

IMMIGRATION UPDATES

February 2013

Subclass 457 Visa Changes

SUMMARY: On 23 February 2013, the Minister for Immigration and Citizenship announced a series of reforms to enhance the integrity of the Subclass 457 program. These changes are designed to protect Australian labour market and will be introduced on 1 July 2013.

Believing “the growth in the 457 visa program is out of step with those skills shortages, and the government has evidence that some employers are using 457 visas to discriminate against locals”, the Minister for Immigration & Citizenship, the Hon Brendan O’Connor MP, announced major but undefined changes to the 457 visa program on 23 February 2013.

The Changes

Departmental measures to be introduced include:

- Employers to demonstrate a genuine need of the position for Nomination approval;
- Market Salary exemption threshold to increase from \$180,000 to \$250,000;
- Removal of English language exemptions for certain positions (English exemption salary benchmark of \$92,000 remains unchanged);
- Enhanced Departmental powers to monitor working conditions and misuse of 457 workers in meeting Australian standards;
- Training benchmark parameters for employers to be strengthened to ensure staff training obligations are ongoing and mandatory during the lifespan of their sponsorship approval;
- Amendments restricting on-hire of 457 workers to an unrelated entity unless they are sponsored under a 457 Labour Agreement; and
- Amendments to allow refund of visa application fee where the Nomination has been withdrawn.

Purpose of Changes

The changes are aimed to enhance Departmental capacity to detect and respond to the integrity concerns. Departmental Media Release mentions the changes would not impact applications processing times and ensure that the potential impact on business is minimised.

The measures ensure that the board intent of the 457 visa program remains as a supplement to, rather than a substitute for the Australian labour market. Closures of certain legislative and policy gaps will contribute to filling of genuine skills shortage positions and enable Australians workers to have fair and equal access to employment opportunities.

Effect on current sponsors

No adverse effect is envisaged by the Department for employers accessing the 457 program appropriately.

Effect on current 457 workers

No adverse effects on existing 457 workers if they are “already doing the right thing”.

Effect on future 457 workers

The majority of 457 applicants who are genuine will not be affected by these changes. Applicants whose applications are processed after 1 July 2013 may be required to provide further evidence to demonstrate their claims for a 457 visa.

Amber Summary

The proposed changes are primarily concerning genuineness of the positions and sponsors undercutting local workforce through employment and lower salaries. A significant majority of the sponsors are utilising the 457 program appropriately with integrity.

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.

Please note we have prepared the above updates based on DIAC’s latest media release. We will write again once relevant legislative instrument is available. In the meantime, should you have any questions concerning these reforms, please contact:

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