

MEMBER UPDATE

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28 April 2017

Abolition and Replacement of the 457 Visa

On April 18, 2017 the Commonwealth Government announced it would be abolishing the Temporary Work (Skilled) (subclass 457) visa and progressively replacing it with the completely new **Temporary Skills Shortage (TSS)** visa by March 2018.

The TSS visa will have a two year stream and a four year stream, both of which will be subject to higher eligibility thresholds than the current 457 programme.

The Government has stated that the changes are being made to ensure that Australia's employer sponsored skilled migration programmes better meet Australia's skills needs, increase the quality and economic contribution of skilled migrants and address public concerns about the perceived displacement of Australian workers.

Occupation Lists

As part of the reforms, the occupation lists that underpin the existing 457 visa programme have been reduced from 651 to 435 occupations. 216 occupations have been removed and access to 59 other occupations has been restricted, *effective immediately*. The hospitality-related occupations removed from the list are "Licensed Club Manager" and "Bed and Breakfast Operator."

The Consolidated Sponsored Occupation List has been renamed as the **Short-term Skilled Occupations List (STSOL)**. The composition of the list will be updated every six months to reflect advice from industry and the Department of Employment.

The STSOL includes the following occupations: café/restaurant manager, hotel/motel manager, accommodation/hospitality manager, conference/event organiser, facilities manager, baker, pastry cook and cook.

The Skilled Occupations List has been renamed as the **Medium and Long-term Strategic Skills List (MLTSSL)**, comprised of occupations assessed as high value to the Australian economic and aligning to the Government's longer term training and workforce strategies. Chefs are the only hospitality-related occupation covered by the MLTSSL.

Two Year Short-Term Stream

- The short-term stream is designed for Australian businesses to fill skills gaps with foreign workers on a temporary basis, where a suitably skilled Australian worker cannot be sourced.
- Visas issued in the short-term stream will have a maximum validity of two years, but can be extended onshore for a further two years' validity.
- Visas issued in the short-term stream are not eligible for a permanent residency application.
- Occupations on the STSOL will only have access to the two-year stream.
- Two year TSS visas will cost \$1150.

Four Year Medium-Term Stream

- The Medium-term stream will allow employers to source foreign workers to address shortages in a range of high skill and critical need occupations where a suitably skilled Australia cannot be found.
- Visas issued in the Medium-term stream will have a maximum validity of four years, and are eligible for a permanent residency application.
- Only occupations on the MLTSSL will have access to the four-year stream.
- Four year TSS visas will cost \$2400.

Mandatory Eligibility Criteria

The new TSS visa will have higher eligibility thresholds than the 457 programme, which will include:

- At least two years of relevant work experience (in addition to a relevant qualification)
- Mandatory labour market testing
- Mandatory penal clearances for every applicant
- A non-discriminatory workforce test to ensure employers are not actively discriminating against Australian workers

Additionally, employers continue to must pay the Australian market salary rate and meet the Temporary Skilled Migration Income Threshold (TSMIT).

Training Contribution

The Government has indicated that there will be a requirement for employers sponsoring temporary skilled workers on a TSS visa to make a contribution to the training and skilling of Australian workers. These requirements will be outlined in the Federal Budget in May.

Existing 457 Visa Holders

These changes will affect current 457 visa applicants and holders, prospective applicants and businesses sponsoring skilled migrants. Existing 457 visas will continue to remain in effect with their current conditions and expiry date.

Concerns

1. AHA NT has many concerns regarding these changes, including the lack of clarity around the definitions for the following caveats used to exclude café/restaurant managers, chefs and cooks, who work in these areas:

- a) *“fast casual restaurants”* and;
- b) *“drinking establishments that offer only a limited food service”*.

The AHA NT and our National Office will be working with the Department in formulating definitions of “fast casual restaurants” and “limited food service” to ensure that the ability of members to secure skilled migrants in these positions is not adversely impacted.

2. AHANT is concerned by the caveat on hotel/motel managers that excludes positions which predominantly have responsibility for managing hotel or motel staff from visa eligibility. The AHA has expressed concern to the Department that this caveat ignores the reality of hotel and motel management positions, and will continue to consult with the Department to achieve a workable resolution.

3. AHANT is concerned that the new TSS visa will have a requirement of at least two years’ of relevant work experience. The 457 visa did not require previous work experience, only a relevant qualification. This change may impact upon international students who study in Australia at a vocational or tertiary education institution, as after completing their studies they may now be ineligible for a temporary skilled work visa. The Department is aware of the impact this change may have on Australia’s international education export market, and will be working with industry stakeholders to determine acceptable work experience requirements for different occupations.

Review

It is highly unlikely that there will be any immediate changes to the occupations listed on the STSOL and MLTSSL, or any associated caveats. However, a review process has been announced and will be completed by July 1, 2017. The AHA/TAA are already participating in this review. Over the next few months, AHANT will continue to highlight to the Government and the Department the changes that we believe will make the new skilled migration framework more sustainable.