

IMMIGRATION UPDATES

March 2013

Visitor Visa Changes and Fair Work to monitor 457 Employers

SUMMARY:

On 12 March 2013, the Minister for Immigration and Citizenship announced a simplification to the Visitor Visa framework and standardising requirements, effective 23 March 2013.

On 18 March 2013, the Minister for Immigration and Citizenship and Minister for Employment and Workplace Relations made a joint announcement on consolidating inspection powers for the Fair Work Ombudsman to act upon unscrupulous 457 employers.

Visitor Visa Changes

On 23 March 2013, DIAC phased out new applications for the following Visitor visas:

Existing Visa Streams	New Visa Subclasses (effective as of 23 March 2013)
<ul style="list-style-type: none"> • 676 - Tourist visa • 679 - Sponsored family visitor visa • 456 - Business (short Stay) visa • 459 - Sponsored business visitor (short stay) visa • 675 - Medical Treatment (short stay) visa • 685 - Medical Treatment (long stay) visa • 976 - Electronic Travel Authority (visitor) • 977 - Electronic Travel Authority (business - short validity) • 956 - Electronic Travel Authority (business - long validity) 	<ul style="list-style-type: none"> • 400 - Temporary Work (Short Stay Activity) visa • 600 - Visitor visa • 601 - Electronic Travel Authority • 602 – Medical Treatment

<i>Visa</i>	<i>Purpose</i>	<i>Features</i>	<i>Effect</i>
400	<ul style="list-style-type: none"> • Highly Specialised Work Stream - to undertake short-term, highly specialised, non-ongoing work for which skills are not readily available in Australia, such as installation of imported equipment, urgent repair etc.; or; • Invited Participants Stream – to conduct an activity as an invited participant in an event such as non-ongoing participation in cultural or social activities at the invitation of a lawfully operating sports or cultural Australian organisation. • Australia’s Interest Stream 	<ul style="list-style-type: none"> • Usually for a stay of 6 weeks or less, however can be up to 3 months in some cases. • Family members can accompany if included in the visa application. • Applicant must be outside Australia when they apply and when the visa is decided. 	<ul style="list-style-type: none"> • This visa replaces the work entitlements for 456, 459, 651, 956 and 977 visas, as well as the Service Sellers part of the 457 visa. • Business Visitors utilising a subclass 456 visa with Condition 8112 should consider obtaining this visa as from 23 March 2013.
600	<ul style="list-style-type: none"> • Tourist: people undertaking a holiday, recreation or to visit family and friends. • Business Visitor: for a short business visit such as attending a conference, negotiation or meeting, etc. • Sponsored Family stream: people visiting their family in Australia provided they have a sponsor (a bond might be requested by DIAC). • Approved Destination Status stream: for Chinese national undertaking an organised tour group. 	<ul style="list-style-type: none"> • Length of stay and number of entries on visa determined by DIAC. • Visa holder is allowed to study in Australia for up to 3 months. 	<ul style="list-style-type: none"> • This visa replaces 676 Tourist and 679 Sponsored Family Visitor visas. • A 600 visa holder cannot work for, or provide services to a business or organisation in Australia, or sell goods or services to the public. • Any intention to do short-term work in Australia falls under Subclass 400 stream.

<p>601</p>	<ul style="list-style-type: none"> This visa can be accessed by nationals of certain countries for entry to Australia for leisure or business purposes. 	<ul style="list-style-type: none"> Valid for up to 12 months. Maximum permitted stay on each visit is 3 months. Visa is linked electronically to passport and can be seen by airlines staff, travel agencies and Australian border agencies. 	<ul style="list-style-type: none"> This 601 visa replaces 956, 976 and 977 ETAs. A 600 visa holder cannot work for, or provide services to a business or organisation in Australia, or sell goods or services to the public. Any intention to do short-term work in Australia falls under Subclass 400 stream.
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Fair Work Ombudsman & 457 Employers

DIAC proposes to vest more regulatory powers of the Fair Work Ombudsman (FWO) to deal with unscrupulous employers who use the 457 program in unethical and suspicious manner.

New powers would enable FWO to monitor and enforce 457 compliance such as the visa holder being paid at a market salary rate and their job aligns with the approved occupation.

DIAC intention is for employers to only sponsor genuine applicant and to protect 457 visa holder rights, while ensuring the jobs of Australian workers are not undercut by abuse of the temporary skilled worker visa.

AMBER SUMMARY

The Visitor Visa changes are aimed at simplifying the current Visitor visa program by reducing the number of subclasses and making the requirements standard. Also, the creation of Visa Subclass 400 helps eliminate ambiguities surrounding Condition 8112 which says the visa holder “*must not engage in work in Australia that might be carried out by an Australian citizen or an Australian permanent resident*”.

The 457 changes continue to reflect the government drive to closely monitor this visa program for integrity to protect the Australian Labour Market. Every regulatory change often means cascading work for the sponsors and ongoing accountability to ensure compliance.

Amber Migration continues to remain a resource for our clients on communicating legislative changes. Our team is dedicated to the provision of accurate and timely service aligned with the latest requirements for best immigration outcomes.

Monique Ly – Tel: 02 9146 5288 - mly@ambermigration.com.au - MARN: 9251174

Surinder Singh – Tel: 02 9146 5284 - ssingh@ambermigration.com.au - MARN: 1174421

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Phone: +61 2 9146 5280 | Fax: +61 2 9146 5289

Head Office: Level 8, 23-25 O’Connell Street, Sydney NSW 2000. Australia