

Iscah Migration Newsletter

21st July 2014 | Edition 193

Hiya Everyone,

Welcome to another update on all the visa news.

This is free on the third Monday of each month and brings together all the new information and useful hints we have come across in recent weeks.

If you have any ideas for content please drop us a line.

Also don't forget the free Snapshot service we provide about your occupation and visa options available from the right hand circle on our homepage at www.iscah.com

Our next free live chat will be available on our Facebook pages soon so don't forget to register a "like" and maybe share it with your friends in case they want answers to their questions here <https://www.facebook.com/iscah.migration?fref=ts>

On to this months news:



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1) NSW State Sponsorship (190 only) 1st round closed after just 3 hours

NSW opened the Skilled – Nominated (subclass 190) program to significant demand on 14 July 2014. The full intake of 1000 applications for the first application quarter was quickly generated and applications for the first intake are now closed.

NSW is currently reviewing the applications received and will make an announcement regarding further opening in due course.

State nomination is one of a range of visa options that prospective migrants can consider. For more information on other visa options, prospective applicants can refer to the Department of Immigration and Border Protection website.

NSW has introduced a number of initiatives in 2014-15 which are designed to align the NSW Skilled Nominated visa program with the skills requirements of the NSW economy. Key points about the program in 2014-15 are:

Applications are lodged electronically through a new online system

Applications will be open for four intakes per year with a maximum of 1000 applications per intake

Application intakes will remain open for 4-6 weeks, or until the current intake is full, and The NSW Skilled Occupation List will be expanded and will include all occupations on the 2013-14 NSW Skilled Occupation List as all occupations on the Skilled Occupations List published by the Department of Immigration and Border Protection (DIBP) and in effect 1 July 2014.

NSW runs the Skilled Nominated program in order to attract highly skilled people in a range of occupations to contribute to NSW future skills needs. As the program is rolled out over 2014-15, NSW will closely monitor the program and will adjust eligibility criteria, including occupational eligibility, as required.

The next rounds are scheduled to open :

- 14th October 2014
- 19th January 2015
- 14th April 2015

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NSW Trade & Investment estimates a 12 week processing time frame.

NSW requirements :

- Occupation on the NSW Skilled Occupation List
- Meet DIBP basic requirements including:
- Under 50 years of age
- Current and positive skills assessment
- Competent English language ability

(Source: NSW State Government)

2) New medical Provider for Australian visas from 25th July 2014

The following information on changes to the service provider for onshore visa and migration medical services has been provided by Migration Medical Services Contract Implementation Section. Please note the relevant departmental webpages will be updated to reflect the below information during July 2014.

In July 2014 the department will change to a new migration medical services provider.

The current Onshore Medical Services Contract between the Department of Immigration and Border Protection (DIBP) and the current service provider Medibank Health Solutions (MHS) will expire on 25 July.

From 28 July the provision of visa medical examinations and assessments to clients in Australia will commence with Bupa Medical Visa Services.

The change to the new service provider will bring a number of significant client service enhancements that will result in the delivery of high quality and efficient services to meet the required client service standards. The scope of the contract will include onshore visa and migration medical services currently undertaken by MHS, as well as other visa and migration services currently undertaken by the department.

As a result, those clients seeking health examinations in Australia in July may be impacted.

- If you are booking an appointment on behalf of a client prior to 28 July you must continue to contact MHS to organise the appointment.
- From 28 July you are required to contact Bupa Medical Visa Services for any new onshore health assessments or reviews of past Medical Officer of the Commonwealth opinions.
- For clients who have lodged an assessment with MHS prior to 25 July you are advised to contact Bupa Medical Visa Services on 1300 794 919 to enable the medical assessments to be finalised.

Please visit www.bupamvs.com.au for more information about the new service provider.

(Source: DIBP)

3) A business operating 6 months rule scrapped for 186/187 ENS/RSMS visas

There used to be a DIBP policy that any business wanting to nominate for a permanent 186 or 187 visa must have been operating for 6 months. This rule has now changed to the business just has to be operating (so even just a few days). But be aware that strong proof still needs to be shown of the business's viability.

Here is DIBP's new policy ...

Start-up businesses

For the purposes of the regulatory criterion requiring active operation, a start-up business is one that has been in active operation for a period less than 12 months.

A business would be considered to have commenced 'active operation' once the ABN and/or ACN comes into effect and the entire infrastructure necessary for the activities of the business is in place and the business has commenced providing services to customers/clients.

The evidence that will be required to establish the date of commencement of active operation will be dependent on the type of business activity undertaken. For example:

- a person operating a restaurant would be taken to have commenced active operation on the day on which the restaurant was officially opened to the public
- a person providing a consultancy service would be taken to have commenced active operation on the day they were awarded their first consultancy contract.

A start-up business must provide business activity statements for each complete quarter from the time of commencement of operations up until the time the nomination is lodged.

A start-up business must provide business activity statements for each complete quarter from the time of commencement of operations up until the time the nomination is lodged. The start-up business will not be determined to have been actively operating until the ABN and/or ACN of the business has been registered in addition to the business physically operating. The result of this is that, if a business has operated for a long period of time but has changed ownership or structure resulting in a new ABN and ACN being required, this business is now considered a start-up business.

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In addition, they may provide a combination of the following documentation, depending on the nature of the business activity:

- contract of sale relating to the purchase of the business (if the nominator purchased an existing business)
- lease agreement relating to business premises
- evidence of lease or purchase of machinery, equipment and furniture
- contracts to provide services
- evidence of employment of staff
- business bank statements covering the period of operation
- letter of support from the accountant to the business.

(Source: DIBP)

4) Western Australia Skilled List update for Points Tested 489/190 visas

Review of the Western Australian skilled migration occupation list 3 July 2014

The Department of Training and Workforce Development is conducting a review of the Western Australian skilled migration occupation list. The following occupations will be evaluated and are now listed as unavailable:

121213 Fruit or nut grower
121216 Mixed crop farmer
121221 Vegetable grower
121321 Poultry farmer
133513 Production manager (mining)
231211 Master fisher
231212 Ship's engineer
231213 Ship's master
231214 Ship's officer
232611 Urban and regional planner
233111 Chemical engineer
233211 Civil engineer
233212 Geotechnical engineer
233214 Structural engineer
233215 Transport engineer
233311 Electrical engineer
233512 Mechanical engineer
233513 Production or plant engineer
233611 Mining engineer (excluding petroleum)
233612 Petroleum engineer
233912 Agricultural engineer
234111 Agricultural consultant
234112 Agricultural scientist
234211 Chemist
234611 Medical laboratory scientist
251312 Occupational health and safety adviser
252312 Dentist
254211 Nurse educator
254311 Nurse manager
263111 Computer network and systems engineer
272311 Clinical psychologist
272399 Psychologists nec
272413 Translator
272511 Social worker

312211 Civil engineering draftsman	233999 Engineering professionals nec
312212 Civil engineering technician	234212 Food technologist
312311 Electrical engineering draftsman	234311 Conservation officer
312312 Electrical engineering technician	234312 Environmental consultant
321111 Automotive electrician	234314 Park ranger
321212 Diesel motor mechanic	272112 Drug and alcohol counsellor
322211 Sheetmetal trades worker	272114 Rehabilitation counsellor
322312 Pressure welder	272613 Welfare worker
322313 Welder (first class)	312114 Construction estimator
323212 Fitter and turner	312511 Mechanical engineering draftsman
323213 Fitter-Welder	323215 Textile, clothing and footwear mechanic
323214 Metal machinist (first class)	324211 Vehicle body builder
324111 Panelbeater	331212 Carpenter
324311 Vehicle painter	332211 Painting trades worker
342211 Electrical linesworker	333211 Fibrous plasterer
351111 Baker	333212 Solid plasterer
351112 Pastrycook	333411 Wall and floor tiler
351211 Butcher or smallgoods maker	334111 Plumber (general)
351311 Chef	334114 Gasfitter
361311 Veterinary nurse	342313 Electronic equipment trades worker
451211 Driving Instructor	342314 Electronic instrument trades worker (general)
121318 Pig farmer	342315 Electronic instrument trades worker (special class)
133511 Production manager (forestry)	362211 Gardener (general)
135112 ICT project manager	394213 Wood machinist
135199 ICT managers nec	399999 Technicians and trades workers nec
139911 Arts administrator or manager	441211 Emergency service worker
149112 Fitness centre manager	
149113 Sports centre manager	
224212 Gallery or museum curator	
224214 Records manager	

At the completion of the review the outcome will be published on the website
(we expect that to be within the next 4 weeks – Iscah note)

(Source: WA State Government)

5) South Australia State Migration update

News Nomination pathway expanded for South Australia

Link here - <https://www.migration.sa.gov.au/news%20and%20events>

Immigration South Australia introduced a new nomination pathway, chain migration*, which allows applicants with an immediate family member permanently residing in South Australia to apply for a state nominated visa.

Chain migration enables applicants to access occupations on the South Australian Graduate List and occupations listed as special conditions apply.

Requirements : To qualify for the chain migration pathway, applicants must:

- Have completed a Bachelor degree or higher
- Meet all DIBP criteria and Immigration South Australia criteria
- Have 60 points on the DIBP points test.

To qualify for the chain migration pathway, the family member in South Australia must:

- Be the applicant's grandfather, grandmother, father, mother, brother or sister. Applicants can still apply if it's a step or adoptive parent/sibling.
- Be an Australian Permanent Resident or an Australian Citizen
- Have resided in South Australia for the past twelve months.

For full details of the chain migration criteria, view the eligibility requirements section on our website.

*Quotas apply. Once reached, no further applications for chain migration will be accepted for the 2014/15 program year.

State nomination process made simple

Immigration South Australia is using data from SkillSelect to identify eligible applicants and inviting them to apply for state nomination. Find out more about the application process here.

The number of available state nomination places (planning levels) are now calculated at the time of submission rather than time of decision, meaning your application will no longer be refused based on planning levels.

We've also made the application process easier for you by updating our online application system.

South Australian State Occupation List

The new occupation lists for the 2014/15 program year are available on our website. Below are some of the new occupations added to the State Occupation List:

- Advertising Manager
- Regional Education Manager
- Special needs teacher
- Art Administrator or Manager
- Nurse Practitioner
- Finance Broker
- Financial Investment Manager

IELTS requirements (for most occupations) have been reduced to six in each band score to align with DIBP requirements. All score requirements are published on the State Occupation List.

We're recognising applicants' commitment to South Australia

Applicants who have worked in South Australia for the last 12 months in a skilled occupation* have access to a more extensive occupation list. View point 5 and 6 in the eligibility requirements section.

International graduates of South Australia

We've reduced the skilled work experience requirement from 30 hours per week to 20 hours per week. View point 5, 6 and 8 in the eligibility requirements section.

(Source: South Australian State Government)

6) Now tougher for Partner visa applicants not holding a substantive visa

DIBP changed (toughened) their Partner policy on 1st July 2014 as follows ... This relates to people who do not hold a substantive visa and wish to apply in Australia for an 820/801 Partner ...

Clause 820.211(2)(d)(ii), the 'compelling reasons' provision, allows certain persons who are unlawful in Australia to regularise their status if compelling reasons exist.

The Migration Regulations do not prescribe the circumstances that need to be considered when assessing whether or not 'compelling reasons' exist to not apply Schedule 3 criteria 3001, 3003 and 3004. As such, officers should consider circumstances on a case by case basis.

In doing so, however, officers should be mindful that the intent of the waiver provisions is to allow persons whose circumstances are genuinely compelling to regularise their status. The provisions are not intended to give, or be perceived to give, an unfair advantage to persons who:

§ fail to comply with their visa conditions or

§ deliberately manipulate their circumstances to give rise to compelling reasons or

§ can leave Australia and apply for a Partner visa outside Australia.

An example of where the circumstances may not be compelling to waive the Schedule 3 requirements may be where an applicant has remained unlawful for a number of years, made little or no effort to regularise their status and claims compelling circumstances on the basis of a long term relationship with their sponsoring partner and/or hardship caused by separation if they were to apply outside Australia for the visa.

With the intent of the waiver provisions in mind, it is generally reasonable to expect that compelling reasons to exercise the waiver provision exist where an applicant's circumstances happened beyond their control. That is, circumstances beyond the applicant's control had led them to become unlawful and/or prevented them from regularising their status through means other than the Partner visa application for which they seek the waiver.

For example, in the scenario given earlier, it is reasonable to accept that compelling circumstances exist to waive the Schedule 3 criteria if, for reasons beyond the applicant's control - such as severe illness or incapacity - the applicant was prevented from regularising their status in the years they had been unlawful.

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As a general rule, the existence of a genuine spouse or de facto relationship between the applicant and sponsoring partner, and/or the hardship suffered from the separation if the applicant were to leave, and apply for the visa, outside Australia are not, in themselves, compelling reasons not to apply the Schedule 3 criteria. This is because a genuine relationship forms the basis of all Partner visa applications, and hardship caused by separation, whilst it differs in degree from one case to another, is common in the Partner visa caseload, particularly in the offshore context where partners may be separated for extended periods during visa processing.

Policy intends that the waiver provision should not be applied where it is reasonable to expect the applicant to leave Australia and apply outside Australia for a Partner visa. This not only ensures fairness and equity to other applicants and discourages deliberate non-compliance, but also preserves the integrity of the Partner visa program in general and the waiver provisions in specific.

Matters that officers should take into consideration when assessing whether the applicant's circumstances may be considered compelling include but are not limited to:

- any history of non-compliance by the applicant
- the length of time the applicant has been unlawful
- the reasons why the applicant became unlawful
- the reasons why the applicant did not seek to regularise their status sooner
- what steps, if any, the applicant has taken to regularise their status (other than applying for a Partner visa).

7) New Validity requirement for Skills Assessments

From 1 July 2014, if a skills assessment is mandatory as part of a visa application, that assessment will only be valid for a period of three years from the date of issue, unless a shorter validity period is specified on the assessment.

A skills assessment must be valid at the time of lodgement for the following visas:

- Direct Entry stream of the Employer Nominated Scheme (subclass 186) visa
- Direct Entry stream of the Regional Sponsored Migration Scheme (subclass 187) visa
- Graduate Work stream of the Temporary Graduate (subclass 485) visa

A skills assessment must be valid at the time of invitation to apply through SkillSelect for the following visas:

- Skilled—Independent (subclass 189) visa
- Skilled—Nominated (subclass 190) visa
- Skilled Regional (Provisional) (subclass 489) visa.

These changes do not affect the Temporary Work (Skilled)(subclass 457) visa. Also the validity requirement is only for the primary applicant. Partners can still use older skills assessments for Partner points.

(Source: DIBP)

8) Media article supporting a larger migration program

Australia should be open to immigrants and take advantage of its "fortunate geography" in Asia, media mogul Rupert Murdoch says.

The News Corp executive chairman was speaking at a high-powered gala to celebrate the 50th anniversary of The Australian newspaper.

"We must be open to immigrants, to their desire to improve themselves and to the resulting improvement in our country," he told guests including Prime Minister Tony Abbott on Tuesday night in Sydney.

"It is in the collective self-interest to welcome immigrants, those who cherish the values of the country, and who are sometimes willing to risk all in the quest for a better life."

Mr Murdoch backed the coalition federal government's plans to reduce expenditure and the reach of government into the lives of ordinary Australians, while arguing "intractable" institutions were often a barrier to individual achievement in areas such as education.

"..we spend a disproportionate amount of time debating what is best for teachers' unions and the system instead of what is best for students," he said.

Australia must also take time to understand its populous Asian

"Australia has an unprecedented opportunity to prosper from its fortunate geography," Mr Murdoch said.

Mr Abbott also spoke at the gala attended by former prime ministers John Howard and Paul Keating and business leaders, including James Packer.

The Australian, where Mr Abbott once worked as a journalist, was "one of the world's very best".

He wanted to "kill" the urban myth that News Corp papers are "ciphers" for Mr Murdoch.

"The Australian has borne his ideals but not his fingerprints: it has been his gift to our nation," Mr Abbott told an audience which included past and present politicians, sporting greats and business leaders.

Mr Murdoch, who started The Australian in Canberra in July, 1964, will attend the B20 Australia summit in Sydney on Thursday.

(Source; Sydney Morning Herald)

9) Certificate 4 in a trade deemed suitable for a 457 visa by the MRT

The legislation for the skill level of a tradesperson applying for a 457 visa needs a Certificate 4 as one of the options. DIBP have tried to add an additional requirement of 2 years work experience/training in their internal policy interpretations.

Similarly DIBP have said the same skill level is required for a 187/RSMS visa. That is DIBP have stated that a Certificate 4 obtained in Australia is by itself not good enough as the skills for a trade position. They have advised that an additional 2 years work experience is required if the initial Certificate 4 does not include 2 years of the job training.

We have been waiting to see whether the MRT decides that a Certificate 4 is ok by itself (as stated under ANZSCO guidelines and the legislation) or whether 2 more years of work is required (as stated by DIBP policy).

We recently found such a case at the MRT in regards skill level. This applicant was holding a Certificate 4 in Automotive Technology (no work experience) and applying for a 457 visa as a Motor Mechanic. The MRT have stated in their decision that a Certificate 4 ONLY is required as follows.

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/MR-TA/2014/757.html?stem=0&synonyms=0&query=including%20at%20least%20two%20years%20of%20on-the-job%20training>

Skills, qualification and employment background of the applicant

17. The entry requirement for the nominated occupation of a Motor Mechanic in Australia is AQF Certificate III including at least two years of on the job training or AQF Certificate IV (ANZSCO Skill Level 3). The applicant presented evidence of completing a Certificate IV in Automotive Technology. The Tribunal finds that he has relevant formal qualifications required for the nominated occupation.

That is good news for student graduates who are 457 visa applicants with just a certificate 4 in the trade. It will be interesting now to see if the MRT agree similarly when the first 187/RSMS case is decided on this issue. We will advise when we see this.

(Source: MRT and Iscah comment)

10) Skill Select Invitation Round 14th July 2014

The table below shows the number of invitations issued in the SkillSelect invitation round on 14 July 2014.

Number of invitations issued in the SkillSelect invitation round on 14 July 2014

Visa subclass	Number
Skilled - Independent (subclass 189)	1250
Skilled - Regional Provisional (subclass 489)	10

During 2014-15 the following number of invitations have been issued:

Number of invitations issued during 2014-15

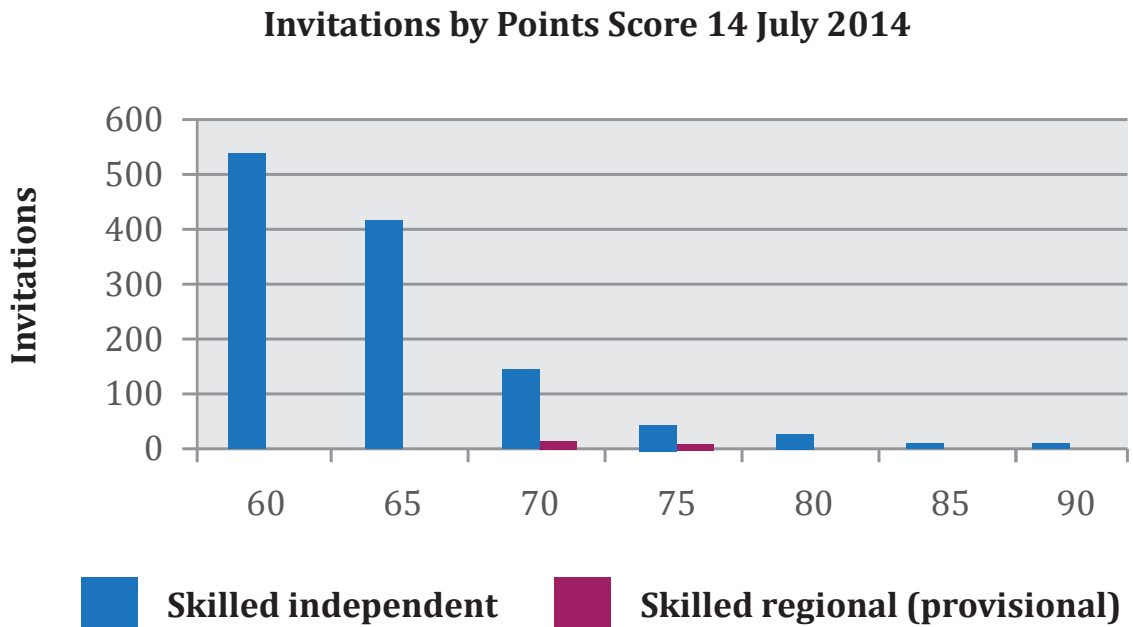
Visa subclass	July	Total
Skilled - Independent (subclass 189)	1250	1250
Skilled - Regional Provisional (subclass 489)	10	10
Total	1260	1260

The above figures do not include invitations issued for State and Territory Government nominated visa subclasses. State and Territory Governments nominate throughout the month for specific points tested skilled migration and business innovation and investment visas. Separate results for these visa subclasses are provided monthly.

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14 July 2014 results

The following graph shows the points for clients who were invited to apply in the 14 July 2014 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.

Visa subclass	Points score	Visa date of effect
Skilled - Independent (subclass 189)	60	2014-06-24 12:21pm
Skilled - Regional Provisional (subclass 489)	70	2013-02-08 4:56am

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Due to the continuing high numbers of EOIs received for the below occupations, invitations for these occupations will be issued on a pro rata basis in each twice monthly invitation round over the 2014-15 programme year. These arrangements are subject to change throughout the programme year. Please also note that SkillSelect first allocates available places to Skilled – Independent (Subclass 189) visas and then remaining to Skilled – Regional (Subclass 489) (Provisional – Family Sponsored) visas. If all places are taken up by Subclass 189 visas then there will be no invitations issued for Subclass 489 visas in these occupations:

- ICT Business and Systems Analysts
- Accountants
- Software and Applications Programmers.

The points score and the visa date of effect cut-off for the above occupations in the 14 July 2014 invitation round is as follows:

Note: Below points score and visa date of effect is for Skilled Independent (subclass 189).

Points scores and the visa dates of effect cut off for the above occupations in the 14 July 2014 invitation round

Points	Description	Points score	Visa date of effect
2211	Accountants	60	2014-06-24 09:38am
2611	ICT Business and System Analysts	65	2014-06-21 12.01am
2613	Software and Applications Programmers	60	2014-06-18 12.01am

(Source: DIBP)

Okay that is all folks, thanks for reading.

The next newsletter is due on
Monday 18th August 2014



Kind regards, Steven O'Neill

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