



## **Global Employer Services: Australian Newsflash** Abolishment of 457 visa program

Prime Minister Malcolm Turnbull has today announced the abolishment of the subclass 457 visa program. This announcement follows lengthy reviews and in-depth analysis of the subclass 457 visa program over recent years, and has been labelled as a government strategy to put 'Australians first'. The changes to the immigration program focus on Australian companies filling jobs with local talent before looking to foreign talent to fill those roles.

Whilst specific legislation changes are yet to be released, it has been confirmed that the current subclass 457 visa program will be replaced with a new program for temporary skilled migrants, the Temporary Skill Shortage (TSS) visa. The TSS visa will be specifically designed to recruit "the best and brightest", with more stringent eligibility thresholds and significant changes to the way these visa holders can transition to permanent residence.

The implementation of these reforms will begin immediately and will be completed by March 2018. Implementation of the changes will be phased as follows:

### **Changes introduced from 19 April 2017**

- The Consolidated Sponsored Occupation List (CSOL) will be renamed the Short-term Skilled Occupations List (STSOL) and will be updated every six months based on advice from the Department of Employment
- The existing CSOL occupation list will be significantly condensed from 651 to 435 occupations, with 216 occupations removed and access to 59 other occupations restricted
- The Skilled Occupations List (SOL) will be renamed the Medium and Long-term Strategic Skills List (MLTSSL)
- The maximum duration of subclass 457 visas issued from 19 April 2017 for occupations that are on the STSOL will be two years. Occupations on the MLTSSL will continue to be issued for a maximum duration of four years
- It is important to note that current subclass 457 visas will remain in effect. However, applicants who have submitted a subclass 457 visa application prior to 18 April 2017, which has not yet been approved and whose nominated occupation was removed from the STSOL will be ineligible for the subclass 457 visa. A refund of application fees may be requested

### **Changes introduced from 1 July 2017**

- Occupation lists will be further reviewed based on advice from the Department of Employment, as well as outcomes from the Department of Education and Training's 2017-18 SOL review
- The current English language salary exemption threshold, which exempts applicants whose salary is over \$96,400 from the English language requirement, will be removed
- Policy settings about the training benchmark requirement of sponsoring employers will be revised and clarified in legislative instruments
- Provision of penal clearance certificates will become mandatory for all applicants in this visa program

### **Changes introduced by 31 December 2017**

- Greater data-matching between the Department of Immigration and Border Protection (DIBP) and the Australian Taxation Office (ATO) will commence, including collection of Tax File Numbers by the DIBP and verification that sponsored employees are paid per the salary in their nomination application
- The DIBP will begin to publish details of sponsoring companies sanctioned for failing to meet their sponsorship obligations and other immigration legislation

### **Changes introduced from March 2018**

- The subclass 457 visa will cease to exist and will be replaced by two visa streams under the TSS:
  - a short-term stream of two years with the capacity for only one onshore visa renewal. This stream will not lead to permanent residence
  - a medium-term stream of four years, with the capacity for visa renewal onshore and a permanent residence pathway after three years
- Government lodgement fees to increase considerably (\$1,150 for the short term visa, \$2,400 for the medium-term visa) from those charged under the current Subclass 457 visa program

- The threshold level of experience required by visa applicants to be increased – all applicants must have at least two years' experience in their skilled occupation
- A greater focus to be placed on using the new visa to fill gaps in regional employment – several concessions will be available to regionally sponsored applicants
- Labour Market Testing (LMT) to be mandatory unless an international obligation applies
- The introduction of strengthened training requirements for all sponsoring employers

### **Changes to permanent residence**

Pathways to permanent residence under the subclass 186 ENS and subclass 187 RSMS visa categories are also set to be greatly impacted, with the following significant changes:

- New applicants to be impacted by the changes to CSOL and transition to the STSOL effective from 19 April 2017
- Tightening of English language proficiency requirements from 1 July 2017
- From March 2018, a requirement for applicants to have at least three years' work experience before they are eligible for permanent residence
- The permanent residence eligibility period will increase from two years to three years
- From 1 July 2017, applicants under the Direct Entry Stream must be under 45 years of age at the time of application. Applicants under the Temporary Residence Transition stream will continue to have a maximum age requirement of 50 at time of application. All applicants must be under the age of 45 to be eligible to apply for either stream of ENS or RSMS from March 2018

## **Deloitte's view**

These fundamental changes to Australia's immigration framework will create significant uncertainty for businesses in the short term. There are immediate ramifications of these changes on businesses who access top talent or utilise the program to fill skills shortages with foreign nationals. These changes will affect both subclass 457 visa applications currently under consideration with DIBP and future applications for existing Subclass 457 visa holders.

We also note that there will be a tightening of LMT and Deloitte is hopeful that intra-company transfers will fall under an exempt category. In many cases, intra-company transfers are fundamental to the success of a business, via the transfer of skills and knowledge to local employees not readily available in Australia.

Deloitte support measures which enhance the integrity of the Australian immigration program and met the needs of Australian businesses. The changes announced today still provide Australian companies with a genuine need to employ foreign labour a pathway to do so under the new TSS visa program. We look forward to understanding the finer details behind this announcement, when the legislation is released by Government.

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