



## FOREIGN PLAYER & COACH POLICY

*Effective from 1 November 2015*

***DISCLAIMER: Foreign Player & Coach Policy not immigration or legal advice***

The content of this Policy is intended only to provide a summary and general overview on matters of interest. It is not intended to be comprehensive nor does it constitute immigration or legal advice. Basketball Australia (**BA**) attempt to ensure that the content of this Policy is current but we do not guarantee its currency. You should seek legal or other professional advice (including but not limited to specialised advice from a registered migration agent) before acting or relying on any of the content of this Policy. BA is not responsible to you or anyone else for any loss suffered in connection with the use of this Policy. BA makes no warranties or representations about this website or any of the content. We exclude, to the maximum extent permitted by law, any liability which may arise as a result of the use of this Policy. Where liability cannot be excluded, any liability incurred by us in relation to the use of this Policy is limited to the extent provided for by the Australian Consumer Law (Schedule 2 of the Competition and Consumer Act 2010). To the extent permitted by law, we will not be liable for any indirect, incidental, special or consequential loss.

Under the Migration Act 1958 (Act), a person who is not a registered migration agent must not provide immigration assistance as defined by the Act. Whilst BA might be able to provide some assistance, including performing clerical duties in order to lodge endorsement or visa applications with the Department of Immigration and Border Protection (DIBP), BA is not permitted to provide you with specific immigration assistance or advice.

## **Introduction**

Basketball Australia (**BA**), has developed the “Basketball Australia Foreign Coach and Player Policy” (**Policy**) to assist clubs who wish to sponsor a foreign player/coach to participate in Australia.

BA considers that Australian citizens or permanent residents of Australia, should be given preference where equal ability and qualifications exist. However, allowing foreign players and coaches to participate in Australian basketball competitions assists the development of the sport, whilst at the same time encouraging and allowing Australians to compete at the elite level.

Whilst BA will endeavour to keep this Policy current, visa requirements and procedures may be amended or extended by the (**DIBP**) from time to time without notice to BA. BA advises those subject to this Policy to discuss the required procedures with BA and DIBP as required. This Policy is not a substitute for legal advice and the law is always the minimum standard that must be adhered to.

### **1. Who does the Policy apply to?**

Any non-Australian citizen participating in the following leagues either as a Player or Coach must comply with BA’s Foreign Coach and Player Policy. Basketball Club and/or Associations will be required to complete a BA Foreign Players Application Form. Note that there are fees payable to both BA and FIBA Oceania. The relevant leagues are:

1. National Basketball League (**NBL**) & Women's National Basketball League (**WNBL**)
2. South East Australian Basketball League
3. State Leagues (All Divisions):
  - Waratah
  - SA Premier League
  - Big V
  - QBL
  - WA SBL

The Policy also covers any BA member (where relevant) but particularly basketball players or coaches who may play or coach at any level of basketball in Australia where they receive payment for their basketball services.

### **2. FIBA Oceania Foreign Players Licence**

All Foreign Players in Oceania must be in receipt of a FIBA Foreign Players Licence before participating in any FIRST OR SECOND DIVISION NATIONAL COMPETITION.

A Foreign Player is a male or female who wishes to play in the first (NBL, WNBL) or second division (SEABL, Waratah, SA Premier League, Big V, QABL, SBL) club competition and who is not an Australian citizen. All such players must hold a Foreign Player Licence to allow them to participate in the aforementioned leagues..

A Foreign Players Licence is valid for one (1) season, but a new licence is required if the player changes Clubs in the same country or changes to a Club in another country during the same season. A player may play in two (2) countries within Oceania during the same year/season, subject to these regulations, but in no case can the player be registered by two (2) National Basketball Federations at the same time.

The FIBA Oceania Regional Director is responsible for the registration and control of all foreign players who participate in Oceania and will issue the appropriate licences.

FIBA Oceania will not issue a Licence without BA Approval.

### **3. Approved Visas**

All clubs need to select an appropriate visa that will allow their overseas player the ability to play basketball in Australia.

Visa information can be accessed via the DIBP website [www.border.gov.au](http://www.border.gov.au)

### **4. Immigration Process**

From 1 November 2015 it is the responsibility of all basketball clubs seeking to sponsor overseas basketball players to manage the visa process directly with DIBP.

The Temporary Work (Long Stay Activity) visa (subclass 401) sport stream might be an appropriate visa for sports people who are participating in an event or series of events or are under contractual arrangements to play, coach or instruct for an Australian sporting team. To be eligible for a subclass 401 visa the applicant must be sponsored and nominated by a sporting organisation lawfully operating in Australia. The subclass 401 also allows for the entry of individual and team support staff.

Clubs must apply to become an approved Long Stay Activity Sponsor, and then lodge a nomination for each player they seek to sponsor.

Further information on the subclass 401 visa including how to apply is available on the DIBP website [www.border.gov.au/Trav/Visa-1/401-](http://www.border.gov.au/Trav/Visa-1/401-)

BA is available to give support and/or guidance, but will no longer receive the applications and send to DIBP on behalf of the clubs. BA will provide a letter of endorsement certifying that the overseas player has the ability to play or coach at the Australian national level and that the overseas player or coach will benefit the sport in Australia through their participation.

In the event that a subclass 401 visa is granted, clubs will need to forward a copy of the visa grant notification to Basketball Australia for final approval which will be sent to FIBA Oceania or relevant State Association.

## **5. Legal and FIBA Requirements**

Players must have their Visa granted prior to participating in any competition (whether it be Pre-Season Games or Season Games).

An overseas person may hold a different visa that allows them to work in Australia (other than in sport) and this may also allow them to participate in one of the leagues subject to this policy. Depending on the type of visa, the player/coach may not be able to receive any reimbursement or payment for participating in the League.

Where a person does not hold a Temporary Work (Skilled) visa (subclass 457) or a subclass 401 visa, Clubs must ensure that they make appropriate enquiries to determine the type of visa a player or coach holds if it allows the visa holder to undertake work and whether that person may receive any payment. BA may require evidence that a player or coach is eligible to participate in the relevant League and of the terms of that participation. Penalties may apply to Clubs if a participant is ineligible or if the terms of such participation are inappropriate.

It remains the responsibility of the overseas player to ensure that they do not breach the conditions of their respective visa.

Further, as per the above, any overseas player or permanent resident of Australia competing in the NBL, WNBL, SEABL or State League Championship division requires a FIBA Oceania Licence.

Please contact BA for any queries regarding international clearances. Queries regarding FIBA Oceania Licences should be directed to the FIBA Oceania office. The FIBA Oceania Office contact details are as follows:

FIBA Oceania  
Suite 1801, Level 8, Tower 1  
56 Scarborough Street  
Southport QLD 4215

PO BOX 3305  
Australia Fair Post Shop  
Southport, QLD 4215

info-oceania@fiba.com

## **6. BA – Applications and Remuneration**

As at the date of this Policy, all Subclass 401 Sponsorship and Nominations for players or coaches must be lodged and processed by the DIBP Hobart Office. All Subclass 401 Visa applications for players or coaches who are in Australia at time of lodgement must also be processed by the DIBP Hobart office. These are paper applications and must be mailed to the Hobart office (details of the mailing address can be found at [www.border.gov.au/Trav/Visa-1/401-](http://www.border.gov.au/Trav/Visa-1/401-) ). Subclass 401 Visa applications for players or coaches who are outside of Australia at time of lodgement must apply at their nearest overseas Immigration office (details can be found at [www.border.gov.au/Trav/Visa-1/401](http://www.border.gov.au/Trav/Visa-1/401) ).

Subclass 457 and Work & Holiday Visa (Subclasses 462) are lodged online via the DIBP website at: <http://www.border.gov.au/Trav/Visa/App> [www.border.gov.au](http://www.border.gov.au)

The subclass 401 visa nomination requires a letter of endorsement from the National Sporting Organisation. Clubs will need to apply to BA requesting a Foreign Players Endorsement letter, which will only be granted if clubs supply a copy of passport and player resume with BA Application Form. If BA believes the player meets the below criteria it will then issue the club with the letter of endorsement. Provision of a letter of endorsement is at BA's sole discretion.

BA shall only endorse a visa nomination application where:

- (i) in the case of a player, the Club demonstrates to BA that the player possesses a minimum of five year's experience, at least two years of which should be in the US or Canadian College system (NCAA, NAIA, NJCAA, CCAA) or any Professional League worldwide;
- (ii) in the case of a coach, the Club demonstrates to BA that the coach:
  - (a) holds a post-secondary qualification requiring a minimum of three years full-time study in a relevant discipline (such as physical education) and/or an equivalent coaching qualification acceptable to BA;
  - (b) has had, within the last seven years, at least five years professional employment as a coach in a high school or NCAA program, or in a comparable league competition (for nominees from both the USA, Europe or elsewhere);

However, BA reserves its right to depart from the above criteria in exceptional circumstances; or withdraw support for a player or coach for any reason including, but not limited to:

- (i) if that person acts in a manner that brings BA, a League or the sport of basketball into disrepute; or
- (ii) if that person acts in a manner prejudicial to the interests of BA, a League or the sport of basketball.

Once all visa's are granted, all clubs will need to send a copy of the Grant Notification for final BA Approval. Please note FIBA Oceania will not issue a FIBA Oceania Licence until they receive approval from BA.

## **7. International Clearance**

In addition to the Australian visa requirements, any overseas player participating in Australia may also require an International clearance; this is a FIBA rule. This clearance needs to be obtained from the last country where the athlete competed. All International Clearances need to be obtained through BA. Players coming to Australia straight from US College need to seek clearance direct with USA Basketball.

## **8. Oceania Born Players outside of Australia**

Dependent on the by-laws relating to each state based competition, Players who have citizenship from any of the FIBA Oceania members (as defined in the FIBA Regulations [Bk 3 Chap 1 #'s 10-36] may be allowed to play without being considered “foreign” or “restricted” in terms of competition eligibility. All Oceania Born players outside of Australia still need to obtain a FIBA Oceania Foreign Player licence before participating for their club. Please note this rule is currently in discussion and subject to change.

## **9. Permanent Residents/Refugee**

Players who hold Permanent Residency are classified as un restricted players in Basketball Australia managed competitions (i.e. WNBL & SEABL). Evidence of Permanent Residency needs to be lodged with Basketball Australia for approval prior to participating in any Basketball League within Australia.

Please note : Permanent Residents playing in State League need to check with respective league administrators on Permanent Residency rulings.