



# GMS Flash Alert

## Immigration Edition

2017-129 | August 24, 2017



# Australia - Immigration Policy Updates on Employer-Sponsored Visa Reforms

Australia's Department of Immigration and Border Protection has provided updated policy guidelines in relation to recent changes impacting on employer-sponsored visas.<sup>1</sup>

The Department's policy guidelines are intended to provide clarity around the caveats imposed on occupations eligible for nomination under the 457 visa and Employer Nomination Scheme, the application of the revised training benchmarks in place from 1 July 2017, and labour market testing requirements.

We highlight some of the updates in this *GMS Flash Alert*. For the full story, see "[Policy Updates on Employer Sponsored Visa Reforms](#)," in *Migration Newsflash* (8 August 2017), a publication of the KPMG International member firm in Australia.

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## WHY THIS MATTERS

- Attention to the caveats related to those occupations eligible for nomination under the 457 visa and Employer Nomination Scheme are critical in helping prevent a nomination application being refused by the Department.
- With a new training fund levy starting to apply in March 2018, employers concerned about the additional cost related to foreign workers they bring into the country may wish to bring forward Standard Business Sponsorship and ENS Direct Entry applications, even with the change to training benchmarks that applies to new applications post-1 July 2017.
- In light of the phasing out of the Domestic Recruitment Summary Table, employers will have additional administrative responsibilities to fulfill in respect of job advertising and payment for such advertising, evidence for which will have to be recorded/documented and retained for submission to the Department.

## Caveats on Eligible Occupations

No exceptions can be made by the Department to the caveats imposed on the list of eligible occupations as specified in the relevant legislative instruments.

However, there is some level of flexibility afforded in terms of how the caveats can be interpreted particularly in its application to overseas-based businesses operating in Australia.

A summary of how certain caveats will apply can be found in a table at:

<https://assets.kpmg.com/content/dam/kpmg/au/pdf/2017/migration-newsflash-au-employer-sponsored-visa-reforms-9-august-2017.pdf> .

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### KPMG NOTE

Employers need to be aware that the caveats which are essentially “inapplicability conditions” specifying the thresholds and circumstances in which an eligible occupation would be restricted from being nominated for employer sponsored roles. Attention to these caveats are critical in helping ensure that a nomination application is not refused by the Department.

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## Training Benchmarks

The tightening of the definition of acceptable training expenditure for the purpose of training benchmarks for the 457 visa and employer-sponsored programs came into effect from 1 July 2017. The Department has clarified the application of these revised training benchmarks which is summarised in the table at this link:

<https://assets.kpmg.com/content/dam/kpmg/au/pdf/2017/migration-newsflash-au-employer-sponsored-visa-reforms-9-august-2017.pdf> .

Importantly, the revised training benchmarks will be replaced by the new Skilling Australians Fund (SAF) levy which will be payable as part of the nomination application process under the new Temporary Skill Shortage (TSS) visa regime. (For prior coverage, see GMS [Flash Alert 2017-088](#), 11 May 2017.)

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### KPMG NOTE

While the revised training benchmarks will apply to new Standard Business Sponsorship and ENS Direct Entry applications post-1 July 2017, these benchmarks will be replaced by the new training fund levy in March 2018. Therefore any business likely to be significantly impacted by the training levy may wish to consider bringing forward any applications that will likely to be progressed.

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## Labour Market Testing

Evidence of labour market testing (LMT) continues to be required where a nominated occupation is subject to LMT provisions and an employer needs to demonstrate that the nominated position cannot be filled from within the local labour market.

Due to changes to the mandatory field content of the Department's online Nomination eForm from 1 July 2017, the Domestic Recruitment Summary Table is no longer required; however, there are other "evidentiary" requirements.

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### KPMG NOTE

The phasing out of the Domestic Recruitment Summary Table means that evidence of job advertising and payment for such advertising must be duly recorded and retained for submission to the Department. The requirement for such evidence can offer useful insight to what potentially could be specified by the Department as LMT evidence under the new TSS visa arrangements once introduced in March 2018.

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### FOOTNOTE:

1 457 Program Management, Department of Immigration and Border Protection.

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### **9 October to 11 October, 2017: KPMG's Global Mobility Forum Registration in Barcelona, Spain**

We are pleased to announce that registration is now open for the 2017 KPMG Global Mobility Forum. This year's Forum will take place at the Hilton Diagonal Mar Hotel in Barcelona, Spain from Monday, 9 October to Wednesday, 11 October 2017. This year's Forum will be focused on new ideas, such as: using technology and business intelligence, diversifying policies, and understanding the impact on the bottom line.

KPMG clients may register now. Please contact your local KPMG professional for additional information. General questions about the KPMG Global Mobility Forum may be directed to: [go-fmforum@kpmg.com](mailto:go-fmforum@kpmg.com).

## Contact us

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*\* Please note that KPMG LLP (U.S.) does not offer immigration services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

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