

# Iscah Migration Newsletter

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Monday 18th November 2013 | Edition 185

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*Hiya Everyone,*

Welcome to another update on all the changes we have come across in the last month.

This publication is produced on the third Monday of each month and is free. We also have regularly updated feeds on our facebook, twitter and web pages. All can be found here at [www.iscah.com](http://www.iscah.com)

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On to this month's news ...



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## 1) 457 Labour Market Testing - Occupations

DIBP have announced the requirements for 457 Labour Market Testing from 23rd November 2013. There is a list of various exemptions including a list of occupations that WILL require labour market testing. Such proof of testing the market can be as old as 12 months and includes a wide variety of methods. Also there are details of additional requirements when an employee is made redundant in the same occupation from that company in the last 4 months. Full details are available here

<http://www.iscah.com/457-labour-market-testing-occupations> including some useful FAQs.

## 2) RSMS South Australia changes

News from the South Australian government :

We've recently made significant changes to the way in which South Australian employers access the Regional Sponsored Migration Scheme (RSMS).

The changes have made it easier for local businesses to recruit skilled workers for positions which they are unable to fill locally.

Here's a reminder of the changes we have made:

- Occupations listed on the Regional Certifying Body Occupation List are exempt from providing evidence of labour market testing.
- Businesses that are approved 457 sponsors and have employed a skilled migrant in a nominated position for at least 12 months are also exempt from providing evidence of labour market testing.
- Launched a new client friendly application system.
- Removed the peer review process.
- Introduced statutory declarations as support for some applications.
- Reduced the type of evidence and the number of documents applicants are required to upload.

(Source: South Australian government)

### 3) Skype Iscah service

We are introducing a new service to cater for those people who for whatever reason will find it easier to go through an appointment without having to come into our office.

It allows you to connect with us through SKYPE, go through your full situation in a live interview, see your assessment develop through an online screen shot of our desktop view, then finally have details emailed through to you... afterwards.

It would be especially useful for overseas clients as well as those who find it difficult to organise transport into our office.

Rather than the normal initial consultation fee of \$220 we will set the fee for this process initially at \$160 to see how effective it is for our clients. Remember also if you proceed to later use any Iscah services, this appointment fee is always taken off our management fees for your visa.

As an initial starting point for this service we request you either call our office on 93533344 for a SKYPE appointment or alternatively email us at [migration@iscah.com](mailto:migration@iscah.com)

Hope some of you find this service very useful and convenient...

## 4) DIBP Maintenance of online applications

Changes to online lodgement services

We are making changes to our online lodgement services from 22 November 2013. The changes will affect all current un-submitted saved online visa applications. After this date, you will not be able to retrieve any un-submitted saved online visa applications and you will need to commence a new application. If you do not want to lose your saved applications you are encouraged to submit your online visa applications before 22 November. Please ensure you meet the relevant criteria for your visa application before submission

(Source: DIBP)

## 5) New WA State Migration Plan

This has finally been announced with a notable of additions and omissions. Some of those removed include Café Restaurant Manager, Hotel Motel Manager, Accountant, Electronics Engineer, Motor Mechanic (general), Bricklayer, Cook, Hairdresser, Cabinetmaker, Community Worker

The full list is here

<http://www.migration.wa.gov.au/SKILLEDMIGRATION/Pages/Occupationsindemand.aspx>

Don't forget as well that new criteria will shortly be published by the WA State Government in addition to these changed occupations.

## 6) ACS skills assessment for 485 visas

The following changes will come into effect on Jan 15, 2014:

- The ACS Temporary Graduate – 485 skills assessment will clearly state that it is specifically for the purpose of applying for a subclass 485 visa application. Applicants with an Australian study component that are applying for a subclass 485 visa will be assessed on the Australian qualification only, based on the completion of the relevant Australian Bachelor degree or higher.
- Applicants with an Australian study component that wish to apply for permanent residency will require either 1 year of relevant work experience or completion of an ACS Professional Year Program to receive a suitable skills assessment which can be used for general migration purposes.
- The ACS Post Australian Study Skills Assessment is intended to support graduates in applying for permanent residency under the General Skilled Migration or Employer Nomination Scheme after completing an Australian study component.
- The Australian study component is taken into consideration because of the value of studying in Australia and the exposure to Australian culture and language, which in turn places applicants in a better position to be employed in their nominated occupation.
- The work experience or professional year program is assessed for suitability of the full skills assessment and the applicant is considered skilled from the completion date of the relevant Australian degree. The Post Australian Study Skills Assessment can be used for migration purposes in general.

(Source: ACS)

## 7) Recent Migration Review Tribunal Decisions

When a visa application is refused by the Department of Immigration there is often a right of appeal to the MRT (Migration Review Tribunal). It is interesting to see sometimes the decisions that come from the MRT as it gives added or less hope for some applicants should they get to that stage.

Here are some recent decisions ...

### **Temporary Graduate 485 Visa –**

A diploma of HR Management is not closely related to the professional occupation of Civil Engineer

A visa applicant's migration agent provided false documents to the department of Immigration, and was eventually refused on the character 4020 provision because these documents were false. The visa applicant could not use the fact that it was the agent (rather than themselves) who provided the false documents to overcome this refusal.

The 485 regulations were changed 2 years ago that meant instead of a 485 applicant having to show just an IELTS test booking they instead needed to have passed an IELTS at the time of visa application, some of the DIAC forms and online system were not very clear of this change. A visa applicant who fell into the trap of thinking just a booking was needed appealed to the MRT that the forms etc were very confusing. The MRT still refused the appeal but gave some hope for the visa applicant by accepting that the applicant's circumstances had led to an unfair or unreasonable result, and it considered that it was appropriate that this case be brought to the Minister's attention.

A 485 applicant who was refused for fraudulent IELTS results (4020 character refusal) won their appeal because they showed that their highly skilled Australian partner they had just married would be forced to leave Australia to be with their partner overseas, should the visa applicant have to leave Australia.

### **Employer Nomination –**

A 67 year old Electrician was approved as an exceptional appointment even though he was above the normal 45 year age cut off. Mainly because of the exceptional benefit he brought to his company in terms of new technology with CSIRO support.

### **Dependent Child –**

A fulltime student who was financially dependent on their parents was refused a dependent child visa as they had taken more than the allowed 6 months break from study since leaving school/turning 18.

(Source: MRT with Iscah comment)

## 8) DIBP Process for Refunds

Just some general policy information from DIBP

### Withdrawing General Skilled Migration Visa Applications

#### Professionals and Other Skilled Migrants

- Overview
- Visa options

You can withdraw your visa application at any stage during processing. If you would like to withdraw your General Skilled Migration (GSM) visa application you must send a written notice of withdrawal, signed by each person in the application who is aged 18 years or over, to the office processing your visa application.

#### Refund of the Visa Application Charge

##### Mandatory refund

You may request a refund of the visa application charge, however there are very limited circumstances where the visa application charge must be refunded. These include the following:

- your application was 'unnecessary' at the time it was made
- your application is made because of a mistake made by the department
- the applicant dies before a decision is made.

A mandatory refund is not available if you change your mind about continuing your visa application after it has been made. The visa application must have been unnecessary at the time it was made. The visa application will not be considered unnecessary if, for example, you no longer need a visa because you no longer want to migrate to Australia.

##### Discretionary refund

The visa application charge may be refunded, if the visa application is made because of a mistake by the applicant, for example the visa applicant mistakenly applies for the wrong type of visa. The application must clearly have been mistakenly made. The migration delegate has absolute discretion to make a discretionary refund.

A refund will not be given in situations where you subsequently decide that the visa application was a 'mistake' because, for example you:

- change your mind about continuing the application
- do not satisfy a criterion for visa grant

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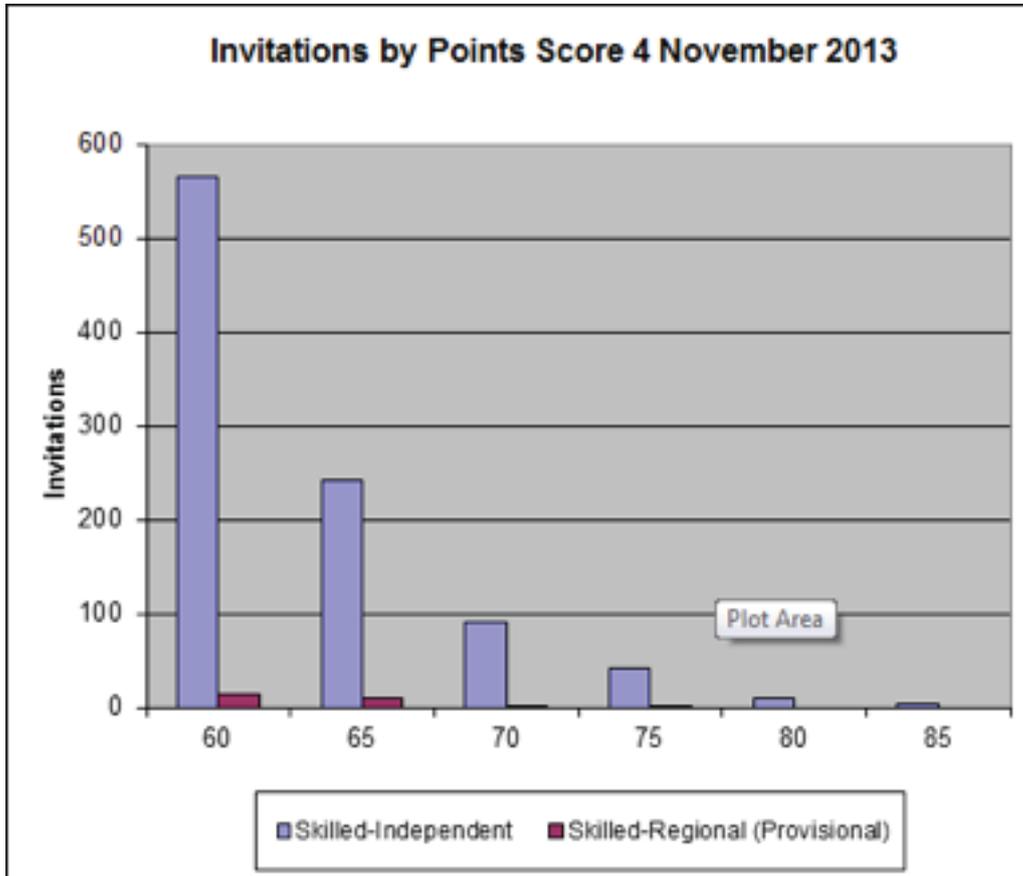
- claim it was a mistake to have applied because your visa application was unsuccessful (that is, you state that you would never have applied for this visa had you known your application would not be successful)
- consider in retrospect that you applied for the wrong class of visa.

You can make a written request for a refund stating the reasons why you consider your application fee should be refunded when sending your withdrawal letter to the office processing your visa application.

(Source: DIBP)

## 9) Skills Select November 2013 Results

The following graph shows the points for clients who were invited to apply in the 4 November 2013 round:



### Invitation process and cut offs

The highest ranked clients by points score are invited to apply for the relevant visa. For clients who have equal points scores, the time at which they reached their points score for that subclass (referred to as the visa date of effect) determines their order of invitation. Expressions Of Interest with earlier dates of effect are invited before later dates.

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4 November 2013

<b>Visa subclass</b>	<b>Points score</b>	<b>Visa date of effect</b>
Skilled - Independent (subclass 189)	60	1/11/2013 10.49 pm
Skilled - Regional Provisional (subclass 489)	60	2/11/2013 2.05 am

Due to the continuing high numbers of EOIs received for the following six occupations, invitations for these occupations will be issued on a pro rata basis in each twice monthly invitation round over the remainder of the program year. Please also note that system first allocates available places to Skilled – Independent (Subclass 189) and then remaining to Skilled – Regional (Subclass 489) (Provisional – Family sponsored. If all places are taken up by Subclass 189 then there will be no invitations issued for Subclass 489:

- Chemical and Materials Engineers
- ICT Business and Systems Analysts
- Electronics Engineers
- Telecommunications Engineering Professionals
- Other Engineering Professional
- Software and Applications Programmers.

The points scores and the visa dates of effect cut-offs for these occupations in the 4 November 2013 invitation round were as follows:

**Note:** Below points score and visa date of effect is for Skilled Independent (Subclass 189) and no invitations were issued to Skilled – Regional (Subclass 489 (Provisional) – Family Sponsored

<b>Occupation ID</b>	<b>Description</b>	<b>Points score</b>	<b>Visa date of effect</b>
2331	Chemical and Materials Engineers	65	13/9/2013 4.01 pm
2334	Electronics Engineers	65	29/10/2013 5.33 pm
2339	Other Engineering Professionals	65	20/6/2013 2.27 pm
2611	ICT Business and Systems Analysts	65	3/9/2013 10.19 pm
2613	Software and Applications Programmers	60	1/7/2013 5.22 pm
2633	Telecommunications Engineering Professionals	65	19/9/2013 2.18 am

(Source: DIBP)

Okay folks, all wrapped up for another month.  
Enjoy Christmas shopping and the next newsletter  
on Monday 16th December 2013

Cheers



**Steven O'Neill**

 [iscah.migration](https://www.facebook.com/iscah.migration)

 [iscahmigration](https://twitter.com/iscahmigration)

 [iscah.com](http://iscah.com)

 Phone: 61-8-9353 3344

 Fax: 61-8-9353 3350

 E-mail: [newsletter@iscah.com](mailto:newsletter@iscah.com)

 **Iscah Migration**  
Suite 14 (Kewdale Business Park)  
133 Kewdale Road, Kewdale  
Perth Western Australia, 6105  
PO Box 75 Welshpool BC 6986



Registered Migration Agent 9687267