Mobility: immigration alert
April 2017

Australia

Jobs for Australians first as subclass 457 visa program for overseas workers abolished

Executive summary
Significant reforms to Australia’s temporary and permanent work visa programs will be rolled out from April 2017 to March 2018.

In a video announcement on 18 April 2017 the Prime Minister of Australia, The Hon Malcolm Turnbull MP, announced that a new temporary skilled visa program will replace the current subclass 457 visa program in March 2018.

Significant amendments to the subclass 457 visa program will be implemented progressively, including:

- From 19 April 2017 fewer occupations are eligible to access the program and subclass 457 visas will be limited to two years’ duration for many occupations
- From July 2017 there will be increased obligations for:
  - contributions to a training fund for Australians
  - English language and skills testing as well as police checks for subclass 457 visa applicants
- In March 2018, a new Temporary Skills Shortage (TSS) visa will replace the subclass 457 visa.

Employer sponsored permanent residence will undergo similar reforms with English language, age and occupation restrictions to be introduced progressively between April 2017 and March 2018. Permanent residence pathways for employees over 45 years of age will be limited.

Labour agreement arrangements have not changed.

Current holders of permanent resident visas will also be impacted by other changes. Substantial changes to eligibility for Australian citizenship, including increasing the residence requirement, were announced on 20 April 2017 with the release of a proposal paper Strengthening the Test for Australian Citizenship.

Revised occupations lists - April 2017
Access to Australia’s skilled visa programs, including employer-sponsored and points tested skilled visas, is managed through approved occupations lists. From 19 April 2017:

- approximately 200 occupations are removed
- a shorter Medium and Long-term Strategic Skills List (MLTSSL) now details a narrow range of high skill and critical need occupations
- a new Short-term Skilled Occupation List (STSOL) details occupations to enable business to fill skill gaps on a temporary basis only
- 16 MLTSSL occupations are excluded from employer-sponsored visa programs and are eligible only for points tested skilled visas
- 59 occupations are restricted by caveats
- 24 occupations are limited to regional areas

The immediate impact of these reforms on sponsored employees is summarised in Table 1 over the page.

The occupation lists will continue to be reviewed in response to changing labour market needs. They may be revised again as early as July 2017.

Temporary Skills Shortage (TSS) visa - March 2018
The TSS visa will have two streams:

- a Short-Term stream for up to two years linked to the STSOL. Renewal of visas in this stream will be limited
- a Medium-Term stream for up to four years linked to the MLTSSL and providing a pathway for overseas skilled workers to become Australian permanent residents.
**How will announced changes to the occupations lists impact the current workforce?**

<table>
<thead>
<tr>
<th>Cohort</th>
<th>Occupation removed or excluded from Medium and Long-term Strategic Skills List (MLTSSL)</th>
<th>Occupation on MLTSSL (non-excluded)</th>
<th>Occupation on Short-term Skilled Occupation List (STSOL)</th>
<th>Occupations with caveat on either the MLTSSL or STSOL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Holder of subclass 457 visa granted before 19 April 2017</strong></td>
<td>May continue to work in nominated occupation for duration of the visa. May need to consider other options for further visa, for example via spouse as primary applicant and points tested skilled visas</td>
<td>May continue to work in nominated occupation for duration of the visa. May renew subclass 457 visa, apply for TSS visa and will have pathway for subclass 186 permanent residence</td>
<td>May continue to work in nominated occupation for duration of the visa. May renew subclass 457 visa, apply for TSS visa and may have pathway for subclass 186 permanent residence until March 2018</td>
<td>May continue to work in nominated occupation for duration of the visa. May renew subclass 457 visa, apply for TSS visa and may have pathway for subclass 186 permanent residence until March 2018</td>
</tr>
<tr>
<td><strong>Subclass 457 visa application pending on 19 April 2017</strong> and <strong>Subclass 457 visa application lodged between 19 April 2017 and March 2018</strong></td>
<td>Application cannot be approved</td>
<td>Four year subclass 457 visa may be granted</td>
<td>Two year subclass 457 visa may be granted – will not provide pathway to permanent residence after March 2018</td>
<td>Subclass 457 visa may be granted if additional requirements met, which may include: position requires at least two years’ work experience, at least AUD1m turnover, at least five employees and minimum base salary, or position in regional area</td>
</tr>
<tr>
<td><strong>Subclass 186 permanent visa application under transition stream lodged before 19 April 2017</strong></td>
<td>Permanent residence may be granted</td>
<td>Permanent residence may be granted</td>
<td>Permanent residence may be granted</td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Subclass 186 permanent visa application under direct entry stream lodged before 19 April 2017</strong></td>
<td>Permanent residence may be granted under transitional arrangements</td>
<td>Permanent residence may be granted</td>
<td>Permanent residence may be granted</td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Subclass 186 permanent visa application under transition stream lodged on or after 19 April 2017 and before March 2018</strong></td>
<td>Permanent residence may be granted</td>
<td>Permanent residence may be granted</td>
<td>Permanent residence may be granted</td>
<td>Not applicable</td>
</tr>
<tr>
<td><strong>Subclass 186 permanent visa application under direct entry stream lodged on or after 19 April 2017 and before March 2018</strong></td>
<td>Application cannot be approved – for regional positions, concessions may apply</td>
<td>Permanent residence may be granted – see below for 1 July 2017 change to age limit to 45 years</td>
<td>Permanent residence may be granted – see below for 1 July 2017 change to age limit to 45 years</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

**Occupations removed and excluded from eligibility lists**

Occupations removed or excluded for subclass 457 and subclass 186 visa purposes on 19 April 2017 include:

- Air Traffic Controller
- Biochemist
- Various Building and Engineering Technicians
- Call or Contact Centre Manager
- Construction Estimator
- Corporate Treasurer
- Various Electronic Engineering occupations
- Geophysicist
- Human Resources Advisor
- Various ICT Support occupations
- Life Scientist
- Market Research Analyst
- Mechanical Engineering Draftsperson
- Optical Dispenser
- Petroleum Engineer
- Policy Analyst
- Various Shipping occupations
- Chemical, Materials, Electronics, Industrial and Production Engineers
- Policy and Planning Manager
- Procurement Manager
- Public Relations Manager
- Research and Development Manager
- Various Telecommunications occupations
- Training and Development Professional
- Web Developer
- Food Technologist

**STSOL Occupations**

Over the period of the reform, individuals in occupations on the STSOL will have increasingly limited visa options. Occupations currently listed on the STSOL include:

- CEO or Managing Director
- Corporate General Manager
- Sales and Marketing Manager
- Corporate Services Manager
- Finance Manager
- Human Resources Manager
- Manufacturer
- Supply and Distribution Manager
- Project or Program Administrator
- Chief Information Officer
- ICT Project Manager
- ICT Managers (nec)
- Quality Assurance Manager
- Specialist Managers (nec)
- Café or Restaurant Manager
- Hotel or Motel Manager
- Company Secretary
- Contract Administrator
- Various Finance occupations
- Recruitment Consultant
- Management Consultant
- Organisation and Methods Analyst
- Marketing Specialist
- Various ICT occupations
- Technical Sales Representative
- Graphic Designer
- University Lecturer and Tutor
- Web Designer
- Mining Engineer (excluding petroleum)
- Engineering Professional (nec)
- Chemist
- Geologist
- Primary School Teacher
- Occupational Health and Safety Advisor
### Temporary visa reforms 2017 - 2018

<table>
<thead>
<tr>
<th>Key dates</th>
<th>Announced reforms</th>
<th>Impact</th>
<th>Action required</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 July 2017 Subclass 457 visa</td>
<td>Training benchmarks will be made clearer, increased contribution announcement expected in May 2017 Budget</td>
<td>Costs of training contribution expected to increase</td>
<td>Keep accurate records of all training expenditure and activity</td>
</tr>
<tr>
<td></td>
<td>Occupation lists will be reviewed</td>
<td>Visa application preparation will take longer and cost more with skills assessments, police checks and English tests</td>
<td>Monitor occupation lists</td>
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<tr>
<td></td>
<td>Formal skills assessment for additional occupations</td>
<td></td>
<td>Candidates and assignees should promptly apply for police checks</td>
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<td></td>
<td>Removal of English language test exemption where base salary is at least AUD96,400. Current settings retained: IELTS overall test score of at least 5 with a score of at least 4.5 in each of the four test components or equivalent</td>
<td></td>
<td>Candidates and assignees should promptly book an English test unless they hold a passport from UK, Ireland, USA, New Zealand or Canada – other exemptions to be clarified</td>
</tr>
<tr>
<td></td>
<td>Police checks mandatory</td>
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<td>Skills assessments can be complex and costly - candidates and assignees may wish to wait for advice regarding their occupation</td>
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<td>TSMTI expected to be indexed</td>
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<tr>
<td>1 December 2017 Subclass 457 visa</td>
<td>Immigration department will collect Tax File Numbers and data match with the ATO to ensure subclass 457 visa holders are paid their nominated salary</td>
<td>Potential penalties and reputational damage for breach of sponsorship obligations</td>
<td>Sponsors should continue to ensure they comply with all obligations including not reducing nominated salary and paying market rates</td>
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<tr>
<td>March 2018 New Temporary Skills Shortage (TSS) visa will replace subclass 457 visa</td>
<td>Four year Medium Term stream TSS visa where occupation is on the MLTSSL (non-excluded). May be renewed</td>
<td>Stay in Australia for candidates in occupations on the STSOL will be capped with no pathway to permanent residence, see below</td>
<td>Businesses experiencing a shortage in an occupation on the STSOL may need to revise workforce planning strategies</td>
</tr>
<tr>
<td></td>
<td>Two year Short-Term TSS stream visa where occupation is on the STSOL. May be renewed once only in Australia</td>
<td>More positions will need to be accompanied by evidence of advertising to the local market</td>
<td>Keep accurate records of all training expenditure and activity</td>
</tr>
<tr>
<td></td>
<td>Additional occupations available to support regional employers</td>
<td>Other visa options will need to be considered for candidates and assignees with less than two years work experience. The subclass 407 Training visa may be suitable for development programs</td>
<td>Keep accurate records of recruitment activity and expenditure</td>
</tr>
<tr>
<td></td>
<td>Strengthened training requirements</td>
<td></td>
<td>Candidates and assignees should promptly apply for police checks</td>
</tr>
<tr>
<td></td>
<td>Labour market testing for all positions, unless international obligation applies</td>
<td></td>
<td>Candidates and assignees should promptly book an English test unless they hold a passport from UK, Ireland, USA, New Zealand or Canada – other exemptions to be clarified</td>
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<tr>
<td></td>
<td>Workforce test to ensure no discrimination against local workers</td>
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<td>At least two years’ relevant work experience for all occupations</td>
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<td>Vocational English for Medium-Term stream: IELTS 5 in each component (or equivalent testing)</td>
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<td></td>
<td>English at current settings for Short-Term stream</td>
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<td></td>
<td>Police checks mandatory</td>
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</tbody>
</table>

### Subclass 186 permanent visa reforms 2017 - 2018

<table>
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<th>Key dates</th>
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</tr>
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<tr>
<td>19 April 2017</td>
<td>Transition stream: no changes</td>
<td>Sponsored employees in removed occupations will have few further visa options, including a new temporary visa while the occupation remains removed</td>
<td>Consider eligibility under the Transition stream as soon as possible</td>
</tr>
<tr>
<td></td>
<td>Direct entry stream: new applications in occupations which have been removed from the lists will not be approved</td>
<td></td>
<td>Spouse may have options as primary applicant (if applicable)</td>
</tr>
<tr>
<td>1 July 2017</td>
<td>Training benchmarks will be made clearer</td>
<td>Prospective applicants may not meet the new English requirement. Existing exemptions such as passport from English speaking country, education in English and high salary may continue</td>
<td>Monitor occupation lists</td>
</tr>
<tr>
<td></td>
<td>Occupations list will be reviewed</td>
<td>Prospective applicants above 45 years of age may need to obtain a skills assessment prior to 1 July 2017. Skills assessments can take several months to process</td>
<td>Keep accurate records of all training expenditure and activity</td>
</tr>
<tr>
<td></td>
<td>English language ability requirement increased to Competent: IELTS score of at least 6 in each of the four test components (or equivalent testing)</td>
<td>Prospective applicants above 45 years of age will no longer be eligible</td>
<td>Prospective applicants over or approaching 45 years of age should seek advice as soon as possible</td>
</tr>
<tr>
<td></td>
<td>Direct Entry stream: age threshold reduced to 45 years of age from 50</td>
<td>Prospective applicants above 45 years of age may need to obtain a skills assessment</td>
<td>Prospective applicants should book an English test soon (unless exempt) to determine if they will meet the new requirement</td>
</tr>
<tr>
<td></td>
<td>Must pay at least TSMTI in addition to current market salary rate requirement</td>
<td>Prospective applicants in occupations on the STSOL will not have a pathway to permanent residence</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Transition stream: age threshold reduced to 45 years of age from 50 and minimum period of work in Australia on subclass 457 visa increased to three years (from two)</td>
<td>Prospective applicants above 45 years of age will no longer be eligible</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Prospective applicants will need to work in Australia for a further 12 months with their nominating employer to be eligible under the Transition stream</td>
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</tr>
<tr>
<td>March 2018</td>
<td>Prospective applicants in occupations on the STSOL will not have a pathway to permanent residence</td>
<td></td>
<td>Businesses may need to revise workforce planning strategies as sponsored employees in occupations on the STSOL will not have a pathway to permanent residence</td>
</tr>
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<td></td>
<td></td>
<td>Prospective applicants over or approaching 45 years of age should seek advice as soon as possible</td>
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</table>
**Family members**
Family members of subclass 457 holders continue to be eligible for a visa for the same period as the visa held by a sponsored employee.

**Australian citizenship**
A proposal paper Strengthening the Test for Australian Citizenship was released on 20 April 2017 recommends:
- Increasing the general residence requirement, from four years of total residence including one year of permanent residence to four years of permanent residence
- Introducing an English language test
- Introducing a requirement for applicants to demonstrate their integration into the Australian community
- Strengthening the citizenship test

According to the announcement these changes will apply to applications lodged from 20 April 2017. Legislation is anticipated to be introduced into Parliament “by the end of 2017”.

Views on the proposed changes may be emailed to the citizenship submissions mailbox at citizenship.submissions@border.gov.au by 1 June 2017.

**Next steps**
- Employers should review their subclass 457 visa holder population to identify:
  - occupations commonly used and consider continued use of those occupations
  - options for further visa applications for current subclass 457 visa holders with particular attention to age for permanent residence
- Preparations for the 1 July 2017 changes should commence now including advising assignees to prepare for English tests and police checks.
- Occupation lists are under continual review. EY will make strong representations regarding the impact of the limitations of the STSOL occupations and the benefits to Australian business of moving more occupations to the MLTSSL and removing the exclusions from all MLTSSL occupations.
- Details of the increased contribution to training Australians are expected in the Budget. It is anticipated that a direct out of pocket contribution to a government fund (as has been proposed for some years) may be implemented or alternatively the contribution could be levied through an increase in application charges.

By proactively engaging in dialogue and workshops with clients and government, EY can help our stakeholders provide their views to government. We will continue to monitor the implementation of the reform program closely and provide updates to you regularly.

Please contact your EY advisor for advice or assistance with any of the matters raised in this alert.