

Hammond Taylor

Employer Nomination Scheme
186 & Regional Skilled
Migration Scheme 187 Visas

Breakfast Briefing

May 2, 2018

Background

- The closing door to Australian permanent residence: ‘Medium & Long term benefit’
- Dramatic shift in tone re: employer sponsorship
 - 2012 – ENS/RSMS #1 priority for PR in Australia
 - 2017 – Gov’t announces abolition of 457 and restricted access to PR
- An anti-immigration immigration Minister?

ENS 186 and RSMS 187 visas

Grandfathering

- 457 Visa holders and applicants (as at 18 April 2017) will retain certain rights:
 - Access to PR regardless of occupation stream
 - Access to PR under 50
 - Runs until 2022

ENS 186 and RSMS 187 visas

Accessing PR

- Only MLTSSL occupations (outside grandfathered visa holders) will be eligible
- We estimate this is approximately 40% of overall cohort

ENS/RSMS Nomination

Regulation 5.19

- Must identify person / position / occupation / stream
- No payment for visa conduct
- No adverse information and satisfactory compliance record
- Active and lawful operation in Australia

ENS Visa

ENS TRT Stream

- Must identify person holding 457/482/Bridging Visa
- Must be in the same ANZSCO unit group: ie, 'Baker' and 'Pastrycook'
- Must be in an occupation on ENS or RSMS occupation list unless grandfathered
- Must have completed 3 out of 4 years in nominated position with employer

ENS Visa

ENS TRT Stream

- TSMIT now applies
- Training compliance – NB, period of current sponsorship
- Must be in direct control of employer (currently seeking clarification)
- Position must be available for at least 2 years

ENS Visa

Direct Entry Stream

- Direct Control
- Position must be available for 2 years
- Annual Market Salary rate / TSMIT applies unless reasonable to disregard
- MLTSSL occupation list – no exemptions
- Training requirements (in past 12 months – i.e. Training Benchmark must be met)

ENS Visa

Direct Entry Stream

- Age reduced to 45
- English – competent (no current exemptions)
- Health – all family members must meet
- Approved Nomination
- Skills assessment + 3 years unless exempt (academics, NZ citizens & family, scientist in Cth research)

ENS Visa

Labour Agreement Stream

- Age must be 45 (unless otherwise agreed by the Minister)
- No occupation list specified (i.e, features in Labour Agreement)

RSMS Visa

Common criteria

- Licensing / registration / professional membership requirements
- Position must be the same as in the nomination
- Three streams
 - Temporary Resident Transition
 - Direct Entry
 - Labour Agreement
- No payment for visa conduct

RSMS Visa

TRT Stream

- Age under 45 (unless grandfathered or exempt)
- English 'competent' (unless exempt)
- No payment for visa conduct
- Health – all family members must meet
- Approved Nomination
- New requirement that Minister may request skills be demonstrated

RSMS Visa

Direct Entry Stream

- Position located in regional Australia
- No Australian available
- Nominated occupation on 187 list (no exemptions)
- RCB approval required (can consider the AMSR)
- Direct Control
- Position available for 2 years

RSMS Visa

Direct Entry Stream

- Age reduced to 45 (unless exempt)
- English – competent (no current exemptions)
- Health – all family members must meet
- Approved Nomination
- Skills assessment + 3 years unless exempt (academics, NZ citizens & family, scientist in Cth research) – additional work experience is new

Skilling Australian Fund levy (SAF) – not yet legislated

- Business with turnover < \$10m
 - TSS levy – \$1200 per 12 mth period per person
 - PR levy – \$3000 per permanent visa
- Business with turnover > \$10m
 - TSS levy – \$1800 per 12 mth period per person
 - PR levy – \$5000 per permanent visa

Take Home

- Limited access (no STSOL)
- Generally tighter restrictions (RSMS, age, English)
- Some lower thresholds
- 3 years in lieu of 4 for high income age exemption
- Fewer exemptions (salary, regional doctors, etc.)
- Significant additional cost for employers

Take Home

Alternative options

- Push staff to independent skilled migration?
- Labour Agreements
- Lobbying:
 - Occupation Lists
 - Changes by government

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