

More Changes to Immigration Law beginning 1 September 2007

Dear readers, this is a follow up to my last article on the 1 September 2007 changes to Immigration Law. The changes I'll mention here are in addition to the changes I have mentioned in my last article. Since the Department of Immigration and Citizenship (DIAC) announced these changes in phases, I am mentioning these changes following DIAC's update to migration professionals. To see the details of the changes I wrote in my last article, please go to my website at www.migratedownunder.com

Assurance of Support

All General Skilled Migration (GSM) applications filed on or after 1 September 2007 will no longer require an Assurance of Support (AoS). An AoS will also not be required for any GSM application that is still in pipeline as of 1 January 2008 (ie, has not been decided by 31 December 2007).

Sydney and Selected Areas Skill Shortage List (SSASSL)

The SSASSL will no longer exist beginning 1 September 2007. This is great news for Sydney residents and their relatives, as a lot more people will be eligible to migrate to these areas that previously had a very restricted occupation list.

Changes to the Points Test

From 1 September 2007, the non-points tested Skilled Designated Area Sponsored visa category will no longer be available. All GSM (General Skilled Migration) visas will be points tested. The pass mark for all Skilled Sponsored categories will be 100 points. Pass mark for Skilled Independent categories will continue to be 120 points.

The 15 points currently awarded to permanent residence visa applicants if sponsored by an Australian relative, will no longer be available from 1 September 2007. However, applicants for a provisional GSM visa will be awarded 25 points when sponsored by relatives in a Designated Area. Melbourne is still considered a Designated Area, but Sydney is not.

Points for Capital Investment in Australia

Bonus for capital investment of \$100,000.00 will not be available for applications lodged on or after 1 September 2007.

Movement of SIR Visa Holders Between States

Whilst it is not encouraged, it is expected that as there will be no requirement for sponsorship at the permanent visa stage for SIR visa holders (and the new 475/487 regional visa), movement between states (but still in regional areas) on the SIR visa will be much easier.

IELTS (English Test) Results to Last for Two Years

In the past IELTS would last for one year, with the possibility (at case officers discretion) of being able to be used for a period of two years for a visa application. However from 1st September the policy will be that the results will be valid for a set two-year period.

Duration of the New 18 Month Visa for Student Graduates (Subclass 485)

The period of this 18-month visa will not start until the visa is granted. Hence if you don't lodge it until maybe 4 months after completing study, and then DIAC take around 4 months to process, in effect it is a process that allows you to stay maybe over 2 years in total.

The requirements for this visa are:

- hold an eligible student visa or have held an eligible student visa in the past six months
- have met the two-year study requirement in the past six months
- nominate a 50 or 60 point occupation from the Skilled Occupation List
- have applied to have their skills assessed for their nominated skilled occupation and
- have competent English, or vocational English in the case of an applicant who has applied to have their skills assessed in a trade qualification. (or booked IELTS test)

Two-year Study Requirement

From 1 September 2007, to meet the two-year study requirement, applicants will have to complete one or more degrees, diplomas or trade qualifications for award by an Australian educational institute as a result of a course or courses:

- registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)
- completed as a result of at least two academic years' study (full-time equivalent) or completed in a total of no less than 16 calendar months that the applicant studied in Australia, while holding a visa that allowed study for which all instruction was conducted in English.



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Course duration will be calculated from the date classes begin to the date all academic requirements have been met for that qualification.

These changes are beneficial because they give students more flexibility. Students will not be penalised for changing education providers. They will also be able to count study undertaken online towards meeting the two year study requirement, if they were in Australia for the duration of that period of study.

Two important points here are :

- 1) That study at previous institutions in Australia for which you did not complete a course CAN be now counted
- 2) That you must do a FULL two years of study to meet the rule. For example an accounting masters listed as a 16 units two year course by CRICOS, for which the student gains one exemption from overseas study, CANNOT meet the new two year rule. This is irrespective of how many semesters undertaken, or how many units per semester. This is a significant change from the old rule!!

Important Changes to Student Visas

Important changes to the rules regarding student visas commenced on 1 July 2007:

If a student's attendance at a course drops below 80% (but remains at 60% or above) a Notice under Section 20 of the Education Services for Overseas Students Act will NOT automatically issue but the student will have to provide a satisfactory explanation to the education provider for the low attendance. If the education provider is satisfied with the explanation no further action will be taken but if the education provider is not satisfied with the explanation the student will be referred to DIAC and a Section 20 Notice will issue. In cases of attendance between

Trades Assessments

Tradespeople RESIDENT in the countries of United Kingdom, India, Sri Lanka, South Africa and the Philippines, if they come under the trades of a Carpenter, Joiner, Bricklayer, General Electrician, Refrigeration and Air-conditioning mechanic, Cable Joiner or Electrical Powerline Tradesperson (Lineworker) will need to be assessed by a NEW skills assessing body after 1st September 2007.

That is, they can no longer use the TRA. Instead they must use VETASSESS, and the cost will rise from \$300 to around \$2100/\$2200. Also a technical interview and practical assessment will be added to the paper assessment.

At present this only affects those people resident in those countries. If you are in Australia on a temporary visa you can continue to use the TRA... for now.

So if you are in one of those countries, in one of those trades, and thinking of migrating to Australia in the next few years, you should lodge a skills assessment BEFORE 1st September 2007.

SPONSORED VISITOR VISAS

An Australian Citizen or Permanent Residence can sponsor a Parent, Brother or Sister, a child (also adopted), a grandchild, aunt or uncle or niece or nephew for a visit to Australia.

A bond will be required, usually between \$5000 and \$20000. This Office recently assisted with an application for a person who was a professional in Sri Lanka. The application was refused and DIAC in their letter of refusal stated "Further advice has been provided that the non-compliance rate has increased for applicants from Sri Lanka, ie. a large number of Sri Lankan nationals have overstayed their Subclass 679 visa".

On inquiry I was advised that these over-stayers had mostly lodged refugee visa applications. Accordingly I would suggest if you are thinking of sponsoring a relative for a visit be prepared to appeal to the MRT with the additional costs this will incur.

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