

AMBER MIGRATION NEWSLETTER March 2015

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

In this Immigration Update, we outline the Department of Immigration and Border Protection's (DIBP) plans to introduce a new temporary entry visa for international workers and 400 visa series review. We also discuss the recent fee increase to Partner Visa Applications, proposed changes to Significant Investor Visa (SIV) as well as an introduction to our new Team Member, John Angeles.

We will write again when there is any update on the proposed changes.

IMMIGRATION UPDATES

A. Proposed new visa framework

DIBP seeks to model the current visa subclasses into three categories (outlined below) by combining activities that share a commonality of characteristics, purpose and intention.

1. Work Pathway - Sponsored and Unsponsored

This category aims to cater for skills needs that are urgent or reoccurring nature, or longer term temporary, or identified permanent skills needs. The proposed model encompasses:

- *Short-Term Mobility Stream*: that allows entry for up to 12 months to complete specialised work such as intra company transfers, specialised contract work, etc;
- *Temporary 457 Skilled Stream*: that allows business to fill skilled vacancies for up to 4 years through employer sponsorship. Some recommendations from the 457 Independent Review process are being considered to reduce the red tape for Australian businesses. Some of the proposed changes may include streamlining the processing of sponsorship, nomination and visa for low-risk applicants, increasing the sponsorship approval period from 12 to 18 months for start-up businesses, and more flexible English-language testing and skill requirements for 457 applicants.
- *Permanent Independent Tested Stream*: that allows permanent residency through points tests based on occupation, skills, age, and language competencies. New proposals are being considered to include regional focus, broadening ANZSCO occupation grouping from the existing 6-digit to a 4-digit, occupation ceilings and alternatives to the skills assessment criterion.
- *Permanent Skilled Stream*: that allows Australian employers to fill vacancies leading to permanent residency where genuine skills needs exist.

2. Business Pathway - Innovation and Investment

DIBP indicated to retain the current *Significant Investor Visa (SIV)* pathway. Proposed SIV eligibility reforms from 1 July 2015 such as the disallowance of undiversified investments are expected to make the SIV less attractive and will impact on certain managed fund products.

Some other proposed reforms include:

- Investments are to be Australian Foreign Investment Review Board (FIRB) compliant.
- Restricting indirect investment into residential real estate (and direct investment into residential real estate continues to be disallowed).
- Removal of 'loan back' arrangements where the SIV investment is used as collateral.

DIBP will introduce a *Premium Investor Visa (PIV)* that allows applicants to apply for permanent residency after 12 months based on complying investments of at least A\$15 million.

3. Activity Pathway - Community, Traineeship & International Relations

This category combines activity based visa with proposal to the establishment of Approved Activities Lists and increased participation by the Universities to enhance the integrity of the visa intent.

- *Community and Events Stream*: which allows entry for up to 4 years, to participate in or assist with an event, or an approved cultural or social activity such as major sports and music events, cultural performances, expos, religious workers, school exchange and entertainers.
- *Training and Specialist Research Stream*: which allows entry for up to 3 years to undertake approved training and research activities such as professional development, occupational traineeship, research and fellowships.
- *International Relations Stream*: which aims to facilitate a range of bilateral initiatives in response to Australia's international obligations?

B. Partner Visa Fee Increase

As of 1 January 2015, the cost for onshore permanent partner visa increased from A\$4,575 to A\$6,865. Assistant Immigration Minister Michaelia Cash said the fee increases were needed to "repair the budget and fund whole-of-government policy priorities". The service standard for a partner visa decision continues to average 12 -15 months.

LATEST AT AMBER MIGRATION

New Amber Team Member

We would like to welcome and introduce you to our newest team member, John Angeles!

John commenced in January 2015 as our Manager and Business Visa Extraordinaire. John has 10 years of experience in managing the Business and Skilled Migration Programs at NSW Trade & Investment. John's experience also included managing the Skilled Nominated Visa and coordinated the skilled regional visa program with regional certifying bodies across NSW.



New Office Location

Amber has relocated to a snazzy office at **Suite 902, Level 9, 5 Hunter Street, Sydney NSW 2000**. And the team loves the new premises equipped with ultra modern facilities and a yes, a pool table as well !!

COMMONLY ASKED QUESTIONS

Unpaid Leave for 457 holders

It is not uncommon for 457 visa holders to seek period/s of unpaid leave. 457 visa holders, like any other Australian citizen or permanent resident employees, are eligible for unpaid leave and partially paid leave such as maternity leave, severe medical condition, compassionate circumstances, etc.

Broadly speaking, a few weeks of unpaid leave period is generally not a concern as long as it is formally requested, authorised by the employer and complies with the Fairwork NES Guidelines.

Employers are suggested to document any elongated period/s of unpaid leave sought recording the reasons and consideration towards how the 457 visa holder would support themselves during such leave period. An extended unpaid period may raise concern with Immigration on genuine intention of the 457 visa holder to continue to perform their nominated role.

Unpaid leave also affects the 457 holder's permanent residency date should they opt for a subclass 186 employer sponsored residency at the end of their two year employment period.

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