

**MALAYSIA – AUSTRALIA FREE TRADE AGREEMENT (MAFTA)**

**SCHEDULES OF MOVEMENT OF NATURAL PERSONS COMMITMENTS**

**SCHEDULE OF AUSTRALIA**

1. Australia's commitments under Article 8.3 (National Treatment) and Article 8.5 (Market Access) of Chapter 8 (Trade in Services), and under Chapter 11 (Movement of Natural Persons), in relation to the supply of a service by a service supplier of Malaysia through presence of natural persons of Malaysia in the territory of Australia, apply only in relation to the categories of persons set out below.

2. In accordance with Articles 8.3 (National Treatment) 8.5 (Market Access) and 8.6 (Schedules of Specific Commitments) of Chapter 8 (Trade in Services), for the categories of persons set out in this Schedule, Australia specifies below any terms, conditions, limitations or qualifications in relation to the supply of a service by a service supplier of Malaysia through the presence of natural persons of Malaysia in the territory of Australia.

Sector or Sub-Sector	Description of Category	Conditions and Limitations (Including Length of Stay)
<p><i>For all categories of persons listed below except business visitors that are investors, employees of investors or goods sellers: all sectors listed in the Australian Schedule under Annex 3 (Schedules of Specific Services Commitments).<sup>1,2</sup></i></p> <p><i>For business visitors that are investors, employees of investors or goods sellers: all sectors.</i></p>	<b>(A) Intra-Corporate Transferees</b>	<p>Entry and stay of such natural persons is subject to employer sponsorship. Employer sponsorship requirements for this category include minimum skill levels in a gazetted occupation and sponsorship by a bona fide business operating lawfully and actively in Australia. Employer sponsorship requirements may change from time to time. Full details of employer sponsorship requirements, including the list of gazetted</p>
	<p>(i) Executives and senior managers being natural persons who are employees of a business of Malaysia operating in Australia, and who will be responsible for the entire or a substantial part of the business' operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the business, including directing the business or a department or</p>	

<sup>1</sup> In relation to maritime cargo handling services, there is an additional requirement for shore labour to undertake loading and unloading of ships under the *Navigation Act 1912*.

<sup>2</sup> In relation to private hospital services (CPC 93110\*\*), restrictions apply under the *Health Insurance Act 1973* (the Act) in relation to access to payments under Australia's national health insurance scheme (Medicare) for the supply of services by an 'overseas trained doctor' or 'foreign graduate of an accredited medical school', both as defined in the Act.

Sector or Sub-Sector	Description of Category	Conditions and Limitations (Including Length of Stay)
	<p>subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the business.</p>	<p>occupations, are available on the website of the Australian Government department responsible for immigration matters. (As at the date of entry into force of this schedule, the address of that website was <a href="http://www.immi.gov.au">www.immi.gov.au</a>)</p> <p>Entry is for an initial period of stay of up to four years, with provision for extensions up to a maximum stay of 14 years.</p>
	<p>(ii) Specialists being natural persons who are employees of a business of Malaysia operating in Australia, and who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the business' service, research, equipment, techniques, or management, and who have been employed by the employer for not less than two years immediately preceding the date of the application for temporary entry. A specialist may include, but is not limited to, members of a licensed profession.</p>	<p>Entry and stay of such natural persons is subject to employer sponsorship by the employing business. Employer sponsorship requirements for this category include an assessment that the natural person seeking entry has the necessary qualifications, skills and work experience accepted by the relevant authority as meeting the Australian standards for his or her nominated occupation, which must fall within the list of gazetted occupations.</p> <p>Employer sponsorship requirements may change from time to time. Full</p>

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		<p>details of employer sponsorship requirements, including the list of gazetted occupations, are available on the website of the Australian Government department responsible for immigration matters. (As at the date of entry into force of this schedule, the address of that website was <a href="http://www.immi.gov.au">www.immi.gov.au</a>)</p> <p>Entry is for periods of stay up to two years, with provision for an extension.</p>
<b>(B) Independent Executives</b>		
	<p>Independent executives being natural persons whose work responsibilities match the description set out below and who intend, or are responsible for, the establishment in Australia, of a new business of a service supplier which has its head of operations in the territory of Malaysia and which has no other representative, branch or subsidiary in Australia. Independent executives will be responsible for the entire or a substantial part of</p>	<p>Entry and stay of such natural persons is subject to employer sponsorship. Employer sponsorship requirements for this category include minimum skill levels in a gazetted occupation and sponsorship by a bona fide overseas business or by a State or Territory Government of Australia. Employer sponsorship requirements may change from time to time. Full details of employer sponsorship requirements, including the list of gazetted occupations, are</p>

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	<p>the business' operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the business, including directing the business or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the business.</p>	<p>available on the website of the Australian Government department responsible for immigration matters. (As at the date of entry into force of this schedule, the address of that website was <a href="http://www.immi.gov.au">www.immi.gov.au</a>)</p> <p>Entry is for periods of stay up to a maximum of two years.</p>
	<b>(C) Business Visitors</b>	
	<p>Business visitors being natural persons seeking to travel to Australia for business purposes whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia and who must not engage in making direct sales to the general public or in supplying the services themselves. Business visitors comprise:</p>	
	<p>(i) Service sellers, as business visitors being natural persons not based in Australia who are (sales) representatives of a service supplier and are seeking temporary entry</p>	<p>Entry is for an initial stay of six months and up to a maximum of 12 months.</p>

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	for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplier.	
	(ii) Business visitors, being natural persons seeking to travel to Australia for the purpose of participating in business negotiations or meetings.	Entry is for periods of stay up to a maximum of three months.
	(iii) Business visitors, being natural persons who are investors of Malaysia or employees of an investor (who are senior managers, executives or specialists whose work responsibilities match those set out in (A)(i) and (ii) above) seeking temporary entry to establish an investment.	Entry is for periods of stay up to a maximum of three months.
	(iv) Business visitors, being natural persons of Malaysia who are seeking entry for the purposes of negotiating the sale of goods where such negotiations do not involve direct sale to the general public.	Entry is for periods of stay up to a maximum of three months.

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	<p><b>(D) Contractual Service Suppliers</b></p> <p>Contractual service suppliers (including independent professionals/ specialists).</p> <p>Contractual service suppliers (CSS) being natural persons with trade, technical or professional skills.</p>	<p>Entry and stay of such natural persons is subject to employer sponsorship. Employer sponsorship requirements for this category include sponsorship by a bona fide overseas business or business operating lawfully and actively in Australia and a contract for the supply of a service within Australia. That business must have employed the natural person seeking entry and must intend that person to assist in fulfilling its Australian services contract. The natural person seeking entry must be assessed as having the necessary qualifications, skills and work experience accepted as meeting the Australian standards for his or her nominated occupation, which must fall within the list of gazetted occupations. Employer sponsorship requirements may change from time to time. Labour market testing may be required for some occupations, to the extent that this is not inconsistent with Australia's commitments</p>

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		<p>under the WTO. Full details of employer sponsorship requirements, including the list of gazetted occupations, are available on the website of the Australian Government department responsible for immigration matters. (As at the date of entry into force of this schedule, the address of that website was <a href="http://www.immi.gov.au">www.immi.gov.au</a>)</p> <p>Entry is for periods of stay up to 12 months, with provision for an extension.</p>
	<b>(E) Spouses</b>	
	<p>Spouses of temporary entrants covered by (A), (B) and (D) are accorded full working rights where stay of those temporary entrants is at least 12 months.</p>	<p>For such spouses, entry and stay is for the same period as for the temporary entrant.</p>