 2.59(d), 2.68(e), subregulations 2.87B(2), and 2.87B(3) of the Regulations.

### **4 Definitions**

In this instrument:

*Regulations* means the *Migration Regulations 1994*.

### **5 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## **Part 2 – Specified Training Benchmarks and Training Requirements**

### **6 Benchmarks and requirements for training of Australian citizens and Australian permanent residents**

- (1) For the purposes of paragraphs 2.59(d) and 2.68(e) of the Regulations, the specified benchmarks for the training of Australian citizens and Australian permanent residents are listed in Schedule 1 to this Instrument.
- (2) For the purposes of subregulations 2.87B(2) and 2.87B(3) of the Regulations, the requirements relating to training that the person must comply with, are the benchmarks for the training of Australian citizens and Australian permanent residents listed in Schedule 1 to this Instrument.

## **Part 3 —Transitional provisions**

### **7 Application of this instrument**

This instrument applies to nominations or standard business approvals lodged on or after commencement of this instrument.

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## Schedule 1 – Training Benchmarks and Training Requirements

### 1. Training Benchmarks

The business is not required to demonstrate that they are an industry leader in training.

The training benchmarks for an established business are:

#### **Training Benchmark A:**

Recent expenditure, by the business, to the equivalent of at least 2% of the payroll of the business, in payments allocated to a training fund that operates in the same or a related industry of the business.

*Recent expenditure for Training Benchmark A is defined as expenditure made in the previous financial year or the previous 12 months, as evidenced by a receipt for the payment or a letter from the relevant fund.*

Expenditure is not acceptable for the purposes of meeting this benchmark where made to:

- (a) training funds operated by Registered Training Organisations (RTOs) or private individuals; or
- (b) funds that allocate a percentage or part of the contributions received to commissions or offer refunds for failed immigration applications.

*Training funds* that may be used to meet the requirement of this benchmark are:

- (a) an industry training fund: that is, a statutory authority responsible for providing funding for training of eligible workers in certain industries;
- (b) a fund managed by a recognised industry body that provides training opportunities in their industry and quarantines contributions to the fund for training purposes only; or
- (c) a recognised scholarship fund operated by an Australian university or TAFE college only.

OR

#### **Training Benchmark B:**

Recent expenditure, by the business, to the equivalent of at least 1% of the payroll of the business, in the provision of training of employees of the business who are Australian citizens and Australian permanent residents.

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The business is also required to show that the provision of training is related to the purpose of the business.

***Recent expenditure for Training Benchmark B is defined as expenditure made in the previous financial year or the previous 12 months, as evidenced by a receipt for the payment(s) or a contract for employment of the relevant individual for whom salary payments are being included within expenditure that can count towards the benchmark.***

### ***Applicable expenditure***

Expenditure that can count towards this benchmark includes:

- a) payments for Australian employees to undertake a formal course of study, including any reasonable and necessary associated costs (e.g. costs of travelling to the training venue or access an online training programme);
- b) payments to RTOs to deliver face-to-face training to Australian employees that will contribute to an Australian Qualifications Framework qualification;
- c) purchase of an eLearning platform or standalone training software;
- d) payments to cover the salary of Australian employees:
  - engaged by the business as apprentices or trainees under a formal training contract, or
  - who
    - have completed an undergraduate or higher degree in a university within the last 2 years, and
    - are participating in a formal, structured graduate program for up to 2 years, or completing a professional year following their graduation;
- e) the salary of a person whose sole role is to provide training to Australian employees;
- f) expenditure to attend conferences for continuing professional development.

*Note: Australian employee is defined as an Australian citizen or Australian permanent resident.*

### ***Inapplicable expenditure***

Expenditure that cannot count towards this benchmark includes:

- (a) on the job training that is not otherwise identified above as applicable expenditure for Training Benchmark B;
- (b) training that is not relevant to the industry in which the business operates;
- (c) training undertaken by persons who are principals in the business or their family members;
- (d) training that has a very low skill level having regard to the characteristics and size of the business;
- (e) induction training;
- (f) staff salaries apportioned to time spent undertaking online or other training courses;

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- (g) purchase of software for use in normal duties;
  - (h) membership fees;
  - (i) purchase of books, journals or magazine subscriptions;
  - (j) attending conferences for purposes other than continuing professional development; and
  - (k) hiring a booth at a trades show, conference or expo.

**Definition of Payroll for Training Benchmark A and B**

The definition of “payroll” is either:

- (a) the total amount of the two payments specified below:
  - i. any wages, remuneration, salary, commission, bonuses, allowances, superannuation contributions or eligible termination payments, defined as wages in payroll tax legislation for the relevant State/Territory, that the applicant has paid to their employees during the same period; and
  - ii. payments made to contractors or subcontractors during the same period if work provided by the contractor is related to the service/product provided by the applicant,  
regardless of whether such payments are included for payroll tax purposes or not;

OR

- (b) if the applicant does not pay either of the types of payments specified above,
  - i. the total monetary values of the director’s salaries, fees and drawn payments;  
or
  - ii. the actual profit of the business