



457 reforms and occupation list changes: questions and answers

Overview of Reforms	2
Changes to the Occupation Lists	3
Impacts for the 457 Visa Programme – from 1 July 2017	5
Impacts for the Permanent Employer Sponsored Visa Programme (subclass 186, 187) – from 1 July 2017	7
Impacts for the Points-Tested Visa Programme – from 1 July 2017	8
Impacts for Temporary Graduates and the Training Visa – from 1 July 2017	9
Impacts for International Student Visas – from 1 July 2017	10
The New Temporary Skill Shortage (TSS) Visa – from March 2018	10
Stakeholder Engagement	13

Further information on reforms is available at www.border.gov.au/Trav/Work/457-abolition-replacement

Overview of Reforms

What are the key reforms?

Abolishing the Temporary Work (Skilled) (subclass 457) visa programme (subclass 457 visa) and replacing it with a new Temporary Skill Shortage (TSS) visa in March 2018.

Complementary reforms to strengthen the integrity of Australia's temporary and permanent employer sponsored skilled migration programmes.

What is the purpose of the reforms?

The reforms ensure that Australian workers have first priority for jobs in this country, and address concerns that some employers have been recruiting overseas workers without reference to the local labour market.

The reforms will also ensure that Australia's skilled migration programmes better meet Australia's skills needs, and increase the quality and economic contribution of skilled migrants.

When are the reforms scheduled to be implemented?

The reforms commenced from 19 April 2017 and will be implemented in phases. This implementation will be completed by March 2018, with the abolishment and replacement of the subclass 457 visa.

Further information about the reforms is available in the following factsheets:

- *Reforms to Australia's temporary employer sponsored skilled migration programme – abolition and replacement of the subclass 457 visa*, available at: www.border.gov.au/WorkinginAustralia/Documents/abolition-replacement-457.pdf and
- *Reforms to Australia's permanent employer sponsored skilled migration programme*, available at: www.border.gov.au/WorkinginAustralia/Documents/reforms-australia-permanent-employer-sponsored-migration-programme.pdf.

Which visas are impacted by the reforms?

The reforms affect employer sponsored temporary and permanent skilled work visas, including:

- Temporary sponsored work visas
 - The subclass 457 visa. This visa will cease in March 2018.
 - The new TSS visa will commence in March 2018.
- Permanent employer sponsored visas
 - Employer Nomination Scheme (ENS) (subclass 186) visa.
 - Regional Sponsored Migration Scheme (RSMS) (subclass 187) visa.
- Other permanent skilled visas (e.g. those that are points tested) will also be impacted.

How do the reforms protect Australian workers?

The reforms better protect Australian jobs by ensuring that overseas workers supplement the labour market, and do not replace Australian workers.

How do the reforms protect visa holders?

Tightened English language skills and minimum salary requirements will ensure that skilled work visa holders are less vulnerable to exploitation, and can participate fully in the workforce and community.

To help address worker exploitation and support compliance, two key reforms will be implemented, including:

- an arrangement between the Department of Immigration and Border Protection (the Department) and the Australian Taxation Office to share Tax File Numbers (TFNs) of skilled overseas workers; and
- publicly name sponsors that are sanctioned for breaching their sponsorship obligations.

Why does the subclass 457 visa need to be abolished?

The abolition of the subclass 457 visa marks a significant milestone.

The subclass 457 visa has been in place for over 20 years and has been subject to major changes and reviews. But, the programme is not meeting Australia's labour market and economic needs.

What reforms occurred on 19 April 2017?

The Government's reform announcement was made on 18 April 2017. From 19 April 2017 the occupations lists used for temporary and permanent employer sponsored skilled visas were significantly condensed and renamed:

- the Consolidated Sponsored Occupation List (CSOL) was replaced with the new, condensed Short-term Skilled Occupation List (STSOL); and
- the Skilled Occupation List was replaced with the new Medium and Long-term Strategic Skills List (MLTSSL).

The 457 visa validity period for occupations on the STSOL was shortened to be up to two years. Occupations on the MLTSSL continue to be issued for a maximum duration of four years..

Changes to the Occupation Lists

What was considered in changing the occupation lists?

The composition of the revised 457 occupation list is based on extensive consultations with industry, labour market analysis and advice from Government Departments.

Why have occupations been removed or restricted?

Occupations were removed or restricted to ensure they remain focussed and responsive to genuine skill needs and regional variations across Australia.

Changes to the occupations lists were announced on 18 April 2017. Why are changes being made again so soon?

The Government announced on 18 April 2017 that occupations on the MLTSSL and STSOL will be regularly reviewed to make sure the entry of skilled foreign workers to Australia remains carefully calibrated to Australia's skills needs. The occupation lists are designed to be dynamic.

How often will the occupation lists be reviewed?

- The STSOL will be reviewed at least every six months, based on advice from the Department of Employment.
- The MLTSSL will be reviewed annually by the Department of Education and Training.

These reviews will consider information from a range of labour market data, as well as stakeholder feedback.

What occupations have been added and removed?

The new list of occupations to come into effect from 1 July 2017 is available at www.border.gov.au.

Occupational Caveats

What are occupational caveats?

Caveats are used to address immigration integrity concerns. They provide additional detail, beyond the Australia and New Zealand Standard Classification of Occupations (ANZSCO) definition, about the permitted scope of an occupation.

Which visas are affected by occupational caveats?

Information on caveats, including which visas they apply to is available at:

www.border.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities/skilled-occupations-lists.

Why have occupational caveats been applied to some occupations but not others?

Caveats are imposed for a range of reasons including to manage immigration integrity issues and minimise the risk of fraud. The occupation lists, as well as the number and content of the caveats, are subject to regular review.

How are caveats that require a minimum of two years relevant work experience assessed?

These caveats exclude positions that do not require a minimum of two years relevant work experience – that is, the caveat relates to position requirements not the visa applicant's experience.

Two years relevant work experience is interpreted as two years full time relevant work experience in the same or a similar occupation.

When considering relevant work experience, officers take into account the context of the relevant occupation. For example, for the occupation of University Lecturer, work experience may take different forms such as research and teaching experience accumulated by PhD students. Similar considerations can apply to the medical professions, where training as an intern or junior doctor may be relevant work experience.

How do these changes impact on Australia's International Trade obligations?

All of the 457 visa reforms, including the 1 July changes, will be implemented in a manner consistent with Australia's international trade obligations.

The occupation lists are designed to change and are subject to ongoing review. Occupations subject to specific commitments in international trade agreements are not impacted by changes to the occupation lists.

Updated policy makes it clear that visa periods of up to 4 years are available where requested by the sponsor and required to meet Australia's international trade obligations.

Impacts for the 457 Visa Programme – from 1 July 2017

What if I already hold a 457 visa?

If you hold a subclass 457 visa already, then you can continue to hold your visa until its expiry. You will not be impacted by these changes unless you seek to apply for a further subclass 457 visa or change employers.

If I already hold a 457 visa, can I apply for a family member to join me?

Secondary visa applicants can apply to join a primary subclass 457 visa holder in Australia. If approved, the secondary applicant's 457 visa period will match the visa period of the primary visa holder.

If I already hold a 457 visa, can I change employers?

Yes, however, if you hold a 457 visa and want to change employer or position, a new nomination will need to be lodged and approved for you. The nomination must be for an occupation that is on the Medium and Long-term Strategic Skills List or the Short-term Skilled Occupation List.

What if my 457 visa application or nomination was lodged before 1 July 2017 and had not been decided by 1 July 2017?

If you, or your employer, had a 457 application that is still being processed by the Department as of 1 July 2017 and you are nominated in an occupation which is no longer eligible to be granted a 457 visa (ie your occupation is no longer on the occupation lists, or a caveat applies to the particular circumstances of your nominated position), your application will not be approved.

You will be offered the opportunity to withdraw your application and request a refund of your application fee.

Further information, including a list of eligible occupations and caveats is available at:

www.border.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities/skilled-occupations-lists.

What if I intend to apply for a 457 visa on or after 1 July 2017?

457 visa applications lodged on or after 1 July 2017 must meet the updated criteria. The changes include:

- Eligible occupations: the list of eligible skilled occupations has been revised.
- English language requirements: the English Language Salary Exemption Threshold (ELSET) has been removed. English language test results must be provided for applications lodged on or after 1 July 2017 unless the person is an intra-corporate transferee (that is, an employee transferring

between a foreign parent company to an Australian arm of the company) and they have a nominated base rate of pay of at least AUD \$96,400.

- Police clearances: the provision of police clearance certificates is mandatory.
- Mandatory skills assessments: the skills assessment programme has been expanded to include some additional nationalities for a small number of existing occupations.

Further information on these requirements is available:

- Occupation information and lists: www.border.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities/skilled-occupations-lists.
- 457 requirements: www.border.gov.au/Trav/Visa-1/457-.
- Police clearance requirements: www.border.gov.au/Trav/Visa/Char.

457 visa applications will continue to be able to be lodged until March 2018. From March 2018, prospective temporary skilled workers can apply for the TSS visa.

How will the reforms affect existing 457 sponsors?

Until March 2018, Australian businesses can sponsor an overseas worker for a 457 visa, but under tightened conditions.

From March 2018, it is expected that Australian businesses already approved as 457 sponsors will continue to be able to sponsor a worker under the new Temporary Skill Shortage visa until their existing sponsorship expires. Once an existing sponsorship expires, sponsors would need to reapply for sponsorship to be able to continue to sponsor overseas skilled workers.

What if my 457 sponsorship application was lodged before 1 July 2017 and had not been decided by 1 July 2017?

The changes will not affect your sponsorship application. Any nomination or visa application lodged on or after 1 July 2017 must meet the new criteria. Information on the 457 requirements is available at: www.border.gov.au/Trav/Visa-1/457-.

I want to sponsor a 457 worker and will lodge my sponsorship application on or after 1 July 2017. How will the 1 July 2017 reforms affect me?

You will need to meet the sponsorship requirements in place when you lodge your sponsorship application. From 1 July 2017, for sponsorship:

- the criteria for sponsorship accreditation is being expanded. Accredited sponsors receive priority processing of all nomination and visa applications.
- The training benchmarks are being clarified and tightened by setting out:
 - the requirements a training fund must meet for training benchmark A; and
 - the types of expenditure on training that are acceptable for training benchmark B.

From March 2018, the training benchmarks will be replaced by a contribution to the Skilling Australians Fund (SAF). Nomination and visa applications lodged on or after 1 July 2017 must also meet the updated criteria. Further information on the 457 requirements is available at: www.border.gov.au/Trav/Visa-1/457-.

I want to hire a worker in an occupation that isn't on the list any more. What are my options?

You may wish to consider whether an alternate visa or labour agreement would meet your needs. Further information on employing and sponsoring workers is available at: www.border.gov.au/Busi/visas-and-migration/employing-and-sponsoring-workers.

Impacts for the Permanent Employer Sponsored Visa Programme (subclass 186, 187) – from 1 July 2017

What are the changes for subclass 186 and 187 visas?

As part of nominating a position, employers must now identify the prospective visa holder, demonstrate a need for a person to work in the nominated position, and that position must be genuine.

How do the age changes affect the subclass 186 and subclass 187 visas?

All visa applicants applying for Subclass 186 or Subclass 187 visas in the Direct Entry stream, on or after 1 July 2017, must not have turned 45 years at the time of application.

There are no age changes for applicants for the Temporary Residence Transition stream of the Subclass 186 and Subclass 187 visas. Applicants must not have turned 50 years at the time of application for this stream.

How do the English changes affect the Temporary Residence Transition stream for subclass 186 and subclass 187 visas?

All permanent skilled visas, including applicants applying through the Temporary Residence Transition stream of the subclass 186 and subclass 187 visas, must have a minimum requirement of an International English Language Testing System (IELTS) (or equivalent test) score of 6 in each component.

Why was the salary-based exemption for English language and skills removed?

The English language and skills exemption for subclass 186 and subclass 187 Direct Entry stream has been removed to strengthen the integrity of these visas by ensuring that applicants have the required skills and English language requirements.

What if I was eligible for the salary based exemption before 1 July 2017?

If you lodged a subclass 186 or 187 visa application before 1 July 2017 and it was not finally determined by that date, the salary based exemption will continue to apply.

I have applied for a subclass 186 or 187 visa, and can no longer meet the nomination requirements. Am I eligible for a refund?

If the visa application is withdrawn and the nomination requirements cannot be met through no fault of the visa applicant, the first instalment of the visa application charge will be refunded in certain circumstances for subclass 186 and subclass 187 visas.

Will I be affected by occupation lists changes if I hold, have applied for, or intend to apply for a subclass 186 visa?

You will not be impacted by changes to occupation lists if you:

- currently hold an ENS visa, or
- lodged your ENS visa application on or before the date of the changes, or
- you intend to apply for an ENS visa in the Temporary Residence Transition (TRT) stream.

You will be impacted by these changes if you applied for an ENS visa in the Direct Entry stream on or after the date of the changes.

What occupations are eligible for subclass 186?

For the ENS direct entry stream, your occupation must be on the STSOL, or on the MLTSSL used for subclass 186.

For the ENS TRT stream, you must have worked for two years, while holding a subclass 457 visa, in the same occupation with your nominating employer. Access to the TRT stream is not based on the occupation lists and is therefore unaffected by the revised occupation lists.

What if I hold, have applied for, or intend to apply for a subclass 187 visa?

The RSMS visa has not been impacted by the changes in the occupation lists.

From March 2018, the MLTSSL will apply to the RSMS visa, with additional occupations available to support regional employers. More information about the additional occupations will be available closer to the implementation date.

If I hold a 457 visa, can I apply for permanent residence through the Temporary Residence Transition stream of the subclass 186 or 187 visa?

Yes, this stream is available to all subclass 457 holders who meet the various requirements. Access to this stream is not based on the occupation lists and is therefore unaffected by the revised occupation lists.

Impacts for the Points-Tested Visa Programme – from 1 July 2017

What are the changes for points-tested skilled visas?

Applicants for a subclass 189, subclass 190 and subclass 489 visa must not have turned 45 at the time they are invited to apply for the visa.

This change does not impact on people invited to apply before 1 July 2017.

Will I be affected by occupation lists changes if I hold, have applied for, or intend to apply for a points-tested visa (subclasses 189, 190 and 489)

You will not be impacted by these changes if you:

- currently hold a subclass 189, subclass 190 or subclass 489 visa, or
- lodged your subclass 189, subclass 190 or subclass 489 visa application before the date of the changes, or
- were invited to apply for a subclass 189, subclass 190 or subclass 489 before the date of the changes, and you have not yet lodged your visa application.

If you are invited to apply for a subclass 190 or 489 visa on or after the date of the changes, your occupation must be on the STSOL or an eligible occupation on the MLTSSL.

If you are invited to apply or intend to apply for a Skilled Independent and Family Sponsored points-tested visa (subclasses 189 and 489) on or after 1 July 2017, your occupation must be an eligible occupation on the MLTSSL.

Impacts for Temporary Graduates and the Training Visa – from 1 July 2017

What if I hold, have applied for, or intend to apply for a Training visa (subclass 407 visa)?

You will not be impacted by these changes if you:

- hold a subclass 407 visa granted before 1 July 2017; or
- lodged your subclass 407 visa application before 1 July 2017; or
- your sponsor lodged a subclass 407 nomination to nominate you before 1 July 2017.

You may be impacted by these changes if:

- your sponsor intend to lodge your subclass 407 nomination on or after 1 July 2017; or
- you hold a subclass 407 visa granted before 1 July 2017 and you intend to apply for a subsequent visa that utilises the STSOL or the MLTSSL on or after 1 July 2017. If this is the case, you must nominate an occupation from the current occupation list, available at: www.border.gov.au/Trav/Work/Work/Skills-assessment-and-assessing-authorities/skilled-occupations-lists.

What if I hold, have applied for or intend to apply for a Temporary Graduate visa (subclass 485 visa), in the Graduate Work stream?

You will only be impacted by these changes if you:

- currently hold a subclass 485 visa and intend to apply for another visa that utilises the STSOL or the MLTSSL. When you apply for the other visa you must ensure the occupation is on the current STSOL or MLTSSL.

Impacts for International Student Visas – from 1 July 2017

What if I hold or am considering applying for a student visa?

International students are not directly affected by the changes to the occupation lists from 1 July 2017.

International students who have completed an eligible qualification on a student visa can still apply for post study work rights through a Temporary Graduate (subclass 485) visa. It is important that you make sure you are aware of the most recent information on the visa you apply for, because requirements for further visas can and do change. The Department encourages all prospective applicants to check the website regularly.

What do I do if I hold a student visa and I want to apply for either a 457 or a skilled permanent residence visa on or after 1 July 2017?

There are a range of temporary and permanent work visas available in Australia. These visas are open to any skilled worker who meets the eligibility requirements. If you intend to apply for one of these visas, you will need to ensure that you meet the requirements that apply at the time you lodge your visa application.

The New Temporary Skill Shortage (TSS) Visa – from March 2018

What is the Temporary Skill Shortage (TSS) visa?

The new TSS visa will replace the subclass 457 visa from March 2018.

The TSS visa will have two distinct streams, a Short-Term stream of up to two years and a Medium-Term stream of up to four years.

What eligibility criteria will underpin the TSS visa?

Both streams of the TSS visa will be underpinned by eligibility criteria including:

- occupations lists;
- onshore renewals;
- minimum English language levels;
- market rate minimum salary not less than the Temporary Skilled Migration Income Threshold (TSMIT);

- at least two years' relevant work experience;
- mandatory labour market testing (with exemptions);
- mandatory criminal history checks;
- a requirement to pay a contribution to the Skilling Australians Fund; and
- a non-discriminatory workforce test to ensure employers are not actively discriminating against Australian workers.

Why does the TSS visa have two streams?

The TSS visa has two streams to meet different economic needs.

What is the Short-Term stream of the TSS visa?

The Short-Term stream is designed for Australian businesses to fill skill gaps for up to two years with skilled overseas workers where an Australian worker is not available.

This stream will use the STSOL, which will be reviewed at least every six months, based on advice from the Department of Employment.

Unlike the current subclass 457 visa, this stream will allow onshore renewals only once, and involve a genuine temporary entrant assessment to prevent de facto residence.

What is the Medium-Term stream of the TSS visa?

The Medium-Term stream is designed for Australian businesses to fill critical skill gaps for up to four years with highly skilled overseas workers, where an Australian worker is not available.

This stream will use the MLTSSL, which will be reviewed annually by the Department of Education and Training.

The Medium-Term stream will have a permanent residence option after three years, subject to meeting all other eligibility criteria, rather than after two years from the subclass 457 visa.

How much will the TSS visa cost?

The TSS sponsorship fee will be \$420, the same as the current 457 sponsorship fee.

The TSS nomination fee will be \$330, the same as the current 457 nomination fee.

Visa Application Charges (VACs) for the TSS visa are outlined below.

Visa Application Charges	Primary Applicant	Adult Dependent	Child Dependent
TSS visa (Short-Term stream)	\$1,150	\$1,150	\$290
TSS visa (Medium-Term stream)	\$2,400	\$2,400	\$600

How will employers sponsoring skilled workers contribute to training Australian workers?

Employers nominating workers for the TSS visa, the ENS visa or the RSMS visa from March 2018 will contribute to the training of Australians through a Skilling Australians Fund (SAF) levy. The levy will be payable in full at the time the worker is nominated, and will depend on the size of the business.

Business size	TSS visa	ENS / RSMS
Small (annual turnover less than \$10 million)	\$1200 per year or part thereof	\$3000 one-off
Other businesses	\$1800 per year or part thereof	\$5000 one-off

The SAF levy will be refunded if the nomination fee is refunded, such as when a nomination is withdrawn because the occupation has been removed from the occupations list. Businesses will be prohibited from passing on the costs of the SAF levy to overseas skilled workers, as is currently the case for other sponsorship costs. The SAF levy will replace the current training benchmark requirement, reducing the regulatory burden on employers and providing improved training outcomes for Australians.

The SAF will be administered by DET and will support skills development of Australians, prioritising the funding of apprenticeships and traineeships in occupations in high demand that currently rely on skilled migration, or with future growth potential, including in regional Australia. Further information is available at: www.education.gov.au/skilling-australians-fund.

Will Labour Agreements still be available?

Yes. Existing labour agreements remain in effect, and new nominations/visa applications can continue to be lodged under these labour agreements. Existing visa holders employed under a labour agreement are not impacted unless they apply for another visa, outside the labour agreement programme, that is impacted by the changes.

Labour agreements will continue to be available to employers. These formal, but flexible agreements are negotiated between an employer and the Government to enable an employer to recruit an agreed number of overseas workers (at a specified age, skill level and English language and salary), where Australian workers are not available to fill positions.

Will holders of the Temporary Skill Shortage visa be able to become Australian permanent residents?

Yes, holders of the TSS visa in the Medium-Term stream will have an option to apply for permanent residence after three years.

Why will work experience be required for the Temporary Skill Shortage visa?

This requirement protects Australian jobs.

Relevant work experience will be considered in the context of the nominated occupation, and may, for example, recognise experience in related roles and flexible working arrangements. For example, in the occupation of University Lecturer, the work experience requirement could recognise relevant experience in research and teaching experience accumulated by PhD students. For occupations such as Resident Medical Officers, the work experience requirement could take into account the internship year as well as the university medical education.

Further information on this requirement will be available closer to the introduction of the TSS visa.

Will sponsors be required to comply with sponsorship obligations?

Yes, businesses who sponsor overseas workers under the TSS visa will continue to be subject to sponsorship obligations.

What is the non-discriminatory workforce test?

The non-discriminatory workforce test will allow closer examination of applications from employers whose workforce is predominately made up of overseas workers.

This test is discretionary to accommodate businesses who have a legitimate need to employ mostly overseas workers, but will ensure that Australian workers are not discriminated against.

How will labour market testing work under the TSS visa?

Labour market testing will be a mandatory requirement for the TSS visa, with limited exemptions such as where an international trade obligation applies. Employers will need to demonstrate their efforts to find a suitably qualified Australian citizen before they can seek to employ an overseas worker on a temporary basis.

Further information on labour market testing will be available closer to the introduction of the visa.

Will the Temporary Income Skilled Migration Threshold (TSMIT) be indexed?

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, which is currently set at \$53,900.

Why will the Department publish sponsor sanction details?

To protect Australian and overseas workers.

Most sponsors do the right thing. However, for the very few who breach their sponsorship obligations, publishing businesses details provides a strong incentive for businesses to do the right thing.

Why will the Department collect and use TFNs of skilled visa holders?

Using TFNs of visa holders will assist the Department to identify where visa holders are underpaid.

This protects non-citizens from exploitation, protects Australian wages and conditions, and allows action to be taken against businesses that do the wrong thing.

Stakeholder Engagement

Will stakeholders be engaged on the reforms?

The Department will continue to engage with stakeholders during the implementation period up to March 2018 about the reforms.

- Further information will be made available on the Department's website to explain the changes.

Issues raised by stakeholders will be considered by the Department in the development of policy settings and future reviews of the occupations list.