



## Temporary (long stay) business visas: subclass 457

### Introduction

Some argue that the greatest change in migration patterns to Australia in the last decade or so is the change in emphasis from permanent to temporary migration—with temporary migration increasingly becoming the first step towards permanent settlement in Australia.<sup>1</sup>

In August 1996, the federal government introduced a new temporary entry business visa in response to these changes. This visa allowed employers to sponsor skilled workers on a temporary basis—between three months and four years. The 457 visa—the [Temporary \(long stay\) Business Visa \(Subclass 457\)](#)—is the visa that is most commonly used by employers to sponsor overseas workers to work in Australia on a temporary basis.<sup>2</sup>

This Research Note provides statistics and background on the 457 visa, and discusses some of the controversies that are currently raging on temporary skilled and business migration.

### Background

Over the last twenty years there has been a significant increase in the number of people wanting to work in Australia on a temporary basis, reflecting global migration trends. Governments now realise that in order to attract skilled migrants it is essential to allow non-permanent entry of business and skilled workers.<sup>3</sup>

In response to these emerging trends, the federal government began to introduce changes to Australia's business migration policies in the mid-1990s. The initial decision to introduce a new temporary business visa regime was made in September 1995 by the Keating Government after the

findings from the *Report by the Committee of Inquiry into the Temporary Entry of Business People and Highly Skilled Specialists* (the Roach Report) were released.<sup>4</sup>

The Roach Report argued that business migration was beneficial to Australia. It recommended that the entry of business people to Australia be simplified by replacing the range of temporary classes existing at the time with a class of visa incorporating a more streamlined application process.

The Keating Government accepted the report's key recommendations on temporary skilled migration and introduced temporary work visas that heralded the beginning of the 457 visa regime. On 1 August 1996, the Howard Government formalised this process by introducing the [Temporary Business \(long stay\) Visa \(subclass 457\)](#).<sup>5</sup>

As noted, the 457 visa allows employers to sponsor skilled workers from overseas for a period of three months to four years. Recipients of this visa are also eligible to apply for a permanent skilled migration visa.<sup>6</sup>

The 457 visa is designed to allow employers to quickly recruit skilled workers to fill vacancies that cannot be filled locally and is the visa most commonly used by employers to sponsor overseas workers. In 2005–06 there were just under 10 000 employers using 457 visas.<sup>7</sup>

### What are the requirements of the 457 visa?

The 457 visa is available to employers wanting to sponsor and employ overseas workers who have recognised qualifications and skills in particular occupations. These workers may bring any eligible

secondary applicants (family members) with them to Australia. Secondary applicants can work or study while they are here. After entering Australia, 457 visa holders have no limit on the number of times they may travel in and out of Australia while the visa is valid.

There are health, character and skill level requirements for this category of visa that must be met, and any employee wishing to change employer after they have arrived is required to apply for a new visa.<sup>8</sup>

The skill requirements for 457 visas must correspond to the [Australian Standard Classification of Occupations \(ASCO\)](#) levels 1–4. Under concessional arrangements in designated regional areas, employees at ASCO skill levels 5–7 can be sponsored. The ASCO classifications used by the Department of Immigration and Multicultural Affairs (DIMA) are compiled by the Australian Bureau of statistics (ABS).

For employers there are minimum salary requirements designed to prevent the undercutting of Australian wages and the exploitation of overseas workers. The standard minimum salary level is currently \$41 850 and \$57 300 for information technology workers.<sup>9</sup> The regional concessional salary is 90 per cent of the standard.

The minimum salary level, the minimum skill level and requirements for employers to cover certain costs (such as visa and transport and medical insurance costs) are designed to ensure that employers are not sponsoring people where they could employ an Australian citizen or resident.<sup>10</sup>

Sponsors are also required to have a satisfactory record of training Australian workers and to indicate how the overseas workers will ‘benefit Australia’, for example, by creating employment for Australian citizens and residents or expanding trade and overseas business links.<sup>11</sup>

## How many 457 visas have been granted since 1996 and where do they go?

**The number of primary and secondary 457 visas (excluding Independent Executives) granted, rounded to the nearest 10, 1997–2006**

Program year	Primary	Secondary	Total
1997–98	16 550	14 330	30 880
1998–99	16 080	13 250	29 320
1999–00	17 540	13 530	31 070
2000–01	21 090	15 810	36 900
2001–02	18 410	15 100	33 510
2002–03	20 780	16 020	36 800
2003–04	22 370	17 130	39 500
2004–05	27 350	21 250	48 590
2005–06	39 530	31 620	71 150

Source: Answer to Question on Notice no. 53, Budget Estimates, Immigration Portfolio, 22 May 2006

### State/territory of intended residence for 457 visa holders at 30 June 2006

State/territory of intended residence	Primary visa holder	Secondary visa holder	Total
ACT	559	376	935
New South Wales	19 001	11 247	30 257
Northern Territory	592	279	871
Queensland	7073	4991	12 065
South Australia	1529	1241	2770
Tasmania	297	288	585
Victoria	9312	6781	16 094
Western Australia	5806	5431	11 237
Jurisdiction not stated	2753	2567	5323
<b>TOTAL</b>	<b>46 922</b>	<b>33 201</b>	<b>80 137</b>

Source: Answer to Question on Notice no. 79, Budget Estimates, Immigration Portfolio, 22 May 2006. This data reflects the state or territory of intended residence for the 46 922 subclass 457 primary visa holders in Australia on 30 June 2006 (based on statements on the incoming passenger card).

### Country of origin and occupations

Figures on the [top ten source countries](#) for 457 visa holders since 1996 were provided by Senator Vanstone in a Question on Notice in the Senate on 27 February 2006, with the top three positions being occupied consistently by the UK, USA and India.

The following table details the number of primary 457 visas (excluding Independent Executives and

rounded to the nearest 10) granted by industry sector for 2005–06. State and territory governments are major sponsors—particularly in sponsoring doctors and nurses.

#### Primary grants of 457 visas 2005–06

Industry sector	Primary grants of 457 visas 2005–06
Accommodation, cafes and restaurants	2220
Agriculture, forestry and fishing	1100
Communication services	3280
Construction	3490
Cultural and recreational services	910
Education	1960
Electricity, gas and water supply	810
Finance and insurance	1450
Government administration and defence	450
Health and community services	5690
Manufacturing	4000
Mining	2840
Personal and other services	2730
Property and business services	4890
Retail trade	1190
Transport and storage	650
Wholesale trade	1120
Not specified or unavailable	750
<b>TOTAL</b>	<b>39 530</b>

Source: Answer to Question on Notice no. 80, Budget Estimates, Immigration Portfolio, 22 May 2006.

### Business migration to the regions

The main temporary worker visa option for regional employers is the 457 visa.<sup>12</sup> There are also several permanent migration options designed to attract skilled workers to rural and regional areas (including the [Regional Sponsored Migration Scheme](#) and the [Skill Matching Visa](#)).

Employers in certain areas may be eligible for various [regional concessions](#) in meeting the minimum salary and skill level requirements. The [areas](#) designated for the purposes of these regional concessions are gazetted and listed by postcode on the DIMA website. Some employers are not eligible for the concessions, such as overseas businesses or businesses employing apprentices.

In order for an employer to qualify for these regional concessions, applications must be certified by one of the [Regional Certifying Bodies](#).

### International comparisons

Increasing global competition for skilled workers has prompted many other countries to introduce measures similar to Australia's skilled migration program.<sup>13</sup> Some are even modelling themselves on the Australian system as, according to international migration expert Professor John Salt, Australia has long been '[ahead of the game](#)' in its skilled migration program and research into immigration policy. The UK, for example, is introducing a points system and a temporary visa scheme that has some similarities to the Australian 457 visa system.<sup>14</sup>

### Why are the 457 visas so controversial?

Some concerns have been expressed that employers are using the 457 visa to employ cheap foreign workers; that the minimum salary and skill requirements are easy to circumvent; that the overseas workers are exploited and that employers are not required to advertise vacancies before they sponsor foreign workers. Others also argue that in regional areas, where concessions apply in terms of minimum salary and skill levels, the Regional Certifying Bodies that are required to endorse the employer sponsorships may be dominated by employer (rather than worker) interests.<sup>15</sup>

Employer sponsors, other than those in designated regional areas, are not required to certify positions as 'unable to be filled locally' by a certifying body before they can sponsor workers from overseas. 'Regional areas' are defined very broadly for the purpose of 457 visas—a regional area is anywhere in Australia outside of Sydney, Melbourne, Perth, Brisbane, Wollongong, Newcastle, and the Gold Coast.

The government response to these arguments is that, given the unemployment rate for skilled workers is less than 2 per cent, it would be a waste of the employer's time to test the market and advertise. It is argued that because sponsoring overseas employees is costly, employers would not do so if it was possible to fill the position locally. Unions and the

ALP disagree, and it would appear that this issue is going to play a part in the next election campaign.<sup>16</sup>

## Key research

B. Birrell et al. [Evaluation of the general skilled migration categories](#), March 2006.

B. Kinnaird, [Current issues in the skilled temporary subclass 457 visa](#), *People and Place*, vol. 14, no. 2, 2006.

G. Hugo, S. Khoo & P. McDonald, [Temporary skilled migrants in Australia: employment circumstances and migration outcomes](#), DIMA, June 2005.

G. Hugo, S. Khoo & P. McDonald, [Temporary skilled migrants' employment and residence outcomes: findings from the follow-up survey of 457 visa holders](#), August 2006.

Joint Committee on Migration, [Review of skilled migration](#), tabled 29 March 2004.

S. Khoo et. al. [A global market: the recruitment of temporary skilled labour from overseas](#), May 2004.

1. G. Hugo [Temporary migration: a new paradigm of international migration](#), *Research Note* no. 55, Parliamentary Library, 2004 and '[Australia's international migration transformed](#)', *Australian Mosaic*, issue 9, no. 1, 2005.
2. DIMA, [Temporary skilled migrants in Australia: employment circumstances and migration outcomes](#), June 2005. Note: The [Business \(short stay\) Visa \(Subclass 456\)](#), allowing business people to visit for up to three months, is less commonly used by employers. It is intended to be used by individuals wishing to stay for a short period only, for a conference for example.
3. G. Hugo, [Temporary migration: a new paradigm of international migration](#), *Research Note*, no. 55, Parliamentary Library, 2004.
4. Report by the Committee of Inquiry into the Temporary Entry of Business People and Highly Skilled Specialists, *Business Temporary Entry—Future Directions*, Department of Immigration and Ethnic Affairs, August 1995. Note: [Labour Agreements](#), also introduced by the Keating Government, offered employers other overseas worker recruitment options. See the DIMA [Labour Agreements](#) web page for details.
5. See B. Kinnaird, [Current issues in the skilled temporary subclass 457 visa](#), *People and Place*, vol. 14, no. 2, 2006.
6. In a recent survey, up to 66 per cent of 457 visa holders indicated they would like to stay permanently, see G. Hugo, S. Khoo & P. McDonald, [Temporary skilled migrants in Australia: employment circumstances and migration outcomes](#), DIMA, June 2005.

7. Senate Estimates, Immigration Portfolio, 30 October 2006.
8. See the [Employee eligibility](#) and the [Obligations](#) page on the DIMA website for more detail.
9. Senator the Hon. A. Vanstone, [New minimum salaries for temporary overseas skilled workers](#), *Press Release*, 1 May 2006. Note: Minimum salary levels are reviewed annually by the Department of Immigration and Multicultural Affairs and the Department of Employment and Workplace Relations since being introduced in 2001, to deter employers from recruiting unskilled and low-paid overseas workers to the detriment of Australian workers. The minimum salary level is subject to change under the *Migration Regulations* and published annually in the *Gazette Notice*.
10. See Kinnaird, op. cit.
11. See DIMA's [Sponsoring temporary overseas employees to Australia](#), form 1196.
12. See G. Hugo, S. Khoo & P. McDonald, [Attracting skilled migrants to regional areas: what does it take](#), *People and Place*, vol. 14, no. 3, 2006.
13. *Migration Information Source*, [Growing competition for the 'right' skilled workers](#), 1 December 2006.
14. See J. Salt, [International migration in interesting times: the case of the UK](#), *People and Place*, vol. 14, no. 2, 2006 and J. Phillips, [Skilled migration to Australia](#), *E-brief*, Parliamentary Library, 2006.
15. For discussion on the issues see AMWU, [Temporary skilled migration: a new form of indentured labour](#), 2006, and Kinnaird, op. cit.
16. Note: on 6 December 2006 the Joint Standing Committee on Migration adopted an inquiry into temporary business visas and in July 2006, COAG asked the Ministerial Council on Immigration and Multicultural Affairs (MCIMA) to investigate and report back on the 457 visas—this report is yet to be released.

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