

457 visa program – recent and future changes

Members may be aware of recent changes to the subclass 457 visa program. Here we provide a summary of these modifications and inform you of further changes to be implemented in the coming months.

Many employers will be aware of changes to the subclass 457 visa program announced by the Minister for Immigration, Chris Evans, on 1 April 2009. These include an increase in the minimum English language requirement, the removal of some occupations from direct sponsorship arrangements, and an increase in the Minimum Salary Level (MSL) requirement prior to the introduction of a market rates system in September 2009.

Information on each of these changes is available at the skilled migration page of the Australian Industry Group's website: <http://www.aigroup.com.au/smes/skilledmigration>

Members may also wish to consult the Minister's media release at: <http://www.minister.immi.gov.au/media/media-releases/2009/ce09034.htm>

What changes have been implemented so far?

- The new **English language requirements** were introduced on 14 April 2009. This means that 457 applicants in trade occupations and chefs need to pass an English language test before being granted a visa to enter Australia. There are four components to the English language test (reading, writing, speaking and listening) and applicants must achieve a score of five in each component. More detailed information about the new English language requirement is available at: <http://www.immi.gov.au/skilled/skilled-workers/changes-eng-req.htm>
- With effect from 15 May 2009 it is no longer possible for employers to directly sponsor overseas workers in the Australian Standard Classification of Occupations (**ASCO**) **groups 5-7** under standard business sponsorship (SBS) arrangements: <http://www.immi.gov.au/skilled/skilled-workers/asco5-7-faq.htm>
- **Attestations:** The Government has also introduced a requirement for employers sponsoring 457 visa holders to attest in writing that they have a strong record of, or a demonstrated commitment to employing local labour and non-discriminatory employment practices. From 27 June 2009 employers wanting to apply for approval as a subclass 457 visa sponsor online using the eVisa service have made the attestation as part of the eVisa application. Between 27 June 2009 and 14 September 2009, prospective sponsors seeking to apply for sponsorship approval using the paper sponsorship application form (Form 1196 - *Sponsoring overseas employees to work temporarily in Australia*) will be required to make a separate attestation. Prospective sponsors are encouraged to complete a pro-forma attestation (currently available at: http://www.immi.gov.au/skilled/_pdf/attestation-letter.pdf) and attach this to their application. The Department of Immigration and Citizenship (DIAC) has prepared answers to Frequently Asked Questions (FAQs) in relation to the attestation requirement: <http://www.immi.gov.au/skilled/faq-attestation.htm>
- The **Minimum Salary Level (MSL)** requirement for all new and existing 457 visa holders was increased by 4.1% on 1 July 2009. The new MSL for non-IT foreign employees working in metropolitan areas is \$45,220, while in regional areas*, the MSL is \$40,705. So, if you are paying on or near the MSL, remember to increase your 457 visa holder's salary. More

information about the MSL is available at: <http://www.immi.gov.au/skilled/skilled-workers/sbs/457-min-salary-levels.htm>

- **Formal skills assessments** for 457 applicants in certain trade occupations** and chefs from the following countries were introduced on 1 July 2009: Brazil, China, Fiji, Papua New Guinea, India, Philippines, South Africa, Thailand, Vietnam and Zimbabwe. The skills assessments are managed by the Department of Education, Employment and Workplace Relations (DEEWR) through Trades Recognition Australia (TRA). Over the coming months, DEEWR/TRA will progressively add more countries and occupations to this list. For more information about process of obtaining a skills assessment visit: <http://www.deewr.gov.au/Skills/Programs/TRA/Pages/default.aspx>.

What other changes are on the way?

The Government will be introducing two more changes to the 457 visa program in September 2009:

- The minimum salary level (MSL) requirement will be phased out and employers will be required to pay **market rates** to all foreign workers from 14 September 2009.
- In addition, **training benchmarks** will be developed by DEEWR to clarify the existing requirement on employers to demonstrate a commitment to training local labour.

The Australian Industry Group will provide more information on these changes as it becomes available.

For further information on the subclass 457 program, you can contact Radek Divis (North Sydney) at radek.divis@aigroup.asn.au (tel: 02-9466 5442 or 0403 395 154), or Stephen Reynolds (Melbourne) at stephen.reynolds@aigroup.asn.au (tel: 03-9867 0221 or 0434 078 552).

*Regional locations are listed at: http://www.immi.gov.au/employers/rsms_postcodes.htm

**Welder (first class), Motor Mechanic, Chef/Cook, Fitter, Metal Fabricator.