

Designated Area Migration Agreement AMSR and TSMIT requirements

Annual Market Salary Rate (AMSR) and Temporary Skilled Migration Income Threshold (TSMIT)

Employers seeking to sponsor an overseas worker under a Designated Area Migration Agreement (DAMA) must meet certain salary and employment condition requirements. These requirements help to ensure that:

- overseas workers are paid no less than an Australian worker would doing the same work in the same location - that is, the 'annual market salary rate (AMSR); and
- the DAMA program does not undercut the Australian labour market.

The AMSR for the nominated occupation and the guaranteed annual earnings the overseas worker will be paid must be at least as much as the Temporary Skilled Migration Income Threshold (TSMIT). TSMIT is currently \$73,150.

In some cases a salary concession ("reduced TSMIT") is approved for occupations nominated under a DAMA. Any applicable concessions will be detailed in the DAMA labour agreement.

If the overseas worker will be paid an annual salary less than \$250,000 employers need to show:

- they have determined the AMSR correctly;
- the overseas worker will not be paid less than the AMSR, that is, less than an Australian worker would be paid doing the same work in the same location; and
- the AMSR and the overseas worker remuneration, is no less than TSMIT (or reduced TSMIT where a concession is approved).

How to determine the AMSR

To determine the AMSR, consider what an equivalent Australian worker would be paid to undertake the same role. This information may come from enterprise agreements or industrial awards, job outlook information, advertisements for the last 6 months in the same location, remuneration surveys, existing employee records, or advice from unions or employer associations.

Employers nominating overseas workers under a DAMA must show The Department of Home Affairs (the Department) how AMSR has been determined and provide supporting documents.

Scenario 1: Where there is an equivalent Australian or permanent resident worker

The AMSR equals what an employer is paying an Australian worker to undertake the same role.

If the worker's salary is based on an enterprise agreement or industrial award, the employer needs to provide:

- the name of the agreement or award as recorded by the Fair Work Commission where applicable;
- the salary level or occupation group that applies to the nomination.

If there is no relevant agreement or award, or the employer is paying their Australian workers above the award rate, the employer needs to provide:

- an explanation of salary arrangements, and
- copies of relevant employment contracts, and
- pay slips for the equivalent Australian worker.

Note: An Australian worker who is more or less experienced than the nominee and/or does similar work at a different pay grade is not considered equivalent to the nominee. The Department cannot approve a nomination if the nominated overseas worker will be paid less than the equivalent Australian worker, or if only generic market salary data or salary surveys are provided.

Scenario 2: Where there is no equivalent Australian or permanent residence worker and -

a. There is an enterprise agreement or industrial award

The employer is required to provide:

- the name of the agreement or the award as recorded by the Fair Work Commission; and
- the salary level or occupation group that applies to the nomination occupation.

b. There is not an enterprise agreement or industrial award

The employer must determine and then demonstrate to the Department what the ASMR is.

This can be achieved by explaining how relevant information was used to determine what the equivalent Australian worker would be paid. Relevant information must include at least two of the following:

- Job Outlook information;
- advertisements from the last six months for equivalent positions in the same location (e.g. state, urban vs regional area);
- remuneration surveys completed by a reputable organisation; or
- written advice from unions or employer associations.

Note: If the market salary rate determined is a 'range', the employer needs to explain and provide specific details regarding why the particular ASMR has been selected.

DAMA Labour Agreement Examples

Key criteria for DAMA employers in relation to TSMIT and ASMR:

1. An overseas worker must be paid at least TSMIT; and
2. An overseas worker must also be paid at least AMSR (overseas workers cannot be paid less than equivalent Australian workers)

An overseas worker can be paid more than an equivalent Australian worker as long as their earnings are more than TSMIT (meets both criteria above)

If the equivalent Australian worker earnings (AMSR) is less than TSMIT (\$73,150), the Australian worker must also be paid at least TSMIT. In order to meet both criteria 1 and 2 above, this may require an employer to 'top-up' their Australian workers' earnings.