

## AMBER MIGRATION NEWSLETTER

14 November 2017

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In this **Amber Migration** Newsletter, we are pleased to advise DIBP has announced transitional arrangements enabling 457 visa holders and 457 visa applicants on 18 April 2017 to apply for permanent residence beyond March 2018. We also summarise news provided in DIBP's latest E-news for migration advisers.

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### 457 visa holders impacted by 457 changes announced on 18 April 2017

In March 2018 transitional arrangements will be put in place to enable people who held or had applied for a subclass 457 visa as at 18 April 2017 to apply for permanent residence under the TRT (Temporary Residence Transition) Stream of visa subclass 186 (Employer Nomination Scheme) and visa subclass 187 (Regional Sponsored Migration Scheme). This group of 186/187 TRT applicants will be allowed the following "concessions":

- Occupation requirements remain the same (which is the occupation list restrictions will not apply, as long as they continue to work in the same occupation for the same employer as approved for their subclass 457 visa)
- The age requirement will remain at less than 50 years of age (ie the change to 45 years of age on 1 July 2017 will not apply)
- The work experience requirement, and the requirement to have worked at least 2 out of the 3 years prior to the 186/187 nomination whilst holding a 457 visa, will remain the same.

These applicants will however be required to meet additional 186/187 requirements that will be in place in March 2018. These will include English language requirements (IELTS 6 or equivalent) and salary arrangements (with TSMIT being added to 187 requirements).

### Training Benchmark Overhaul

From March 2018, the Skilling Australians Fund Levy replaces the current Training Benchmarks A and B for 457/186/187 employers. The Levy will be payable upfront, per nomination, at the time of application with DIBP:

Sponsor's annual turnover	TSS (currently known as 457)	186/187
Less than \$10 million	\$1,200 per year	\$3,000 One-off
Over \$10 million	\$1,800 per year	\$5,000 One-off

While awaiting specific details from DIBP, we understand there will be provisions for a full refund or part refund under certain circumstances, for example, if the nomination application is unsuccessful, or if the nominee ceases employment shortly after being granted a TSS visa.

## PIC 4020 – 12 months changed to 10 years

As at now, Public Interest Criteria 4020 forbids a person to be granted a visa for 3 years if there is evidence that the applicant has given a bogus document or information that is false or misleading in a material particular in relation to:

- (a) the application for the visa; or
- (b) a visa that the applicant **held in the period of 12 months** before the application was made.

From 18 November 2017, Paragraph (b) above will change to read:

- (b) a visa that the applicant **held or applied for, in the period of 10 years**, before the application was made.

The practical effect of this change is that **any information or documents** provided to the Department, skills assessor or MOC, can be taken into account when deciding an application, **even if the previous visa was not granted or was withdrawn before decided.**

## List of Eligible Skilled Occupations

Consistent with previous DIBP announcements, the lists of eligible skilled occupations are reviewed every six months, with the next update expected in January 2018.

This means occupations that are currently not eligible for the making of a subclass 457/186/189/190 visa application may become eligible to do so from January 2018, or vice versa.

## Temporary Sponsored Parent visa – Bill not passed

DIBP originally announced that the new five-year Temporary Sponsored Parent visa would be introduced around this time. However, the Bill enabling the new visa to come into effect has not yet been approved by the Senate.

## Citizenship Update

The Government's proposed changes to Australian Citizenship requirements were blocked in the Parliament. In October 2017, the Minister announced an amended Bill would soon be introduced and implemented from 1 July 2018 if it is passed by Parliament. Current Citizenship rules apply to applications lodged before 1 July 2018.

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