

E-3 Visa Category for Australian Professionals

The E-3 visa permits Australian citizens to travel to the United States to work in “Specialty Occupations”. A specialty occupation is one that requires:

- A theoretical and practical application of a body of specialized knowledge; and
- The attainment of a bachelor’s or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Acquiring an E-3 Status within the U.S.

An employer may file a petition with the United States Citizenship and Immigration Service (USCIS) to apply for a change of status to obtain E-3 nonimmigrant temporary worker classification. The employer’s petition must include a Labor Condition Application (LCA) certified by the US Department of Labor.

Acquiring an E-3 Status from Abroad

If the E-3 beneficiary is outside the United States, an E-3 petition with USCIS is not required. The employer must process a Labor Condition Application (LCA) with the US Department of Labor. The E-3 beneficiary then applies for an E-3 visa at the US Consulate or embassy abroad using the LCA and other supporting documents (See E-3 Checklist).

Admission to the U.S.

Australian citizens can be admitted to the United States in E-3 status in increments of up to 2 years. Extensions of stay are also granted in up to 2-year increments. Status can be renewed indefinitely, **provided that the stay remains temporary in nature.**

Upon admission to the U.S. Form I-94 will be issued for the Australian E-3 professional. The Form I-94 and passport should be annotated with the appropriate date and port-of-entry information, the classification in the E-3 category; and an expiration date of up to two years from the date of admission.

Employment

An E-3 nonimmigrant may be employed on a part time or full time basis and may not start employment until they are actually in E-3 status, that is, when an E-3 petition is approved on their behalf and the start date has been reached; or when they have been admitted to the US in E-3 status.

E-3 status is employer and employment specific. Therefore, E-3 status holders may change jobs, but USCIS must approve new employment, and the new employment cannot begin until the USCIS approves the employer’s petition and the petition start date is reached, or the E-3 reenters the United States, with an I-94 issued for the new job.

International Travel

Travel outside of the U.S. while a change of nonimmigrant status is pending with USCIS is considered to be an abandonment of the application. Travel outside the U.S. while an extension of stay application is pending with USCIS is not considered an abandonment of the application, but may present problems, depending on timing. Therefore any plans to travel abroad while a petition is pending with USCIS must be discussed with the immigration advisor.

Dependents

Dependents of E-3 status holders (spouse and unmarried children under the age of 21) are admitted in E-3D status. E-3D dependents may attend school part or full time. An E-3D dependent spouse can apply for an employment authorization Document (EAD) with the USCIS on form I-765 to work in the U.S. E-3D dependents need not be Australian.

Address Notification

In accordance with the Department of Homeland Security regulations, all foreign nationals are required to notify the United States Citizenship and Immigration Services (USCIS) of a change of residential address within 10 days of the change by completing Form AR-11 found on the USCIS website at: <http://www.uscis.gov/portal/site/uscis>.

For more information about the E3 visa category, see the Department of State website at: <http://canberra.usembassy.gov/e3visa/additional.html>