



# GMS Flash Alert

## Immigration Edition

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# Australia - Temporary Skill Shortage Visa Program in Effect

The Australian government has introduced the new Temporary Skill Shortage ("TSS") visa program with effect from 18 March 2018.<sup>1</sup> Complementary changes to employer-sponsored permanent skilled migration will take effect alongside the new TSS visa framework.<sup>2</sup>

A new visa scheme, the Global Talent Scheme, to attract highly skilled global talent and deliver innovation to Australia will also be piloted from 1 July of this year.<sup>3</sup> (A GMS *Flash Alert* will be issued shortly on this matter.)

In today's GMS *Flash Alert*, we highlight the changes under the TSS visa regime that have come into effect as well as those that are anticipated subject to the passage of legislation.

For the full story, see "[New Temporary Skills Shortage Visa Program Introduced](#)," in *Migration Newsflash* (20 March 2018), a publication of the KPMG International member firm in Australia.

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## WHY THIS MATTERS

With the introduction of the TSS visa framework, employers will need to carefully navigate the new Labour Market Testing requirements (if not exempted under international trade obligations) in light of the new policy specification on acceptable advertising to demonstrate that no suitably skilled / qualified Australians are available to fill the nominated roles.

The costs of the new Skilling Australians Fund ("SAF") training levy will need to be factored into overall expenses relating to the nomination of existing assignees seeking to extend their stay in Australia with a TSS visa, or prospective assignees applying for a TSS visa to enter Australia. Furthermore, administering the up-front payment of the SAF training levy will need to be duly considered as the levy must be paid at the time of nomination.

## New TSS Visa Regime

The TSS visa heralds a new era for Australia's temporary work visa regime that is predicated on the need for employers to source foreign workers to fill genuine short-term positions for up to two years and also to address critical skills demand in medium-term occupations for up to four years.

### Labour Market Testing ("LMT")

A key change has been the introduction of new and more robust LMT requirements which serve to underpin the new TSS visa regime. LMT will apply to all occupations nominated under the TSS visa program, which is a significant change to the LMT requirements under the Subclass 457 visa program (which only apply to 'protected' occupations).

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### KPMG NOTE

Importantly, LMT under the TSS visa program must have occurred within a six-month period prior to the lodgement of a nomination application (or a 12-month period if the nomination application was lodged prior to 18 June 2018).

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### Training Levy

A further key change – and undoubtedly the hallmark of the new TSS visa regime – will be the new SAF training levy which is subject to the passage of legislation. The SAF training levy will be tax deductible and sponsors cannot seek to pass on the costs of the training levy to the visa applicant.

## Employer-Sponsored Permanent Skilled Migration

Complementary changes to employer-sponsored permanent skilled migration (Employer Nomination Scheme and Regional Sponsored Migration Scheme) have taken effect alongside the TSS visa program. (Again, for more details please refer to "[New Temporary Skills Shortage Visa Program Introduced](#)," in *Migration Newsflash* (20 March 2018).)

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### KPMG NOTE

#### Transitional Arrangements

Transitional arrangements will be available until 18 March 2022 for nominees who either held, or were applicants for, a subclass 457 visa (which was subsequently granted) on 18 April 2017 to apply under the Temporary Residence Transition (or "TRT") stream on the basis of having worked for their nominating employer on either a 457 or TSS visa for at least two out of the preceding three years.

Unless transitional arrangements apply, employers can only nominate assignees for permanent residence in occupations on the Medium- and Long-term Strategic Skills List ("MLTSSL") or on the Regional Occupations List ("ROL") if located in a regional area and need to communicate this in advance to assignees who may be seeking an employer-sponsored pathway to permanent residence.

The transitional “grandfathering” arrangements’ sunset date of 18 March 2022, will limit the period available to certain eligible subclass 457 visa holders to apply for employer-sponsored permanent residence under the TRT stream. Hence employers and their assignees will need to consider accessing these arrangements as soon as eligibility has been met.

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## FOOTNOTES:

1 For additional information, click [here](#) for the Department of Home Affairs dedicated site.

2 For prior coverage, see GMS [\*Flash Alert 2017-129\*](#) (24 August 2017).

3 To access the Minister of Citizenship and Multicultural Affairs 19 March 2018 media release “Joint media release with the Hon Michaelia Cash - New visa scheme to attract highly skilled global talent,” click [here](#).

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## Contact us

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