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## **Australia: July 1, 2017 changes to Australia's skilled migration programs**

### **Overview**

On April 18, 2017, the government announced a series of reforms to the temporary and permanent skilled migration programs. The second phase of these changes came into effect on July 1, 2017.

The main changes are summarized below.

### **Changes to list of eligible skilled occupations**

From July 1, 2017, 36 occupations have been added to the lists and there has been some movement of occupations between the short-term skilled occupation list (STSOL) and the medium- or long-term skilled occupation list (MLTSOL). In addition, 12 occupations have been removed.

The new list of eligible skilled occupations will apply for all 457 applications lodged on or after July 1 and applications currently under consideration by the Department of Immigration and Border Protection (DIBP).

For visa categories other than 457 who use the skilled occupations lists, for example, employer nomination scheme (ENS) – direct entry, the revised lists will only apply to applications lodged on or after July 1.

### **Character requirements**

All 457 applications lodged on or after July 1, must be accompanied by relevant penal checks. A police clearance certificate is required for each country the applicants have lived in, for a cumulative total of 12 months or more, during the last 10 years (since turning 16 years of age). In addition, military record or discharge papers are required for service in the last 10 years, as well as police certificates from the countries of service.

### **English language exemptions**

The English language salary exemption threshold will not be available for 457 applications lodged on or after July 1. The other English language exemptions will continue to apply.

In addition, applicants who are an employee of an overseas business coming to Australia to work for that company and have a nominated base rate of pay of at least AUD \$96,400 will be exempt from the English language requirement.

### **Mandatory skills assessments**

According to the Department of Education and Training's Trades Recognition Australia, 457 skills assessment program will be expanded to include passport holders from Bangladesh, Nepal and Pakistan applying for a subclass 457 visa or permanent skilled migration in the occupations of chef and cook. This will apply only to 457 applications lodged on or after July 1.

### **Training benchmark**

As previously advised, from March 2018 the training benchmark will be replaced by a requirement to pay the Skilling Australians Fund. The training benchmark requirements will be specified in an instrument instead of policy from July 1. The instrument is designed to improve the integrity of the current requirements, for example, by defining payroll and clarifying acceptable versus nonacceptable training expenditure. This instrument will apply to sponsorship applications lodged on or after July 1.

### **Sponsorship accreditation**

The requirements to become an accredited standard business sponsor will be expanded from July 1 to provide a larger number of lower-risk sponsors' access to accreditation and the associated benefits. The new accreditation characteristics are divided into four categories. Each category relates to a distinct type of standard business sponsor:

- **Category 1:** Australian government agencies
- **Category 2:** Approved Australian trusted traders
- **Category 3:** "Low risk" with low-volume usage of the 457 program and at least 90% Australian workers
- **Category 4:** "Low risk" with high-volume usage of the 457 program and at least 75% Australian workers

Sponsors must meet all the requirements for standard business sponsorship and additional characteristics to qualify for accredited status. The additional evidentiary documentation requirements differ depending upon the category of accreditation being sought.

### **Permanent residence under the ENS and regional sponsored migration scheme (RSMS)**

The relevant changes to ENS and RSMS that will come into effect on July 1 are:

- English language requirement will change to "competent" (IELTS 6.0) for all applications.
- The English language and skills assessment exemptions for both ENS and RSMS have been removed for applicants who have nominated earnings at least equivalent to the current Australian Taxation Office top individual income tax rate (AUD \$180,001). This will also apply to applications lodged before July 1, 2017 that

have not been finally determined. Please note that DIBP did not consult on this particular change, as they believe the amendments do not substantially alter existing arrangements.

- Age limit of 45 for direct-entry applicants.
- Evidence must be submitted to demonstrate a 'genuine need' for the person to work in the nominated position.
- The nominee must be identified in the nomination application.
- ENS direct entry will be affected by changes to the skilled occupation lists.
- RSMS and the ENS temporary residence transition stream are not currently affected by occupational lists.
- Temporary residence transition stream will remain unchanged until March 2018. Proposed changes and transitional arrangements are yet to be announced.

### Visa application charges

There will be an increase in the visa application charge for applications lodged on or after July 1. The below tables summarize the charges for Subclass 457 and Subclass 186 applications:

#### Subclass 457 visa

	Pre-July 1 fees – single applicant	Post-July 1 fees – single applicant	Pre-July 1 fees – 2 adults and 2 children (under 18)	Post-July 1 fees – 2 adults and 2 children (under 18)
Visa application for main applicant and dependents over 18	\$1,060	\$1,080	\$1,060 x 2 (\$2,120)	\$1,080 x 2 (\$2,160)
Visa application for dependent applicant aged under 18			\$265 x 2 (\$530)	\$270 x 2 (\$540)
<b>Grand total</b>	<b>\$1,060</b>	<b>\$1,080</b>	<b>\$2,650</b>	<b>\$2,700</b>

#### Subclass 186 Visa

	Pre-July 1 fees – single applicant	Post-July 1 fees – single applicant	Pre-July 1 fees – 2 adults and 2 children (under 18)	Post-July 1 fees – 2 adults and 2 children (under 18)
Visa application for main applicant and dependents over 18	\$3,600	\$3,670	\$3,600 x 2 (\$7,200)	\$3,670 (\$7340)
Visa application for dependent applicant aged under 18			\$900 x 2 (\$1,800)	\$920 x 2 (\$1,840)
<b>Grand total</b>	<b>\$3,600</b>	<b>\$3,670</b>	<b>\$9,000</b>	<b>\$9,180</b>

\*\* Please note that the charges detailed above exclude the credit card surcharge imposed by DIBP.

### New Zealand pathway

New Zealand citizens who were usually resident in Australia on or before February 19, 2016 as the holder of a New Zealand special category visa and who have resided in Australia for at least five years may be eligible to apply for permanent residence under a new pathway within the skilled independent visa.

New Zealand citizens who are granted this visa will be eligible to apply for Australian citizenship after a period of 12 months.

### Deloitte's view

Deloitte has undertaken extensive consultation with the Australian government since the abolition of the Subclass 457 visa was announced in April 2017. We are pleased that the government has responded to the concerns regarding the

removal of a number of skilled occupations where a genuine shortage of skills exist in Australia. In addition, the movement of occupations from the STSOL to the MLTSOL responds to business concerns regarding the time required to transfer skills and knowledge. The introduction of some flexibility for intracompany transfers with respect to the English language requirement is recognition of the importance of multinational corporates being able to transfer talent on a global basis to meet specific needs.

Deloitte believes that the July 1 reforms announced by the government provide a greater level of clarity about the temporary and permanent skilled migration programs and the areas of focus to maintain the integrity of the program. Deloitte is pleased that the government has provided the opportunity for consultation and dialogue with respect to the initial impact of the April changes on businesses managing a global workforce in Australia and hopes this continues as the remainder of the reforms are implemented.

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## Europe: Enhanced and stricter border checks

### Enhanced and stricter border checks for Europe

Recent crises in Europe have underlined the need for stricter border checks and better border management. Consequently, the European Commission introduced a smart borders package, which includes several proposals. The most important ones are outlined below.

#### Entry-Exit system

Foreigners entering the Schengen area undergo a thorough check at the border. Checks are run through several databases and border agents monitor authorized stays by calculating stamps, since foreign travellers are usually only allowed to stay for 90 calendar days in any 180-day period.

Currently, these checks systematically occur upon entry into Schengen, but not when leaving it. The European Commission intends to implement an EU-wide Entry-Exit System (EES), whereby travellers will scan their passports and fingerprints when they enter and leave the Schengen area. This results in the ability to electronically track one's days in the territory, as well as being able to check the databases automatically.

#### Registered travellers program

There are more than 700 million border crossings at Schengen border posts every year, and the number increases on an annual basis. The Commission proposes the implementation of technology that would enable a complete automation of border crossings. This would save 25% of border inspectors' time and should decrease waiting time for travellers, since automated border checks would only take 20 to 40 seconds.

Travellers enrolling in the registered travellers program (RTP) would be issued a card with a unique identifier (application number). At the gate, the traveller would swipe the card (on arrival and departure), at which point the card, travel documentation (visa sticker number, if applicable), and fingerprints are read. The traveller can then proceed through the gate.

## European travel information and authorization system

The Schengen area is the most welcoming territory in the world, with 1.4 billion people from 60 countries benefiting from visa-exempt travel. However, year after year, almost 300,000 people are refused entry at the border, mainly due to a negative migration assessment or security risk. Such cases will be processed before going through the European travel information and authorization system (ETIAS).

ETIAS is similar to the ESTA in the United States. Foreigners who do not require a visa will need to log onto a website and provide basic information, such as name, passport number, occupation, and background information (*e.g.*, contagious diseases, criminal records, presence in war zones, etc.). All of this information is then checked across several databases, and in the case of a “no-hit” (*i.e.*, if there are no “red flags”), the traveller receives an approval email. The carrier will check the ETIAS approval before on-boarding and the border guard will check the ETIAS, allowing the traveller to proceed.

## Where are we now?

The European Commission has tabled several border-management proposals. The European Parliament and the Council are now clarifying their positions (or have clarified it) with respect to these proposals. Once clarified, these proposals will go through a trilogue procedure, whereby the European Commission, Parliament, and Council negotiate towards one mutually accepted regulation.

## Deloitte’s view

An entry-exit system means that the authorities will be able to adequately monitor days spent in the Schengen area. It is likely that overstays will consequently be sanctioned, and that return decisions or entry bans will be more easily enforced.

It will be beneficial for frequent travellers to enroll in the registered travellers program. This system allows them to follow up electronically regarding their days spent in the Schengen area, and it should facilitate and speed up the border-crossing process.

Visa-exempt travellers will have an extra administrative burden, as they will need to enter themselves in an ETIAS before travelling.

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