

## FURTHER DETAILS

.... For Your Information ....  
(September 15, 2009)

### MAJOR REFORM OF SPONSORSHIP OBLIGATIONS

### AUSTRALIAN TEMPORARY RESIDENCE VISA,

### Subclass 457 & 470

### Effective September 14, 2009

Further to the information contained in Expat International's Visa Alert dated September 9, 2009, we are pleased to provide additional details and the link as published by DIAC (Department of Immigration and Citizenship) regarding significant Sponsorship changes which came into effect on September 14, and concern Subclass 457 and 470 visas.

We strongly recommend that you refer without delay to the comprehensive overview contained in ...

[www.immi.gov.au/skilled/skilled-workers/sbs/obligations.htm](http://www.immi.gov.au/skilled/skilled-workers/sbs/obligations.htm)

and

<http://www.immi.gov.au/skilled/457-market-salary-rates.htm>

..... and its associated links relative to Employer obligations, and changes to the 457 visa conditions.

### IN SUMMARY:

⇒ **Sponsorship Obligations** and details as listed in the linked publication are:

- Co-operate with DIAC inspectors appointed under the Migration Act 1958
- Ensure equivalent terms and condition of employment for sponsored workers as for Australian citizens and permanent residents



- Pay travel costs to enable sponsored persons to leave Australia
  - Pay costs incurred by the Commonwealth of Australia to locate and remove unlawful non-citizens as previously sponsored by the company
  - Keep appropriate records
  - Provide records and information to the Minister as requested
  - Provide information to Immigration when certain events occur
  - Ensure primary sponsored person does not work in an occupation other than that approved by DIAC
  - Not to recover certain costs from a primary sponsored person, or their family
- ⇒ **Sanctions For Failure To Satisfy Sponsorship Obligation(s)**
- ⇒ **UPDATE! Subclass 457 – Market Salary Rates**

Commencing September 14, 2009 all new and existing 457 Visa holders must be paid in accordance with market rates applicable to the nominated occupation. This salary must not be less than the Temporary Skilled Migration Income Threshold ('TSMIT') (currently these thresholds are the same as the previous Minimum Salary Level's)

The obligation for 457 sponsors to ensure equivalent terms and conditions of employment will mean that the sponsor must pay the same market salary rates which are currently applicable within their company, to the foreign worker as for Australian nationals and permanent residents.

In instances when no equivalent worker is employed on site, the employer must quote collective agreements, or awards for that position to substantiate the market rate.

If such data is unavailable, evidence, such as remuneration surveys or earnings data may be provided to demonstrate the level of market salary rates that the nominated overseas worker will receive.

Transitional arrangements will apply for *current* 457 visa holders who ***must receive market rate salaries no later than January 1, 2010.***



Please refer to additional link on page 4 of link provided above, under Temporary Business (Long Stay) – Standard Business sponsorship (Subclass 457)

Equivalent pay exemptions are in place for a very limited number of professions and trades and Expat will advise you.

Additionally, nominated employees whose salary market rate exceeds \$180,000 per annum are also exempt.

### **FURTHER INFORMATION HAS BEEN ADVISED ON:**

#### **UPDATE! Training Benchmarks**

These have not yet been finalised. Expat will advise you further as details come to hand.

Currently sponsoring companies are required to commit the following expenditure to annual training:

- Documented annual training expenditure equivalent to 1% of the sponsor's annual payroll, **or**
- 2% of sponsor's annual payroll paid to an independent industry training fund

#### **UPDATE! Term of Standard Business Sponsorship**

Grant of SBS validity *may* extend beyond 2 years, with no nomination limit. DIAC has advised such grants will have “qualifying criteria” and each will be assessed on a case by case basis. Expat will advise you individually on this specific item.

#### **UPDATE! Health Insurance Cover Obligations**

For Visas issued on or after September 14, 2009:

457 and 470 Visa holders will be personally responsible for maintaining health insurance for the duration of their stay in Australia. Until such time as they are able to organize suitable insurance within Australia, they should arrange for cover by travel insurance for the first month or two to span travel to Australia, and for the intervening period after arrival.

*For 457 visas granted prior to September 14, 2009*

Previous sponsorship obligations regarding health insurance funding for **existing** holders of subclass 457 visas will remain in place until visa expiry, **or** until the holder has completed his employment with the sponsor.



Such an obligation attached to **existing** 457 visas shall transfer from one sponsoring employer to another (please refer to item below)

**UPDATE! Condition 8107 Has Greater Flexibility: Ability to Change Employers**

A subclass 457 visa holder with remaining visa validity may now change employers without requirement for application and grant of a new 457 visa.

The new sponsoring employer is required to lodge anew nomination with DIAC in favour of the current 457 visa holder, and be granted approval prior to the employee transferring from the old to new employer.

The employee is permitted to give notice, and serve out time with the previously sponsoring employer without breaching condition 8107.

**IN CONCLUSION:**

The additional requirements imposed upon sponsors indicate a significantly increased degree of complexity in nominating for subclass 457 or 470 visas, and this requires detailed consideration of all associated aspects.

Expat has the required knowledge and capability, and will be pleased to discuss your company's specific situation to arrive at the best, or alternative arrangements to suit individual requirements.

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**September 15, 2009**

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Material contained within this Newsletter is intended for general informational purposes only.