

AMBER MIGRATION NEWSLETTER
April 2015

Welcome to **Amber Migration**'s April 2015 Newsletter!

In this Immigration Update, we summarise the Department of Immigration (DIBP)'s recent response to the recommendations of the Independent Review into the integrity of the subclass 457 program. Most of the recommendations have been supported by the Government and will be implemented within the next six months. Some will require further consultation and would not be implemented until 2016.

We will write again when these recommendations become legislative requirements.

IMMIGRATION UPDATES

As the 457 reforms continue to progress, we outline below the Independent Review recommendations that are most relevant to 457 business sponsors:

- **Training Benchmarks A and B** will be replaced with an annual training fund contribution based on the number of 457 sponsored and with the contributions scaled according to the size of the sponsoring organisation. These contributions will be made to the Department of Industry and directed to areas of identified training need. DIBP will undertake further consultation on how this will be implemented.
- It will be made **unlawful for a sponsor to be paid** by a visa holder to be sponsored and a strong penalty and conviction will be applied.
- **Labour market testing** will stay, but DIBP will examine ways to reduce the burden to employers and red tape in this process.
- The timeframe for the sponsor to **notify DIBP of notifiable events** will be extended from 10 working days to 28 days after the event has occurred.
- The **English language** level for 457 primary applicants will be altered to an IELTS average of 5 overall, with no less than 4.5 in any band. Alternate **English** language test providers are likely to be announced in April.

- The exemption for demonstrating **English** language competency will not be extended to further countries, although the current exemption for 5 years continuous study in English will be changed to 5 years cumulative study.
- **Business Sponsorship approvals** will be extended from 3 to 5 years businesses that have traded for 12 months and over, and from 12 to 18 months for those that have traded for less than 12 months. These new validity periods will commence from the time of renewal or new BS applications.
- The ATO and DIBP have signed an MOU which allows information to be shared on **457 visa holder salaries**. The MOU allows DIBP to request salary compliance checks across a broader range of the sponsored employees and businesses, without increasing the number of work site visits.
- **Visa charges** are being reviewed as part of the Joint Review of Border Fees, Charges and Taxes.
- **Age limitations and the TRT timeframes for transition from 457 to ENS permanent residence** are being reviewed as part of the Skilled Migration and 400 Visa Series Review, but DIBP supports the recommendations to require 457 visa holders to have worked in Australia for at least 2 years before applying for permanent residence under the Employer Nomination Scheme or Regional Sponsored Migration Scheme, and to consider changing the minimum duration of employment with the nominating employer from two years to one year. Also, DIBP supports the recommendation to review the age restriction on those 457 visa holders transitioning to ENS or RSMS.

DIBP advises that most of the changes arising out of these recommendations will occur over the next six months. Those recommendations that require consultation with stakeholders may not come into force until 2016.

It is believed DIBP's supportive response to the Independent Review's recommendations will benefit Australian business, provide safeguards for overseas workers and protect Australians' employment opportunities.

If you have any questions concerning the information provided in this newsletter, please contact:

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***Important:** Clients should not act solely on the basis of the material contained in this Newsletter. Items herein are general comments only and do not constitute or convey advice per se. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. This Newsletter is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.*

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