

457 Visa Changes – Factsheet

On 18 April 2017, the Turnbull Government announced that the **Temporary Work (Skilled) visa (subclass 457 visa)**, otherwise known as the **457 visa**, will be abolished. In its place, a new Temporary Skill Shortage (TSS) visa will be implemented in March 2018. There will also be changes to the Employer Nomination Scheme (subclass 186) (**ENS**) permanent residency visa. As members may be relying on these visas to employ skilled workers from overseas, IGEA has taken the time to develop the following factsheet that summarises the most important aspects of the announced changes. The first section will address the changes more generally and the second will discuss how the changes may affect the video games industry and members.

The following information is intended to be general commentary and should not be regarded as a substitute for legal advice

What has changed?

The Government's announced changes are comprised of several stages.

Stage 1 – From 19 April 2017

The current 457 visa will continue to operate, but it will be subject to several changes. The biggest change is a significant reduction in the number of occupations that will be eligible for a 457 visa.

- **Previously:** Occupations listed on both the Skilled Occupation List (**SOL**) and the Consolidated Sponsored Occupation List (**CSOL**) were eligible for a 457 visa. They contained 651 occupations.
- **Removals:** The total number of eligible occupations for 457 visas have been reduced to just 435. 200 of these occupations were removed from the CSOL, with a further 16 occupations on the SOL excluded from the 457 visa specifically. Note that these removals don't just affect the 457 visa programme – the following subclasses that rely on these lists will also be impacted:
 - Employer Nominated Scheme (subclass 186) – Direct Entry Stream
 - Skilled Nominated visa (subclass 190)
 - Skilled Regional (Provisional) visa (subclass 489)
 - Training visa (subclass 407)
- **Restrictions:** 59 occupations that have remained are now subject to certain “caveats” that will make them harder to access. Note that these additional restrictions only apply to 457 visas.
- **Renaming:** The SOL and CSOL have also undergone name changes:
 - SOL has been renamed to the “Medium and Long-term Strategic Skills List” (**MLTSSL**)
 - CSOL has been renamed to the “Short-term Skilled Occupations List” (**STSOL**)
- **Review:** The lists will be reviewed in the future and additional changes may be made.
- **Duration:** Beforehand, 457 visas were granted for up to four years. This will now be changed:
 - Visas granted for occupations on the STSOL will be for a maximum of two years
 - Visas granted for occupations on the MLTSSL will be for a maximum of four years

Stage 2 – From 1 July 2017

- **Review:** occupations on both the STSOL and MLTSSL lists will be reviewed and may be revised.
- **English language requirements:** Currently, those who apply for a 457 visa with a salary over \$96,400 are exempt from the English language requirements. This exemption will be removed, meaning that the English language requirements apply across the board.

- Criminal record: it will become mandatory for penal clearance certificates to be provided to obtain a 457 visa, so that criminal records are checked.

Stage 3 – by 31 December 2017

- Tax File Number (TFN) collection: The Department of Immigration will begin collecting TFNs for employer sponsored migrants, including 457 visa holders, to determine whether holders are paid less than their nominated salary.
- Sanctions: The Department will also begin publishing the details of businesses who are sponsoring migrants and fail to meet their legislative obligations.

Stage 4 – From March 2018

This phase contains the next big suite of changes, including the abolishment of the 457 visa.

- 457 visa abolished: The 457 visa as we know it will be completely abolished. The visa will be replaced with the Temporary Skill Shortage (**TSS**) visa.
- TSS visa: The TSS visa will have two different application streams:
 - *Short-term stream*: Short-term stream visas will be issued for up to a maximum duration of two years and will be based on the STSOL list.
 - *Medium-term stream*: Medium-term stream visas will be issued for up to a maximum duration of four years and will be based on the MLTSSL list.
- Criteria: There will be a set of criteria that apply equally to both short-term and medium-term stream visas, with additional criteria then applying to the streams separately.
 - *General criteria*: Applications under both streams must comply with the following:
 - Applicants must have at least two years' relevant work experience.
 - Applicants must obtain a penal clearance certificate (criminal record checks).
 - Employers must conduct labour market testing, to ensure the local job market doesn't contain readily available citizens or permanent residents who are qualified and experienced for the job.
 - Employers must pay the Australian market salary rate, while ensuring they meet the Temporary Skilled Migration Income Threshold salary of \$53,900.
 - Employers must undergo a non-discriminatory workforce test to ensure they are not actively discriminating against Australian workers.
 - Employers are subject to a strengthened training requirement to ensure they contribute towards training Australian workers.
 - *Short-term stream criteria*: Short-term visas will include the following criteria:
 - There will only be capacity for one visa renewal onshore, which means that the stream will not allow for permanent residency pathways.
 - English language test requirements.
 - A genuine temporary entrant requirement.
 - *Medium-term stream criteria*: Medium-term visas will include the following criteria:
 - There will be capacity for visa renewal onshore and pathways for permanent residency after three years.
 - Slightly stricter English language test requirements.

How will this affect members and the wider video games industry?

Who exactly will be affected?

- These changes will impact any members or other businesses that have used or will use the 457 visa programme to hire overseas workers to fill skill shortages. They will also affect prospective workers that are looking to work in Australia on a 457 visa.
- Specifically, the 457 visa changes will impact the following groups in the games industry:
 - Current 457 visa holders (least impacted, see below)
 - Businesses currently sponsoring 457 visa holders (least impacted, see below)
 - Current 457 visa applicants (with pending visa applications on or after 19 April 2017)
 - Businesses looking to sponsor overseas workers on 457 visas (on or after 19 April 2017)

Current 457 visa holders and sponsoring businesses

- Existing 457 visas will continue to remain in effect.
- Workers that currently hold a 457 visa will be least affected by these changes. The changes only really impact future applicants for 457 visas or anyone whose 457 visa application is still pending by 19 April 2017.
- However, there is a slight exception to this:
 - If current holders of 457 visas either apply for a further 457 visa, change their occupation or change their employer, they will be subject to the changes.
 - The most impactful change will be the removal of the over 200 occupations from the eligibility lists. If current 457 visa holders find that their occupation has been removed from the STSOL or MLTSSL (**see below**), they will not be able to apply for a further 457 visa, change their occupation or change their employer.

Removal of occupations from the eligibility lists

- The most impactful change will be the removal of the over 200 occupations from the STSOL and MLTSSL eligibility lists.
- Anyone looking to be employed in the local games industry on a 457 visa (and the abovementioned visas based on the same lists) will not be able to do so for any of the removed occupations. Businesses will also be unable to sponsor and hire workers to fill these positions.
- The following occupations that were removed from the lists will likely be the most relevant for members and the games industry, although members are encouraged to read the [entire list](#) of removed occupations for themselves:
 - Human Resource Adviser
 - Intellectual Property Lawyer
 - Intelligence Officer
 - Market Research Analyst
 - Multimedia Designer
 - Policy & Planning Manager
 - Policy Analyst
 - Procurement Manager
 - Public Relations Manager

- Retail Buyer
- Web Developer
- Workplace Relations Advisor
- These removals apply to anyone who applies for a 457 visa on or after 19 April 2017 and to those who have a pending 457 visa application after this date (even if they applied before the changes were announced).
 - Anyone who applied for a 457 visa before these changes and did not have their application approved before their occupation was removed, they can now no longer be approved. Both the visa applicant and sponsoring business may be eligible for a refund.
- If you have any current 457 visa holders that were employed based on the above occupations, have sponsored any overseas workers for the above occupations but their application was still pending on 19 April, or were looking to hire overseas workers based on these removed occupations, you should contact the Department of Immigration or an immigration specialist.

Changes to the offering of the 457 visa (and TSS visa)

- The next impactful change is to what a 457 visa now offers to successful applicants and also what a TSS visa will offer to successful applicants next year.
 - Importantly, applicants or businesses looking to rely on occupations listed on the STSOL for visa applications will be most impacted here.
- Duration of visas:
 - Before these changes, occupations that were listed on the STSOL (previously the CSOL) could be granted 457 visas for up to four years.
 - Now, occupations listed on the STSOL will only be able to access a maximum two-year visa, both for the current 457 visa programme and next years' TSS visa.
- Permanent residency:
 - Before these changes, occupations that were listed on the STSOL (previously the CSOL) were provided with pathways for permanent residency.
 - While it does still seem that 457 visas granted until March 2018 will provide pathways for permanent residency for occupations listed on the STSOL, **we cannot confirm this** as the information released by the Government on this point has been very vague. It has not been specifically confirmed either way.
 - If this is something that concerns or affects you, we highly suggest that you seek out the advice of an immigration specialist.
 - Nevertheless, when the TSS visa comes into effect in March 2018, visas granted for occupations on the STSOL will not provide pathways for permanent residency. This will only occur for occupations listed on the MLTSSL.
- Occupations affected: there are 268 occupations listed on the [STSOL](#) (scroll down to schedule 2) that will be impacted by the changes, but here are the occupations that are likely to be the most relevant for the games industry:
 - Advertising Manager
 - Advertising Specialist

- Chief Executive or Managing Director
- Chief Information Officer
- Company Secretary
- Conference & Event Organiser
- Contract Administrator
- Corporate General Manager
- Corporate Services Manager
- Customer Service Manager
- Database Administrator
- Equipment Hire Manager
- Facilities Manager
- Film & Video Editor
- Finance Manager
- Financial Investment Adviser
- Financial Investment Manager
- Graphic Designer
- Human Resource Manager
- Illustrator
- Marketing Specialist
- Multimedia Specialist
- Network Administrator
- Network Analyst
- Program or Project Administrator
- Public Relations Professional
- Quality Assurance Manager
- Sales & Marketing Manager
- Software & Applications Programmers
- Software Tester
- Supply & Distribution Manager
- Systems Administrator
- Video Producer
- Web Administrator
- Web Designer

- If you are looking to hire overseas workers on a 457 visa for the above occupations, you should contact the Department of Immigration or an immigration specialist.

Occupations now harder to access

- There are now 59 occupations across both the STSOL and MLTSSL lists that have had their access to the 457 visa (and next years' TSS visa) restricted by certain "caveats".
- Prospective overseas workers and Australian game companies will be unable to rely on either the 457 or next years' TSS visa for these positions unless they meet the listed requirements.
 - These caveats concern matters such as minimum salary, years of relevant experience and annual turnover.

- Here are the occupations likely to be most relevant to the games industry that are now harder to access, but again we encourage members to look through the [full list](#) and, more importantly, the specific caveats that apply to each occupation.
 - Accountant (General)
 - Advertising Specialist
 - Chief Executive or Managing Director
 - Conference & Event Organiser
 - Contract Administrator
 - Corporate General Manager
 - Corporate Services Manager
 - Customer Service Manager
 - Facilities Manager
 - Finance Manager
 - Graphic Designer
 - ICT Project Manager
 - ICT Support Engineer
 - ICT Systems Test Engineer
 - Information & Organisation Professionals
 - Marketing Specialist
 - Recruitment Consultant
 - Sales & Marketing Manager
 - Software Tester
 - Supply & Distribution Manager
- To provide specific examples, here are examples of the caveats and restrictions that apply to some of the above occupations:
 - Accountant: now excludes positions in businesses that have an annual turnover of less than \$1 million and fewer than five employees.
 - Advertising Specialist, Graphic Designer & Software Tester: now excludes positions that do not require a minimum of two years' relevant work experience.
 - Chief Executive or Managing Director: now excludes positions in businesses that have an annual turnover of less than \$1 million, fewer than five employees and a nominated base salary of less than \$90,000.
 - Marketing Specialist and Sales & Marketing Manager: now excludes positions that predominately involve regular direct client transactional interaction, have a nominated base salary of less than \$65,000 and with businesses that have an annual turnover of less than \$1 million.
 - Supply & Distribution Manager: now excludes positions in businesses that have an annual turnover of less than \$1 million, fewer than five employees and a nominated base salary of less than \$65,000.
- If you are looking to hire overseas workers on a 457 visa for the above occupations, you should contact the Department of Immigration or an immigration specialist.

But wait, there's more! Changes to the permanent employer sponsored skilled migration programme

The Government's visa reforms will also involve changes to the following migration programmes:

- Employer Nomination Scheme (subclass 186) visa (**ENS visa**)
- Regional Sponsored Migration Scheme visa (subclass 187) visa (**RSMS visa**)

The changes are similar to those affecting 457 visas, so they will be summarised quickly below:

- **From 19 April 2017**, for new applicants, the STSOL and MLTSSL eligibility lists will apply. This means that the ENS visa (particularly its Direct Entry stream) will be affected by the removal of the 216 occupations.
 - Please note, the abovementioned caveats that apply to 59 occupations do not apply to the ENS or RSMS visas – these only apply to the 457 visa and next years' TSS visa.
- **From 1 July 2017**, for these visa programmes, stringent English language requirements will be implemented (even more stringent than those for 457 visas), as will a maximum age requirement of 45 years at the time of application for the Direct Entry stream of the ENS visa.
- **From March 2018**, for both the ENS and RSMS visas, the MLTSSL eligibility list will now apply.

Other changes include:

- Employers must pay the Australian market salary rate, while ensuring they meet the Temporary Skilled Migration Income Threshold salary of \$53,900.
- The permanent residence eligibility period will be changed from two to three years.
- Applicants must have at least three years' relevant work experience.
- Applicants must be under the age of 45 years at the time of application.
- Employers must comply with strengthened training requirements for workers.

Useful links

For further information, members are encouraged to click on the following links

- [Media release](#) for reforms
- [Homepage](#) for 457 visa changes
- [Fact sheet](#) for 457 visa changes
- [Fact sheet](#) for ENS and RSMS visa changes
- [List](#) of eligible skilled occupations

Should members have any questions, please do not hesitate to contact us!