



# Enterprise Migration Agreements

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In response to the growing skilled labour shortage in Australia, the federal government announced the first approved Enterprise Migration Agreement (EMA) on Friday, 25 May for one of the Pilbara's largest mining projects, Roy Hill.

## What is an EMA?

Specific to the resources sector in Australia, an EMA is a deed of agreement between the Australian Department of Immigration and Citizenship (DIAC) and the resource project owner, allowing the project owner to bring in skilled foreign workers to Australia to work on the project.

The agreement is designed to act as an umbrella migration arrangement for a resource project to give the project certainty that it may engage foreign workers under the 457 visa program if needed.

Each EMA is to be custom designed between the project owner and the DIAC and set out the number of foreign workers who may be engaged on the project. Contractors, who directly employ the workers, will then sign template labour agreements subordinate to the EMA.

## Who can apply for an EMA?

At this point in time, EMA's only apply to mega resource projects. This means projects with more than AUD\$2 billion of capital expenditure and a peak work force of more than 1500 workers. Further requirements include a demonstration of genuine attempts to employ Australian workers first, a commitment to training Australians and employing foreign workers under Australian wage standards and conditions.

## Roy Hill project (Roy Hill)

Roy Hill Holdings Pty Ltd (a subsidiary of Hancock Prospecting Pty Ltd), is leading the AUD\$9 billion Roy Hill iron ore project in the Pilbara region of Western Australia.

Roy Hill is expected to require more than 8000 workers and the EMA provides that up to 1715 foreign workers may be employed during the initial three year construction phase.

Roy Hill Holdings (and its contractors) will be required to:

- demonstrate effective and ongoing local recruitment efforts in Australia; and
- include 2000 training places for Australians (made up of 200 apprenticeships/traineeships and 1800 up skilling programs).

Contractor employers will need to comply with their sponsorship obligations under the 457 visa program and the requirements of the *Worker Protection Act 2008*.

The announcement of the first EMA has brought with it much debate regarding the necessity of bringing in foreign workers, the accuracy of claims of skills shortages and if the EMA's should be limited to mega resource projects.

The government has announced that a central jobs board will be created to provide Australians with the opportunity to apply for positions.

### What next?

EMA's are designed to provide a strategic practical solution to a complex skilled labour shortage issue in Australia.

They provide project financers with the confidence that major Australian projects will be resourced with the skilled workers needed; project owners (and their contractors) with certainty and less red tape; and workers with unique employment opportunities.

In Australia over the next few years, there are numerous mega resource projects which may be eligible for an EMA.

### Did you know?

The Minister for Immigration and Citizenship, Chris Bowen has also announced the introduction of a 'Significant Investor Visa' in the 2012-2013 program year. The visa aims to attract successful investors and entrepreneurs to Australia by making concessions on visa requirements.

The Significant Investor Visa will target migrants who are able to make an investment of a minimum of AUD\$5 million to the Australian economy.

The overarching goal is to create new source of funds for investment capital and job growth in areas such as financial planning, fund administration, stockbroking, accounting and fund management.

## How we can help?

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Our business immigration team, lead by Partner and Registered Migration Agent (MARN1174849), Andrew Burnett, provides immigration advice to a wide range of Australian and international clients, including inbound companies looking to establish businesses in Australia.

Squire Sanders is a top 20 global law firm; we have an excellent global immigration capability in North America, Asia and all of Europe. For all other jurisdictions we work closely with a well established network of immigration advisers.

The Squire Sanders team can assess and provide advice on the skilled migration options available to your business. Contact the team today to find out how they can support you through the application process.

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