

Reforms to 457 visa program – 1 July 2013 (URGENT – new TSMIT)

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A summary of the legislative changes implemented by the Department of Immigration & Citizenship that are effective as of 1 July 2013 can be summarized as follows:

1) New TSMIT (Temporary Skilled Migration Income Threshold)

Following the introduction of a new TSMIT, employers will be unable to sponsor 457 applicants where the market salary rate for their nominated occupation is less than \$53,900. Applicants earning over \$250,000 per annum (increased from \$180,000) are not required to show evidence of market salary rate or TSMIT.

The key purpose of the TSMIT is to ensure that the subclass 457 visa program is only used for positions requiring skilled and experienced workers. It is reviewed annually so as to ensure it reflects wage growth in the Australian labour market.

Important, please note: employers of existing 457 visa holders whose salary is below the new TSMIT of \$53,900 will be required to raise their salary to reflect this.

For more information see [Legislative Instrument IMMI 13/028](#)

2) Changes to exemptions for English language requirement

457 applicants must demonstrate that they possess English language proficiency equivalent to IELTS 5 across each of the four IELTS test components.

DIAC has recently amended the exceptions to this requirement to ensure that the following applicants do not have to meet the English language test:

- Applicants earning an annual salary of over \$96,400
- Applicant who:
 - * Are nominated in an occupation that does not require a level of English language competency;
- and
 - * Have completed at least 5 consecutive years of full-time study in a secondary or higher education institution where instruction is in English
- Applicants who are nominated in relation to employment at a diplomatic or consular mission in another country in Australia.

For more information please see [Legislative Instrument IMMI 13/029](#)

3) Flexibility for training benchmarks

The recent changes make it easier for sponsors to meet the training benchmarks by allowing them the flexibility to move between Training Benchmark A and B. Please be reminded that training is a continuous requirement that employers must meet not only at the date of application but during the entire period that they hold a business sponsorship.

The two benchmarks (which have not changed) are as follows:

- Training Benchmark A: recent expenditure of at least 2% of the payroll of the business to be donated to an industry training fund.
- Training Benchmark B: recent expenditure of at least 1% of the payroll of the business to be spent training employees.

Prior to the amendment the approval of a business sponsorship application (SBS) was conditional on the employer meeting either Training Benchmark A or B. As training is a continuous obligation the employer was then required to comply with either benchmark A or B, as specified in their application, for the duration of their sponsorship.

For more information please see [Legislative Instrument IMMI 13/067](#)

4) Increase in application fees and charges

Please see our recent [Abacus News Flash](#).

For more information on some impending changes affecting the 457 program that are yet to be implemented please see our [News Flash](#).

Source: DIAC and MIA