



# Immigration Update – March 2010

# Changes in 2009

- ◆ Government agenda was to improve the integrity of the sponsorship and 457 visa program – raft of changes to the program since April 2009 have been designed to achieve this
- ◆ New sponsorship, nomination and 457 visa regime - September 2009
- ◆ Accompanied a wider reform agenda which has seen wide reaching changes to the General Skilled Program

# Standard Business Sponsorship (SBS)

- ◆ Now 3 years validity
- ◆ Unlimited nomination places
- ◆ Record, or commitment to, employing Australians
- ◆ Training benchmarks – 1-2% of payroll & commitment to maintain for the life of SBS
- ◆ Sponsorship obligations - employee & family
- ◆ Monitoring regime – more stringent

# Nomination – skilled occupation

- ◆ Market salary rates introduced – DIAC can check with the ATO
- ◆ Equivalent terms and conditions of employment must be demonstrated
- ◆ Can transfer from one employer to another by way of nomination only
- ◆ Changes of position, including promotions, require approval from DIAC (new nomination)

# Market rates & terms and conditions

## Regulation 2.72(10):

(c) the terms and conditions of employment of the person identified in the nomination will be

***no less favourable*** than the terms and conditions that:

- (i) are provided; or
- (ii) would be provided;

to an Australian citizen or an Australian permanent resident for performing equivalent work in the person's workplace at the same location; and

(cc) the base rate of pay, under the terms and conditions of employment mentioned in

paragraph (c), that:

- (i) are provided; or
- (ii) would be provided;

to an Australian citizen or an Australian permanent resident, ***will be greater than the temporary skilled migration income threshold*** specified by the Minister in an instrument in writing for this paragraph;

# Nominated occupations – ASCO

## Regulation 2.72(8)

The Minister is satisfied that the person has provided the following information as part of the nomination:

- (a) if there is a 6-digit ASCO code for the nominated occupation — the 6-digit ASCO code;
- (b) if there is no 6-digit ASCO code for the occupation, and the person is a standard business sponsor — the name of the occupation as it appears in the instrument in writing made for the purposes of paragraph 10(a);
- (d) the location or locations at which the nominated occupation is to be carried out

## Regulation 2.72(10)(d)

*the person has certified as part of the nomination, in writing, that:*

- (i) *the duties of the position include a significant majority of the duties of:*
  - (A) *the nominated occupation listed in the ASCO; or*
  - (B) the nominated occupation specified in an instrument in writing for paragraph (a);

# 457 visa – health liability and condition 8107

- ◆ Health liability shifted to visa holder
  - Health insurance or reciprocal enrolment evidence must be provided to get visa
- ◆ Mandatory condition 8107 (applied to all primary 457 visa holders) was amended
  - Allows LWOP to provide for maternity leave
  - Allows for voluntary work, expected that approval of employer is obtained

# ENS/RSMS

- ◆ Changes mooted for this program in 2010
- ◆ DIAC policy changed in February after MODL was revoked:
  - As of 8 February 2010, ENS and RSMS will no longer allow nominations and/or applicants to seek exceptional circumstances for having a nominated occupation on MODL - to be eligible to seek exceptional circumstances, you must have a nominated occupation on the Critical Skills List (CSL).
- ◆ Applications under exceptional appointment for age will be more difficult

# Changes in 2010

- ◆ MODL – ENS/RSMS policy impacts
- ◆ Critical Skills List in place - to be phased out by mid year
- ◆ GSM program changes - priority processing & points test review, no MODL
- ◆ New GSM Skilled Occupation List to be released in April for implementation by mid 2010
- ◆ Introduction of ANZSCO
- ◆ State/Territory migration plans

# 457 processing times

## Standard Times

\*457 – 8 to 12 weeks

SBS – 8 to 12 weeks

\*ENS 5-9 months

## Current processing

1 to 4 weeks

1 to 4 weeks

48 hours to 3 months!

*\*48 hour processing arrangements have been introduced in the Perth office.*

# Messages from DIAC at a recent Perth seminar

- ◆ Use of ETA/e-visitor/456 at odds with intended purpose
- ◆ Skills assessments and English requirements delay applications
- ◆ Global Manager for 457 visa – integrity of program to be carefully managed
- ◆ 48 hour processing arrangements introduced

# Useful links

- DIAC <http://www.immi.gov.au/>
- DIAC Forms in languages other than English  
<http://www.immi.gov.au/allforms/applicationforms/languages/>
- “Life in Australia” booklets <http://www.immi.gov.au/living-in-australia/settle-in-australia/beginning-life/>
- Citizenship website <http://www.citizenship.gov.au/>
- Immigration Fact Sheets <http://www.immi.gov.au/media/fact-sheets/>
- IELTS <http://www.ielts.org/default.aspx>
- Office of Multicultural Interests (WA)  
<http://www.omi.wa.gov.au/>

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