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GMS Flash Alert

Immigration

2024-243 | December 9, 2024

Australia – Further Information on Introduction of Skills in Demand Visa

In this *GMS Flash Alert*, we report on the latest Australian immigration updates including more details on the introduction of the Skills in Demand (SID) visa, which came into effect on 7 December 2024.[1] As we reported on 4 December 2024, the SID visa has replaced the current Temporary Skill Shortage (TSS) (Subclass 482) visa.

The is part of the new Migration Strategy, which is intended to support sustainable immigration levels.

WHY THIS MATTERS

TSS visa applications that were not submitted before 7 December 2024, will need to be reassessed and submitted under the new SID visa requirements, which may extend visa preparation times and ultimately, impact start dates. For employers wishing to bring in foreign national employees expeditiously, this could pose challenges.

It is recommended that employers consult with their immigration advisers to consider their options when planning commencement dates for sponsored visa holders in Australia. Sponsors may also wish to review their subclass 482 visa-holder population to identify TSS visa holders who no longer have their nominated occupation on the CSOL, so they can proactively plan ahead should their visa require renewal.

Under the Employer Nomination Scheme, the changes will mean greater flexibility for members of the family over the age of 23 years of the Subclass 186 visa applicants.

And it is important to note that current TSS visa holders who work in an occupation that is not on the CSOL will still have a pathway to permanent residence subject to meeting relevant eligibility criteria.

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Introduction of Skills in Demand Visa

On 3 December 2024, the government announced that the SID visa will be introduced on 7 December 2024.[2] In the same announcement, the government announced the release of the Core Skills Occupation List (CSOL).

Effective from 7 December 2024, the SID visa includes three streams. The three streams have the following common characteristics:

- The visa can be granted for up to four years.
- The visa subclass will remain as 'Subclass 482'.
- No change to market salary rate requirements.
- Reduction of work experience requirement: The minimum relevant work experience requirement for the SID visa has been reduced from two years full time at a skilled level to one year full time (or equivalent part time/casual) at a skilled level within the five years preceding the visa application.
- There are 14 occupational caveats that apply. Whilst the caveats are listed in the CSOL, they apply to all streams under the SID visa.
- English-language requirement: The English requirements of the TSS medium-term stream will apply, which is an IELTS score (or equivalent) of level five (5) overall, with a minimum score of five (5) in each component. The approved English-language tests, the period of time in which the required test scores must be obtained, and the applicants that are exempt from the requirement to undertake English-language tests, are identical to the requirements that previously applied to the TSS visa.
- Children born in Australia to a SID visa holder, or current TSS visa holder, are automatically granted a SID visa by operation of law upon birth, if they do not acquire Australian citizenship through the other parent being an Australian citizen or permanent resident. However, the birth of the child will still need to be registered with the Department of Home Affairs.
- The Skilling Australians Fund Levy will continue to apply (fees remain unchanged)
- SID visa lodgement fees will align with the TSS fees under the medium-term stream:
    - Main applicant: A$3,115;
    - Per secondary applicant 18 and over: A$3,115;
    - Per secondary applicant under 18: A$780.

  [A$1 = €0.61 | A$1 = US$0.66 | A$1 = £0.505 | A$1 = ¥97.62 | A$1 = NZ$1.098 *Source*: www.xe.com]
- Existing TSS visa holders will have the ability to submit a new application with a new employer, if their current occupation is on the CSOL or the nomination meets the income threshold for the Specialist Skills stream. If the relevant occupation is not on the CSOL or does not qualify for the Specialist Skills stream, the applicant will not have a pathway to changing employer. These individuals will be able to utilise the strengthened mobility provisions to find work in a new occupation or for a new employer, apply for another visa, or depart Australia.[3]

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1. Specialist Skills	2. Core Skills	3. Labour Agreement
• Salary must be at least A$135,000 (Specialist Skills Income Threshold) • No occupation list - can be any ANZSCO excluding occupations in ANZSCO Major Groups 3, 7, and 8 (trades workers, machinery operators, labourers, and drivers) • Government commitment to streamlined processing arrangements which will provide employers with quick access to these skills • This stream recognises that highly skilled migrants bring significant economic benefits to Australia	• Salary must be at least A$73,150 (Core Skills Income Threshold) • Occupation must be on the CSOL which comprises 456 occupations	• Carries over existing setting from the TSS visa while further development of the proposed 'Essential Skills' stream takes place

Source: KPMG in Australia

Transitional Arrangements – Subclass 482 Visas

The government has confirmed that the amendments do not operate retrospectively. All nominations and visa applications for a TSS visa made before the commencement of the amendments will be processed using the requirements that were in force at the time that the application was made.

Where there is a lodged position nomination application for a TSS visa that was not accompanied by a corresponding TSS visa application before the amendments commenced, this nomination can be 'linked' to a new SID visa application (provided the nomination is still valid).

Transitional Arrangements – 186 Visas

As outlined in our previous *GMS Flash Alert*, the CSOL will also apply to the Direct Entry stream of the Subclass 186 visa (permanent residence under the Employer Nomination Scheme). The amendments will apply to new Subclass 186 nomination and visa applications lodged on or after the regulations commence.

Employer Sponsorship Obligations

The sponsorship obligation to make sure the primary sponsored person works or participates in the nominated occupation, program, or activity will end when the primary sponsored person ceases employment for the original sponsor, rather than when he or she obtains a new sponsor.

This aligns with provisions implemented on 1 July 2024, to enable visa holders who cease work with their sponsoring employers to have up to 180 days at a time (increased from 60 days) and a maximum of 365 days in total across their entire visa grant period to find a new sponsor, apply for a different visa, or depart Australia.

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KPMG INSIGHTS

The introduction of the SID visa is one of the major changes announced in the Migration Strategy. The government has committed to reduced processing times for SID visa applications, which will help employers with their workforce planning.

Pathway to Permanent Residence under the Employer Nomination Scheme

The TSS visa has historically been a pathway to permanent residence under the Employer Nomination Scheme and this will continue under the SID visa:

- All SID visa holders have a pathway to permanent residence through the Temporary Residence Transition stream of the Subclass 186 Employer Nomination Scheme, after two years of employment in Australia in the three years immediately before the application. All periods of sponsored employment as a primary TSS/SID visa holder count towards this qualifying period. The two years can be with any employer (i.e., not just the sponsoring employer).

- Salary requirements for the Subclass 186 visa under both the Temporary Residence Transition stream and Direct Entry streams will be linked to the SID visa salary requirements. This allows the Subclass 186 visa to use the core skills income threshold (which will be indexed annually).

- Subclass 186 visa secondary applicants (family members) no longer need to be named in the nomination application as employers of Subclass 186 visa holders do not have any sponsorship obligations relating to family members.

- Current TSS visa holders who work in an occupation that is not on the CSOL will still have a pathway to permanent residence, subject to meeting relevant eligibility criteria, through the Temporary Residence Transition stream of the Subclass 186 visa.

- Greater flexibility will apply for a member of the family unit who is aged 23 years old and above to be included in, and granted, the Subclass 186 visa with the primary applicant if at the time of the Subclass 186 visa application:

    - the family member is included in the application for the Subclass 186 visa application visa; and

    - the person holds a Subclass 482 (Skills in Demand) visa granted on the basis that the person was a member of the family unit of a person holding a visa of the same kind.

KPMG INSIGHTS

Whilst certain occupations have been removed from the CSOL, the SID visa requirements overall provide greater flexibility to visa holders. However, as a result of the strengthened mobility provisions for visa holders and change to the Temporary Residence Transition stream qualifying period for permanent residence, employers will need to review their employee value proposition to retain sponsored visa holders in a competitive labour market given the investment involved in sponsoring foreign workers.

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Upcoming Festive Season: Reminder

KPMG in Australia offices will be closed from 5:00pm Thursday, 19 December 2024 AEDT, and will re-open on Thursday, 9 January 2025 AEDT. The immigration team with KPMG in Australia will have skeleton staffing during this time (except for weekends and public holidays) for immigration emergencies.

FOOTNOTES:

1 See Department of Home Affairs, "Skills in Demand Visa (subclass 482)."

2 See Department of Home Affairs, News, "New Core Skills Occupation List to target the skills Australia needs" (3 December 2024).

3 See *GMS Flash Alert* 2024-133, 21 June 2024.

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** Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in Australia.

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