

## **Answers to those burning visa questions:**

### **Q1. What has already changed?**

A. As of 19 April 2017:

- the Consolidated Sponsored Occupation List (CSOL) has been replaced with the new Short-term Skilled Occupation List (STSOL);
- the Skilled Occupation List (SOL) has been replaced with the new Medium and Long-term Strategic Skills List (MLTSSL);
- there has been a reduction of 216 occupations available for subclass 457 visa programme applications;
- 59 caveats now apply to specified occupations - these either relate to work experience, regional location or are occupation specific; and
- new visa validity periods also apply under the standard subclass 457 programme with a maximum 2 year period available for occupations that are eligible for the subclass 457 programme but not on the new MLTSSL.

### **Q2. Can people still apply for subclass 457 visas?**

A. Yes. The subclass 457 programme remains open until the new TSS visa comes into effect in March 2018. The occupation list has been restricted (19 April 2017) and integrity settings will be further tightened.

### **Q3. Where can I find a list of removed occupations?**

A. This is attached for your convenience.

### **Q4. Why were occupations removed?**

A. They were removed due to a wide range of factors including: immigration integrity concerns, low usage over the last five years, being reserved for Australian citizens (e.g. magistrate) and based on advice from the Department of Employment.

### **Q5. Where can I find information about the caveats?**

A. This is contained in the Schedule 1 MLTSSL and Schedule 2 STSOL lists.

### **Q6. Do the above changes have any impacts on existing subclass 457 visa holders?**

A. No – unless they wish to change employers or positions, in which case a new nomination will need to be approved under the new arrangements.

Note:

- This will include situations where due to business structure changes, an employer is required to lodge a new sponsorship application and is required to lodge new nomination applications to accommodate existing subclass 457 visa holders (unless they continue to work for an associated entity of an Australian sponsor).

- A new nomination approval for an occupation listed on the STSOL will not result in reduction of the visa period already held by the visa holder.

**Q7. What if we have a pending application where the occupation has been removed from the list - what happens now?**

A. Once the application has reached the assessment stage, you will be contacted by the Department and given the opportunity to withdraw your application in writing. The letter will specify a period for required response (i.e. 14 days for nomination applications and 28 days for visa applications).

Alternatively, you can request a withdrawal in writing at any time and you will then be entitled to a refund of the application fee. If you do not withdraw your application, it will be refused. This could have unintended consequences as far as s48 bar and possible Schedule 3 criteria being met for subsequent visa applications

Note:

- If seeking to withdraw a visa application, the Department ask that you complete and attach Form 1446 to your ImmiAccount where possible to facilitate faster processing.
- If seeking to withdraw a nomination application, the Department ask that you attach a written request to this effect to your ImmiAccount where possible to facilitate faster processing.
- Once a withdrawal has been actioned, the process to facilitate a refund will be initiated.

Applications which do not meet the requirements and are not withdrawn within the prescribed timeframes will be refused. No refund will be provided in such circumstances.

**Q8. Can I get a refund for an approved nomination if a related visa application now cannot be approved?**

A. Yes, if, a subclass 457 visa application is unable to be granted where the approved nomination is for an occupation that has been removed from the list, the sponsoring business can request that the nomination be withdrawn and request a refund of the nomination fee.

Note:

- If seeking to withdraw your approved nomination, it has been requested by the Department that you utilise Form 1446 where possible to facilitate faster processing. The completed form should be emailed through to 457@border.gov.au not your ImmiAccount.
- Once a withdrawal has been actioned, the process to facilitate a refund will be initiated.

**Q9. Can I get a refund of my sponsorship fee if my sponsorship application has been lodged and/or approved but I no longer wish to use the subclass 457 programme due to the changes in occupation lists?**

A. No – a refund is not available under the legislative framework.

**Q10. What about situations where you have a pending application but a caveat now applies?**

A. Once the application has reached the assessment stage, an officer will assess whether or not the caveat applies. If it does, the same withdrawal and refund options as noted above (Q7) will be made available to you - as the occupation is no longer 'on the list' in the circumstances specified.

Note: where a caveat may apply, but the nomination has already been approved and it is only the visa application that is outstanding, the Department will assess caveats for visa applicants based on information already available on Departmental systems. They will not seek further information if there is no clear indication that a caveat applies.

**Q11. Can I change the nominated occupation?**

A. No – but you can withdraw and lodge a new nomination with a new occupation specified for the nominee. This may, however, raise concerns about the genuineness of the position – particularly if the new occupation is substantially different.

**Q12. Can I change the nominated base salary for a position post lodgement of the nomination?**

A. Yes – you can provide updated information to the Department via ImmiAccount, but you must also provide an updated contract of employment reflecting the new salary rate. This may, however, raise concerns about the genuineness of the position and whether the local labour market has been effectively tested.

**Q13. What is the impact of 19 April 2017 changes on the subsequent dependant applications?**

A. Nil – if the primary visa application has been granted, then subsequent dependant applicants can still be granted for the same period as the primary (subject to any 457 MOFU extension restrictions).

**Q14. Do the changes impact cases that have a review application pending?**

A. Yes – the AAT must make a decision based on the current framework – i.e. they are required to take into account recent occupation removals and caveats.

**Q15. Will the reforms affect visa processing times?**

A. Processing times are expected to slow down in the short term as Department staff become familiar with the new arrangements. Additional concurrent measures are, however, being considered for 1 July 2017 to streamline processing for lower risk sponsors – including possible further expansion of 457 accredited sponsor arrangements.

**Q16. What are caveats?**

A. Occupational caveats are additional requirements for certain occupations to demonstrate that the position you have nominated is appropriate for a skilled visa programme.

Caveats do not prevent lodgement of all applications for that particular occupation. They limit use of the occupation in certain circumstances.

These caveats will be subject to regular review and may be added, altered or removed in future.

**Q17. Where the caveat requires a business to have a turnover of at least \$1M, what is the period in which \$1M turnover is considered?**

A. From 1 July 2017, the subclass 457 nomination form will collect information regarding the turnover of the business for the last financial year, which will be used to determine whether or not this caveat applies.

Up until this time, the Department will use existing information available on their systems if they indicate that this element of a caveat is met. Where such information is not available in Departmental systems, additional information will be sought from the sponsoring company. If this occurs, it is recommended that you provide financial information to cover the last financial year. Independently verifiable information should be provided where possible.

**Q18. Can the \$1M include turnover from related entities?**

A. No – this relates to the sponsoring business only.

**Q19. Can the \$1M turnover figure include GST?**

A. No.

**Q20. Will occupational caveats apply to businesses that have traded for less than 12 months? If so, will projected turnover suffice where relevant?**

A. Yes – they apply. In general, projected turnover will not suffice. As above, the turnover needs to be at least \$1M for the last financial year. However, the Department will consider exceptional circumstances on a case by case basis.

**Q21. Where the caveat requires a business to have a minimum of five employees, are there any restrictions on the type of employee (e.g. do they have to be full time, Australian)?**

A. No – not at this stage. If the business declares that they have five employees and this is consistent with other information provided (e.g. structure chart for business etc.), then this will be accepted unless the Department has concerns that this is not the case. From 1 July 2017, the subclass 457 nomination form will ask companies to declare their total number of employees and how many are Australian/overseas workers, as per the current subclass 457 sponsorship form.

**Q22. Where the caveats require at least two years of work experience, what does this mean?**

A. This means that a successful candidate for the nominated position would be expected to have completed at least two years' full time (as per the industry standard) work experience in the relevant occupation post qualification.

**Q23. Is the Regional Sponsored Migration Scheme impacted by the 19 April 2017 changes?**

A. No – this is because you can nominate any occupation that is ANZSCO skill level 1 to 3 for this programme (i.e. you are not restricted to the MLTSSL and the STSOL at this stage).

A. The above changes do not impact on hand ('pipeline') applications for other skilled permanent visa programmes.

**The removal of occupations from the list will, however, impact clients who lodge an application for one of the following on or after 19 April 2017:**

- Employer Nominated Scheme (subclass 186) – Direct Entry Stream
- Skilled Nominated visa (subclass 190)
- Skilled Regional (Provisional) visa (subclass 489)

That is, any applications already lodged before 19 April 2017 for the above visa subclasses (other than a 457 visa) will not be impacted (even if the occupation was removed for these visas on 19 April 2017).

**Q25. Do the caveats impact permanent visa applications?**

A. No – the new caveats only impact subclass 457 applications. Caveats existing prior to 19 April 2017 that impacted other visas remain unchanged.

**Q26. Can you still apply for ENS if your occupation is on the STSOL but not the MTSSL?**

A. Yes – currently, if your occupation is on the STSOL or an eligible occupation on the MLTSSL you can apply for the ENS Direct Entry stream.

Current holders of subclass 457 visas continue to be eligible to apply for permanent residency through the Temporary Residence Transition (TRT) stream of the ENS visa. Access to the TRT stream is not based on the occupation lists and is therefore unaffected by these changes.

**Q27. Do the above changes impact on hand ('pipeline') applications for other temporary visa programmes that utilise the MLTSSL and/or the STSOL?**

A. The above changes do not impact on hand ('pipeline') applications for other temporary visa programmes that utilise the MLTSSL and/or the STSOL. The removal of occupations from the list will, however, impact clients who lodge an application on or after 19 April 2017 for the Training visa (subclass 407).

## **Proposed 1 July 2017 changes**

### **Q28. What reforms are being implemented on 1 July 2017?**

A. Key reforms that will be implemented from July 2017 for subclass 457 visas include:

- expanding mandatory skills assessments;
- introducing mandatory penal clearance checks consistent with other visas;
- tightening existing training benchmarks; and
- removing English language exemptions based on a skilled migrant's salary (e.g. if their salary is higher than \$96,400).

### **Q29. Will there be further changes to the occupation lists for 1 July 2017?**

A. Yes – it is expected that the occupation lists will be regularly updated, based on a range of factors including advice from the Department of Employment and the Department of Education and Training.

### **Q30. Why are mandatory skills assessment requirements being expanded?**

A. The skills assessment requirements are being considered for expansion to cover a small number of new cohorts of concern. For example, where particular combinations of occupation and nationality have been identified as an integrity risk.

### **Q31. What nationalities/occupations will be impacted?**

A. A final decision has not been made in this space. Information will be released prior to 1 July 2017.

### **Q32. What changes are being made to character requirements and why?**

A. As of 1 July 2017, all subclass 457 applicants aged 17 years or older will be required to provide penal clearance certificates for countries in which they have lived for a significant period.

This measure will strengthen current character and integrity measures and will bring subclass 457 visas into line with other longer stay temporary visa products.

### **Q33. What changes are being made to the training benchmarks?**

A. Policy settings for training benchmark requirements are being clarified and tightened, by setting out:

- the types of training funds eligible for training benchmark A; and
- setting out the types of expenditure on training that are acceptable for training benchmark B.

**Q34. What reforms will be implemented on 1 July 2017 for ENS and RSMS?**

A. On 1 July 2017, the additional changes below will be implemented for ENS and RSMS:

- raising English language requirements to “competent” for all applicants (IELTS 6) – with TRT and Direct Entry requirements to be consistent;
- upper age limit of 45 for Direct Entry applicants;
- further changes to the occupations lists and their application to relevant visas.

## **Proposed March 2018 changes**

### **Q35. What is the Temporary Skill Shortage (TSS) visa?**

A. The new TSS visa will replace the 457 visa. It will have two distinct streams: a Short-term stream of up to two years and a Medium-term stream of up to four years.

### **Q36. How much will the TSS visa cost?**

A. There will be different Visa Application Charges (VAC) for the TSS visa. The base VAC for:

- the Short-term stream is \$1150; and
- the Medium-term stream is \$2400.

### **Q37. What are the changes to the English language requirements?**

A. The English requirements for the Short-term stream of the new TSS visa will be the same as the current 457 visa, with a minimum IELTS result (or equivalent) of 4.5 in each test component required, and an overall score of 5.

There will be a higher standard required for the Medium-term stream with a score of 5 required in each test component.

### **Q38. Will holders of the TSS visa have a pathway to become Australian permanent residents?**

A. Yes - under the Medium-term stream only.

### **Q39. Will the Temporary Income Skilled Migration Threshold (TSMIT) be indexed?**

A. No - in considering options for the abolition of the subclass 457 visa and its replacement with a new TSS visa, the Government decided not to index the TSMIT at this time.

### **Q40. What will change in terms of labour market testing?**

A. Labour market testing will be a mandatory requirement for the TSS visa, unless international trade obligations apply.

### **Q41. How will the TSS visa require employers to assist with training Australian workers?**

A. The TSS visa will require employers nominating skilled overseas workers to contribute to training Australian workers. Details of the revised training requirement will be provided in the future.

**Q42. What reforms will be implemented for ENS and RSMS in March 2018?**

A. From March 2018, new eligibility criteria for ENS and RSMS will include:

- an upper age limit of 45 (from 50) for most applicants;
- occupation must be on the MLTSSL (unless an additional occupation approved for regional areas);
- a minimum market rate salary: all visa holders must earn at least a minimum salary of \$53,900 – that is the TSMIT;
- at least three years' relevant work experience; and
- a pathway to permanent residence through TRT requires 3 years on Medium-term TSS visa.

## **Labour agreements**

### **Q. Do these changes have any impact on labour agreements?**

A. No – the subclass 457 visa abolition and replacement changes have no immediate impact on the labour agreement programme with:

- existing labour agreements remaining in effect;
- existing visa holders not impacted unless they apply for another visa impacted by the changes outside of the labour agreement programme; or
- new nominations that labour agreement sponsors intend to lodge and related visa applications are not impacted – including applications for occupations which are specified in the relevant labour agreement, but have were 'removed' from the standard programme on 19 April 2017.

The Department will amend all existing labour agreements at some time prior to March 2018 to reflect the abolition of the subclass 457 visa – with no further applications for subclass 457s accepted after the introduction of the TSS visa in March 2018.

### **Q. Will the Designated Area Migration Agreement (DAMA) remain in place?**

A. The DAMA with the Northern Territory will remain in place.

### **Q. Has anything else changed in the labour agreement programme?**

A. The Department continues to review labour agreement arrangements to ensure that:

- they reflect current economic and employment conditions
- the local labour market is not undercut
- Australian workers are given priority.

The Department will be updating its labour agreement information pack to reflect this shortly. Further changes will also be made to the labour agreement request proforma to ensure that the Department obtains more comprehensive information 'upfront' to help streamline the request process.

## List of removed occupations (Q3)

Occupations entirely removed from the list of eligible skilled occupation on 19 April 2017 are listed below.

A further 16 occupations on the MLTSSL (indicated by ‘\*\* asterisks’) were restricted to only apply to the following visa programmes:

Skilled – Independent (subclass 189)

Temporary Graduate (subclass 485)

Skilled-Regional (Provisional) (subclass 489)

These 16 occupations are indicated via ‘\*\* asterisks’ on the Medium and Long-term Strategic Skills List (MLTSSL). That is, these 16 occupations are not available for other programmes, such as the 457 visa programme. For further information, see: legislative Instrument.

### **Occupation | ANZSCO Code**

Aboriginal and Torres Strait Islander Health Worker 411511

Actor 211111

Actors, Dancers and Other Entertainers NEC 211199

Aeroplane Pilot 231111

Air Traffic Controller 231112

Air Transport Professionals NEC 231199

Aircraft Maintenance Engineer (Avionics) 323111

Amusement Centre Manager 149111

Antique Dealer 142112

Apparel Cutter 393211

Archaeologist 272414

Archivist 224211

Art Director (Film, Television or Stage) 212311

Artistic Director 212111

Auctioneer 611111

Author 212211

Bed and Breakfast Operator 141911

Betting agency Manager 142113  
Biochemist 234513  
Biotechnologist 234514  
Blacksmith 322111  
Boarding Kennel or Cattery Operator 149911  
Broadcast Transmitter Operator 399511  
Building and Engineering Technicians NEC 312999  
Business Broker 612111  
Butcher or Smallgoods Maker 351211  
Call or Contact Centre Manager 149211  
Canvas Goods Fabricator 393111  
Caravan Park and Camping Ground Manager 141211  
Cinema or Theatre Manager 149912  
Clinical Coder 599915  
Clothing Patternmaker 393212  
Clothing Trades Workers NEC 393299  
Commissioned Defence Force Officer 139111  
Commissioned Fire Officer 139112  
Commissioned Police Officer 139113  
Communications Operator 342312  
Community Arts Worker 272611  
Composer 211211  
Conservation Officer 234311  
Construction Estimator 312114  
Conveyancer 599111  
Corporate Treasurer 221212  
Court Bailiff or Sheriff (Aus) / Court Collections Officer (NZ) 599212  
Deer Farmer 121314  
Defence Force Member - Other Ranks 441111  
Defence Force Senior Officer 111212

Dental Hygienist	411211	
Dental Prosthetist	411212	
Dental Therapist	411214	
Detective	441311	
Director of Photography	212313	
Diver	399911	
Dog or Horse Racing Official	452318	
Drama Teacher (Private Tuition)	249213	
Dressmaker or Tailor	393213	
Driller	712211	
Driving Instructor	451211	
Education Reviewer	249112	
Electorate Officer	224911	
Electronic Engineering Draftsperson	312411	
Electronic Engineering Technician	312412	
Electroplater	322112	
Emergency Service Worker	441211	
Engineering Patternmaker	323411	
Engraver	323311	
Entertainer or Variety Artist	211113	
Environmental Health Officer	251311	
Exercise Physiologist	234915	
Film, Television, Radio and Stage Directors NEC	212399	
Financial Institution Branch Manager	149914	
Fire Fighter	441212	
Fire Protection Equipment Technician	399918	
First Aid Trainer	451815	
Fisheries Officer	311311	
Flight Attendant	451711	
Floor Finisher	332111	

Flying Instructor 231113  
Food Technologist 234212  
Funeral Director 451311  
Funeral Workers NEC 451399  
Futures Trader 222212  
Gallery or Museum Technician 399311  
Gas or Petroleum Operator 399212  
Geophysicist 234412  
Goat Farmer 121315  
Golfer 452412  
Graphic Pre-press Trades Worker 392211  
Gunsmith 323312  
Helicopter Pilot 231114  
Historian 272411  
Homoeopath 252212  
Horse Trainer 361112  
Human Resource Adviser 223111  
Hydrogeologist 234413  
Hydrographer 311415  
ICT Support and Test Engineers NEC 263299  
ICT Support Technicians NEC 313199  
Importer or Exporter 133311  
Insurance Investigator 599611  
Insurance Risk Surveyor 599613  
Intellectual Property Lawyer 271214  
Intelligence Officer 224411  
Interior Decorator 399912  
Jockey 452413  
Judge 271211  
Kennel Hand 361115

Leather Goods Maker	393112	
Legal Executive	599112	
Liaison Officer	224912	
Licensed Club Manager	141411	
Life Scientist (General)	234511	
Life Scientists NEC	234599	
Light Technician	399513	
Magistrate	271212	
Maintenance Planner	312911	
Marine Surveyor	231215	
Marine Transport Professionals NEC	231299	
Market Research Analyst	225112	
Master Fisher	231211	
Mechanical Engineering Draftsperson	312511	
Media Producer (excluding Video)	212112	
Metal Casting Trades Worker	322114	
Metal Polisher	322115	
Metallurgist	234912	
Microbiologist	234517	
Migration Agent (Aus)	224913	
Mothercraft Nurse	411412	
Multimedia Designer	232413	
Music Director	211212	
Music Professionals NEC	211299	
Musical Instrument Maker or Repairer	399515	
Natural and Physical Science Professionals NEC	234999	
Nurse Researcher	254212	
Nurseryperson	362411	
Operating Theatre Technician	311214	
Optical Dispenser (Aus) / Dispensing Optician (NZ)	399913	

Optical Mechanic 399914  
Other Sports Official 452323  
Painter (Visual Arts) 211411  
Park Ranger 234314  
Parole or Probation Officer 411714  
Pathology Collector (Aus) / Phlebotomist (NZ) 311216  
Petroleum Engineer 233612  
Plastics Technician 399916  
Plumbing Inspector 312115  
Police Officer 441312  
Policy Analyst 224412  
Policy and Planning Manager 132411  
Potter or ceramic artist 211412  
Prison Officer 442111  
Procurement Manager 133612  
Production Manager (Manufacturing) 133512  
Public Relations Manager 131114  
Quarantine Officer 311313  
Radio Journalist 212414  
Radio Presenter 212113  
Railway Station Manager 149412  
Regional Education Manager 134412  
Research and Development Manager 132511  
Retail Buyer 639211  
Retirement Village Manager 141912  
Safety Inspector 312611  
Sail Maker 393113  
Sales Representative (Industrial Products) 225411  
Sales Representative (Medical and Pharmaceutical Products) 225412  
Saw Maker and Repairer 323315

School Laboratory Technician 311414  
Screen Printer 392112  
Sculpter 211413  
Senior Non-commissioned Defence Force Member 139211  
Shearer 361211  
Shoemaker 393114  
Singer 211214  
Small Offset Printer 392312  
Sports Administrator 139915  
Sports Umpire 452322  
Stock and Station Agent 611112  
Surveying or Spatial Science Technician 312116  
Technicians and Trades Workers NEC 399999  
Telecommunications Cable Joints 342412  
Telecommunications Technician 342414  
Television Equipment Operator 399517  
Television Presenter 212114  
Training and Development Professional 223311  
Translator 272413  
Travel Agency Manager 142116  
Travel Attendants NEC 451799  
Tribunal Member 271213  
Turf Grower 121218  
Vehicle Painter 324311  
Vocational Education Teacher (Non-Trades) 242211  
Vocational Education Teacher (Trades) 242211  
Web Developer 261212  
Wholesaler 133312  
Wood Turner 394214  
Wool Buyer 639212

Wool Classer 399917

Workplace Relations Advisor 223113

Zookeeper 361114