

Iscah Migration Newsletter

Monday 17th November 2014 | Edition 197

Hey folks,

Hope you have had a great month and welcome to yet another exciting edition of our monthly newsletter. And hey even if there is not much in here this month (its pretty brief for a change) , good things are around the corner, xmas and oh it's my birthday this week! Woohoo !!

Remember this newsletter comes out in the third week of each month and captures all the bits and pieces we have heard about in regards visa and migration policy changes. If you have any ideas for new content drop us a line.

Past editions are available at www.iscah.com as well you can unsubscribe by emailing us at newsletter@iscah.com

On to the news ...



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1) Further concession by WA government on 457 school education fees

The Western Australian Government has announced that public school fees will be waived for families on 457 visa to take into account lower incomes and other hardships. These include:

- Families earning \$75,000 a year or less will not pay the public school tuition fee
- Illness and unemployment considered for partial or fully waived fees
- Families will also only pay \$4,000 per annum once their gross household income passes \$75,000, regardless of how many children they have in public schools.

The WA Government Press Announcement is available here – www.eti.wa.edu.au

2) 457 Company Sponsor obligations

This post is the final part of a series of fictional scenarios designed to help temporary skilled workers holding 457 visas and their sponsors to better understand their responsibilities and obligations. It is also designed to assist you in avoiding visa scams and fraudulent activity. The department takes allegations of fraud very seriously. There are significant penalties if you are caught engaging in fraudulent activity.

Sponsorship obligations

- You sponsor has a number of obligations they must follow; otherwise they can face some serious penalties and fines.
- Your sponsor cannot ask you to repay specific costs, such as the costs associated with your sponsorship and nomination.
- Visa holders need to be aware of their sponsor's obligations.
- Everyone working in Australia is entitled to basic rights and protections in the workplace.

To learn your workplace rights you can go to

<http://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants>.

If you are a visa holder and believe that your sponsor is not meeting their sponsorship obligations you can report them anonymously at

<http://www.immi.gov.au/Help/Pages/immigration-dob-in-service.aspx#what-information-should-you-provide-to-us>

If your sponsor is making you work excessive hours or your rights are not being met in the workplace you can contact the Fair Work Ombudsman. The Fair Work Ombudsman can help settle workplace disputes and can be contacted here

<http://www.fairwork.gov.au/Contact-us/email-us>

Please note: names of people and businesses in this story are fictional for the purposes of this case study.

Sasha had been working as an electrician and had been sponsored by Down Thunder Electrical Pty Ltd. When she agreed to work for Down Thunder Electrical Pty Ltd she was promised that after two years they would sponsor her for permanent residence. She was to work 38 hours and be paid \$1037 a week. She was enjoying her time working and living in Australia.

After three months of working she was approached by her employer who demanded she pay back money for visa costs. Overall, he demanded she pay back \$12,000. If she failed to pay-back this money the sponsor threatened to cancel her visa and not sponsor her for permanent residence. Sasha was very concerned as her new life in Australia was in jeopardy. Over the next few weeks, with Sasha's reluctant agreement, her employer withheld \$150 from her pay every week to pay back the visa costs. The sponsor also started demanding that she work longer hours and to work on her days off. Sasha was exhausted and struggling to pay rent and bills due to the deductions to her pay. Sasha did not know what to do. She thought that if she stopped paying the sponsor and working the longer hours her visa would be cancelled.

Sasha spoke to her co-workers and discovered that they too were paying back large sums of money to the employer and working longer hours. It appeared to her that she was not the only employee being exploited.

Sasha's friend noticed that she was worried about work and stressed about her visa. She told Sasha that she could report her employer to the Department of Immigration and Border Protection. Her friend told her that her employer did not have the power to cancel her visa – as only the department could do that. Her friend also informed her that she could look for another job and seek sponsorship with another company.

Sasha took her friend's advice and anonymously reported her sponsor to the Department of Immigration and Border Protection through the dob-in line on the website. Departmental officers visited Sasha's workplace and discovered that employees were paying visa costs back to the sponsor. The sponsor was barred from further sponsorships and referred to the Fair Work Ombudsman for investigation because of the excessive hours Sasha and her colleagues were being forced to work, and the deductions held from her wages. Shortly after the Fair Work Ombudsman finalised their investigation. They found that the employees of the business had been underpaid and that the employer was in breach of the Fair Work Act. As a result the company was required to pay Sasha and her co-workers for all the overtime worked for which they had not been paid.

Meanwhile, Sasha was able to find a new sponsor who met their obligations and she was eventually sponsored for permanent residence. The Fair Work Ombudsman was able to assist Sasha in obtaining the money that was owed to her.

(Source: DIBP Blog)

3) Accountants not coming off the skilled (SOL) list at the moment

Some of our blog readers may have seen today's Australian Financial Review, which has incorrectly reported that the department has dropped accounting from its list of skilled occupations in demand for 2015.

There are no plans to remove this occupation from the Skilled Occupation List (SOL) for the 2015 programme year. The Office of the Chief Economist in the Department of Industry conducts analysis each year on the composition of the SOL. The next advice is expected in March 2015 after the completion of extensive labour market analysis and a public consultation process.

This year, the Australian Workforce and Productivity Agency (whose functions have been incorporated into the Department of Industry) released a detailed analysis of accountants and concluded that they should continue to be included on the SOL.

(Source: DIBP)

4) MRT agrees that ONLY a Certificate 4 is needed for a cook for RSMS/187 visas

DIBP legislation states for a 187 visa that one of the ways of meeting the skill level of a cook (or any other trade) if you are an Australian graduate, is to hold a related AQF Certificate 4. The legislation does not require any work experience, however DIBP in their additional "policy" stipulated that in most cases two years additional fulltime work experience will be required.

DIBP have therefore proceeded to refuse all 187 applications where the Certificate 4 holder does not have the required 2 years work experience which has been controversial.

We have been waiting to see whether the Migration Review Tribunal will also require this additional 2 years work experience and have found a case now that says the extra 2 years work is NOT required

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/MRTA/2014/1706.html?stem=0&synonyms=0&query=187+AND+certificate+IV>

In the future DIBP will likely continue to refuse applicants who do not have the 2 years work and it seems that if they do refuse, and an MRT appeal is lodged, the MRT is likely to approve that part of the visa application by saying no work experience is required.

(Source: Iscah commentary)

5) Streamlined student visa processing - changes to eligible providers

Changes have made to the SVP process for students as follows ...

- modifies the list of eligible educational education providers and their educational business partners for streamline visa processing
- updates the details of some existing education providers
- removes some existing providers from the list
- adds 55 new education providers to the list

As the Schedule of eligible providers is extensive, members are advised to check education providers for new applications.

Further details here : <http://www.comlaw.gov.au/Details/F2014L01511/Download>

6) Evidence of health cover for reciprocal agreement passport holders - 457 visas

The 457 section has advised that holders of passports subject to reciprocal health insurance coverage by Medicare, may provide evidence of travel insurance for their 457 visa applications to enable the visa to be granted. Once onshore these passport holders should attend a Medicare office, enrol and obtain a reciprocal Medicare card.

Applicants are required to provide evidence that the travel insurance is equivalent to the minimum health cover required for other 457 visa holders. Further information is available on the Department's website under the 457 visa applicant document checklist tab.

(Source: MIA and DIBP)

7) SkillSelect - 27 October 2014 round results

Note that GSM allocation dates for other categories and dependents is here :

<http://www.immi.gov.au/Work/Pages/general-skilled-migration/estimated-allocation-time.aspx>

The table below shows the number of invitations issued in the SkillSelect invitation round on 27 October 2014

Visa subclass	Number
Skilled - Independent (subclass 189)	1030
Skilled - Regional Provisional (subclass 489)	50

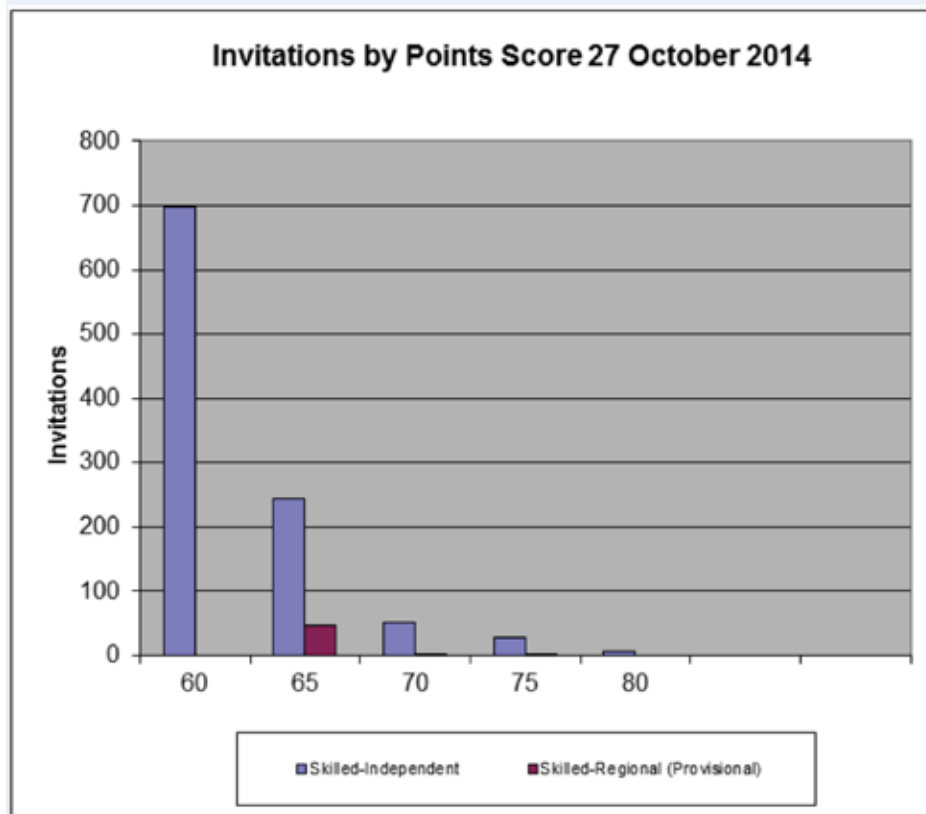
During 2014-15 the following number of invitations have been issued:

Visa subclass	July	July	July	July	Total
Skilled - Independent (subclass 189)	2500	2500	2547	2430	9977
Skilled - Regional Provisional (subclass 489)	20	110	100	100	330
TOTAL	2520	2610	2647	2530	10307

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.

27 October 2014 results

The following graph shows the points for clients who were invited to apply in the 27 October 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	27/10/2014 12:02AM
Skilled - Regional Provisional (subclass 489)	65	13/10/2014 12:48PM

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 occupation of ICT Business and System Analysts in the 27 October 2014 invitation round is as follows:

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

Occupation ID	Description	Point score	Visa date of effect
2211	Accountants	60	21/10/2014 10:09AM
2611	ICT Business and Systems Analysts	65	22/05/2014 5:12PM
2613	Software and Applications Programmers	60	11/10/2014 8:20AM

(Source: DIBP)

Ok folks, a really short newsletter this time.
Have a great month and remember to keep
in touch with our facebook and twitter
accounts for up to date news.
Links are at www.iscah.com

 **Kind regards, Steven O'Neill**

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