



# MIGRATION ALERT

Migration Alert  
March 2006



## SAME SEX PARTNERS RECOGNISED

- From 1 July 2006 same sex partners may apply for a 457 visa
- Same sex partners may be included in skilled permanent and student visa applications in the near future

## TAX EXEMPTION FOR TEMPORARY RESIDENTS

- Temporary visa holders will not be taxed on foreign source income when new legislation introduced into Parliament on 16 February 2006 becomes law
- Capital gains taxation of temporary residents will also be aligned with non-residents under the new law

## SPONSORSHIP UNDERTAKINGS IMPROVED

Employers lodging sponsorship applications from 1 November 2005 can take advantage of a new undertaking regarding health costs:

- the undertaking is now limited to payment of medical and hospital expenses incurred for treatment administered in public hospitals only
- new legislation also expressly states sponsors are not responsible for expenses met by insurance or reciprocal health care arrangements

## SKILLS SHORTAGE

The Immigration Department (DIMA) continues to promote skilled migration to Australia to address the skills shortage:

### Skills Expos

- Skills Expos held by DIMA in Australia and overseas in 2005 helped employers match vacancies with potential skilled migrants. Up to 1,400 skilled people visited employers' stands each day

### 2006 Expos:

- 10-11 March, Kolkata, India with a focus on the resources sector
- 6 May, Brisbane
- 9-10 May, Shanghai
- 13-14 May, Hong Kong
- 17-18 May, Manila

Expos are planned from August 2006 in Melbourne, Perth, South America, USA, United Arab Emirates, UK and Ireland

Details will be posted at:

<http://www.immi.gov.au/general/expos/>

DIMA will also participate in the National Careers & Employment Expo 26-27 May, Adelaide: <http://www.ecexpo.com.au/>

## Migration Occupations in Demand List (MODL)

- IT professionals with specialist skills in SAP, Siebel, E-Commerce Security (non-programming), Network Security, and CISSP, Mining Engineers, Petroleum Engineers, Chemical Engineers and Dentists now included
- MODL lists 35 professions and 26 trade occupations
- Applications related to MODL occupations are fast tracked and some requirements are more flexible
- Skills assessments for trades occupations on the MODL cut from 6 months to 10 working days from February 2006

## Skill Matching Database (SMD)

- DIMA's SMD includes abridged resumes of thousands of applicants for skilled migration and is available to employers to search online to help fill skilled vacancies: <http://www.immi.gov.au/skills/index.htm>
- All employers can nominate skilled persons on the SMD. This was previously restricted to regional employers only

### TIP

Offers of employment to sponsored employees should be conditional upon the employee maintaining adequate health insurance for themselves and their families.

Apply for a new sponsorship and obtain new 457 visas for existing employees to take advantage of the new limited undertaking.

T: +61 2 8247 8247 F: +61 2 8247 8200  
E: [kmalyon@malyonlaw.com](mailto:kmalyon@malyonlaw.com)  
MARN: 9580358

Katie Malyon & Associates, Lawyers  
Suite 1803, Level 18 Australia Square  
264 George Street, Sydney NSW 2000 Australia



**:: TIP**

If your business is considering employing a Business Visitor, you should seek advice on a case by case basis.

Breach of a visa condition can lead to visa cancellation and refusal of a further visa application.

**:: TIP**

Consider an OT visa as an alternative to a 457 visa. OTs are not covered by sponsorship obligations.



**Employer Nomination Scheme (ENS)**

- Rising numbers of employers are now nominating employees for permanent residence with a 24% increase in the number of ENS visas granted to temporary residents in 2004/5
- Family members of New Zealand citizens holding temporary visas can now be nominated for permanent residence

**Working Holiday Makers (WHM)**

- After 3 months seasonal work in a regional area WHMs can now apply for a second 12 month WHM visa
- Information about seasonal work can be found at <http://www.jobsearch.gov.au/harvesttrail/>
- WHMs can work for a previous employer for another 3 month period on their second WHM visa
- DIMA is considering changing the law to allow all WHMs to work for the same employer for 6 months continuously

**NSW Government now nominating skilled migrants**

- NSW Government has joined the "STNI" scheme to attract professionals in the areas of finance, IT, biotechnology and pharmaceuticals
- Certain threshold criteria for an STNI are lower than for standard skilled migrant visas

**Overseas students**

- 16,400 permanent visas were granted to recently graduated overseas students in 2004/5
- Following research into labour market outcomes, overseas students may soon be required to work in Australia on a temporary visa and meet higher English language requirements before applying for a permanent visa
- Large numbers of recent graduates may soon be seeking work experience with employers as a pathway to permanent residence

**Trade Skills Training visa**

- A new temporary Trade Skills Training visa has been introduced to enable regional employers to recruit apprentices from overseas in trade occupations where a skill shortage has been identified
- On completion of the apprenticeship, employers can nominate overseas apprentices for permanent residence

**Work visas for short-term projects**

- DIMA is considering options for a new visa to assist employers meet short-term skill shortages
- Currently, Business Visitors visas and Electronic Travel Authorities (ETA) may be appropriate where the work is:
  - urgent
  - short-term, and
  - highly specialised
- A Senate inquiry into a seasonal work program to meet labour shortages in rural Australia will report in August 2006. Submissions are due by 10 March 2006

**OCCUPATIONAL TRAINEES (OT)**

OTs undertake work based training programs in Australia, generally for up to 2 years. The OT visa was changed significantly in November 2005:

- OTs must now be paid according to relevant awards and industrial law
- family members will have the right to work up to 20 hours a week
- the requirement that OTs must intend to leave Australia to use their new skills outside Australia has been removed

**CITIZENSHIP**

Legislation before Parliament proposes changes to the requirements for grant of Australian citizenship including:

- increase the qualifying period from 2 years residence in Australia as a permanent resident to 3 years
- enable time spent in Australia as a temporary resident to be counted towards the qualifying period if the applicant was engaged in activities of benefit to Australia

**NEW E-3 VISA FOR USA PRIVILEGES AUSTRALIANS**

- 10,500 Australians each year can obtain a new 2 year E-3 visa with much less hassle and cost than an H-1B visa
- applicants must be sponsored by an employer to work in a "speciality occupation"
- applicants must be degree qualified or have education and experience equivalent to a USA degree
- E-3 visas can be renewed indefinitely
- spouses of E-3 visas can work in the USA, unlike the H-1B visa

