Fact sheet one: Reforms to Australia’s temporary employer sponsored skilled visa program – commencement of the new Temporary Skill Shortage visa

Purpose

The purpose of this fact sheet is to advise the general public about the scope and implementation timeframes for the reforms to Australia’s temporary employer sponsored skilled migration program.

The reforms include replacing the Temporary Work (Skilled) (subclass 457) visa (subclass 457 visa) with the new Temporary Skill Shortage (TSS) visa in March 2018. The TSS will support businesses in addressing genuine skill shortages in their workforce and will contain a number of safeguards that prioritise opportunities for Australian workers.

Implementation of these reforms commenced on 19 April 2017 and will be completed by March 2018, with the commencement of the TSS visa.

Changes from 18 March 2018

From 18 March 2018, the subclass 457 visa will be replaced with the TSS visa.

The TSS visa is comprised of a Short-Term stream of up to two years (unless international trade obligations apply), a Medium-Term stream of up to four years and a Labour Agreement stream.

The Short-term stream is designed for Australian businesses to fill short-term skill gaps with foreign workers on a temporary basis, where a suitably skilled Australian worker cannot be sourced.

The Medium-term stream allows employers to source foreign workers to address shortages in a narrower range of occupations in medium and long-term need, where a suitably skilled Australian worker cannot be sourced.

The Labour Agreement stream may be utilised in exceptional cases where standard visa programs are not available and there is a demonstrated need that cannot be met in the Australian labour market.

The Short-term stream includes the following criteria:

- Renewal: Capacity for visa renewal onshore once only (unless international trade obligations apply).
- Occupations:
  - the Short-term Skilled Occupations List (STSOL) will apply.
- English language requirements: A requirement of an International English Language Testing System (IELTS) (or equivalent test) score of 5, with a minimum of 4.5 in each test component.
- Genuine entry: A genuine temporary entrant requirement.

The Medium-Term stream includes the following criteria:
Renewal: Capacity for visa renewal onshore and a permanent residence pathway after three years.

Occupation lists:
- the Medium and Long-term Strategic Skills List (MLTSSL) applies;
- Additional occupations are available to support regional employers.

English language requirements: a requirement of a minimum of IELTS 5 (or equivalent test) in each test component.

Eligibility criteria for both streams include:
- Work experience: at least two years’ work experience in the nominated occupation or a related field.
- Labour market testing (LMT): LMT is mandatory, unless an international obligation applies.
- Minimum market salary rate: Employers must pay the Australian market salary rate and meet the Temporary Skilled Migration Income Threshold requirements.
- Character: Mandatory penal clearance certificates to be provided. TSS visa applicants sponsored by accredited sponsors may be able to satisfy character requirements on the basis of a work reference confirming the applicant’s good character.
- Workforce: A discretionary non-discriminatory workforce test to ensure employers are not actively discriminating against Australian workers.
- Training requirement: Employers nominating a worker for a TSS visa will be required to pay a contribution to the Skilling Australians Fund (SAF). The contribution will be:
  - payable in full at the time the worker is nominated;
  - $1200 per year or part year for small businesses (those with annual turnover of less than $10 million) and $1800 per year or part year for other businesses.

Pending the passage of legislation to implement the SAF levy, businesses sponsoring TSS workers will be subject to the existing training expenditure requirements.

Upcoming Changes

For the TSS and 457 visas, subject to the passage of legislation:
- The Department of Home Affairs (the Department) will commence the collection of Tax File Numbers for TSS and 457 visa holders (and other employer sponsored migrants), and data will be matched with the Australian Tax Office’s records to ensure that visa holders are not paid less than their nominated salary.
- The Department will commence the publication of details relating to sponsors sanctioned for failing to meet their obligations under the Migration Regulation 1994 and related legislation.
- To implement these reforms, the Migration and Other Legislation Amendment (Enhanced Integrity) Bill 2017 was introduced to Parliament on 16 August 2017 and was passed by the Lower House on 27 February 2018. On 19 March the Government announced the Global Talent Scheme to attract highly skilled workers and deliver innovation to Australia, to be piloted for 12 months from 1 July 2018.
  - The Department will work closely with stakeholders to design and implement the pilot, selecting start-up companies and established employers that prioritise employment of, and skills transfer to, Australian workers.

What has changed?

From 19 April 2017, for the subclass 457 visa:
- Occupation lists: The occupation lists that underpin the 457 visa were significantly condensed. The lists will be reviewed regularly from 1 July 2017 by the Department of Jobs and Small Business.
● Access to 24 occupations was restricted to regional Australia (e.g. occupations relating to farming and agriculture).

● The Consolidated Sponsored Occupation List (CSOL) was renamed the new Short-term Skilled Occupations List (STSOL). The list contains occupations required to meet critical, short-term skills needs.

● The other occupation list used for skilled migration, the Skilled Occupations List (SOL) was renamed the new Medium and Long-term Strategic Skills List (MLTSSL). This list contains occupations that have been assessed as being of high value to the Australian economy and aligning to the Government’s longer term training and workforce strategies.

● Validity period: The maximum duration of subclass 457 visas issued from 19 April 2017 onwards for occupations that are on the STSOL is two years (unless international trade obligation apply). Occupations on the MLTSSL continue to be issued for a maximum duration of four years.

From 1 July 2017, for the existing subclass 457 visa:

● Occupation lists: The first regular review of the occupation lists was conducted based on extensive consultations with industry, labour market analysis and advice from government agencies.

● English language requirements: English language salary exemption threshold, which exempts applicants whose salary is over $96,400 from the English language requirement, was removed (unless the person is an intra-corporate transferee).

● Training benchmarks: Policy settings about the training benchmark requirement were made clearer in legislative instruments.

● Character: Provision of penal clearance certificates became mandatory.

In January 2018 the occupation lists were reviewed by the Department of Jobs and Small Business.

Why are these changes being made?

These measures sharpen the focus of Australia’s employer sponsored skilled migration programs to ensure they better meet Australia’s skills needs, increase the quality and economic contribution of skilled migrants and address public concerns about the displacement of Australian workers.

Who is affected?

Current subclass 457 visa holders, prospective applicants, businesses sponsoring skilled migrants and industry. Existing 457 visas will continue to remain in effect.

Information on the changes to the occupation lists is available on the Department’s website at www.homeaffairs.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities/skilled-occupations-lists

More information

More information about the TSS visa is available on the Department’s website at www.homeaffairs.gov.au/Trav/Visa-1/482-

The Department of Jobs and Small Business is responsible for reviewing and recommending eligible occupations for the STSOL and MLTSSL. The lists will be reviewed regularly. For more information, including how to make a submission for the next review, please visit the Department of Jobs and Small Business’ website www.jobs.gov.au/SkilledMigrationList.