

IMMIGRATION NEWS

(Volume 158)

Major Changes Starting 1st January 2010 for DIAC and TRA



16th December 2009

Dear Students

Welcome to the latest edition of IMMIGRATION NEWS and to the new subscribers. This free service is brought to you by Australian Immigration Law Services. You can subscribe by using the link below or by visiting our web site.

DIAC's Major New Changes 1st January 2010

DIAC has made some significant changes to the law which start on the 1st January 2010. They are significant amendments and not enough time has been given by DIAC to ensure students are informed before they lodge their GSM applications.

Please pay close attention to the information below.

These changes will apply to all 487, 885 and 886 visa applications from the 1st January 2010. They do not apply to the 485 visa applications.

- 1) You **must have a positive skill assessment** before you can lodge a 487, 885 or 886 visa. Currently you can apply for the visa with evidence showing you have applied for your skill assessment and you can supply the result later. Under the new rules you **MUST** have the result first before you can apply.
- 2) If you are nominating an occupation listed by the DIAC (**trade occupations**) then you must have a skill assessment result which has **been assessed after the 1st January 2010** (see TRA changes below).

What does this mean?

In general terms, DIAC will make your application invalid if you apply for the 487, 885, or 886 visas without gaining a positive skill assessment result first. If you are nominating a trade occupation (Cook, Hairdresser etc) then not only must you have the result first but it also must be a result obtained after the 1st January 2010.

For trade applicants this will mean that you cannot apply for your permanent residency without passing the new TRA rules for skill assessment which begin on the 1st January 2010. If you have an old TRA assessment for your occupation you will be able to use it for the 485 Graduate visa but not for the PR visas or the 487 Regional Skilled visa.

TRA Changes 1st January 2010.

TRA has announced this morning new changes to take affect from the 1st January 2010.

Changes for applicants applying within Australia for skills assessments for General Skilled Migration on or after 1 January 2010

On 12 May 2009, the Minister for Immigration and Citizenship announced changes to the General Skilled Migration Program (GSM) for applicants within Australia seeking permanent migration through this program.

As a result, from 1 January 2010, Trades Recognition Australia will introduce the Job Ready Program. This is a new skills assessment requirement to ensure that people with trade skills applying to migrate permanently to Australia have the language and skills required by Australian employers to participate effectively in their trade in the Australian labour market.

We will be providing more detailed information on the Job Ready Program on this website early in the New Year.

Link: <http://www.deewr.gov.au/Skills/Programs/TRA/LatestNews/Pages/SkillsAssessmentsForAusApplicants.aspx>

We called TRA today to ask the following important questions;

Q: Will the TRA continue to process applications under the old rules lodged before the 1st January?

A: We don't know yet. It is possible all these applications yet to be assessed will be sent back unassessed or we may continue to process them.

Q: What is the information available regarding the new Trade Test?

A: We do not know yet for that is up to the Minister to decide.

So you can see here by these responses that it seems TRA doesn't know what it is actually doing until some later date in the future.

So what does this mean for my TRA application I was about to lodge?

It was not unexpected that DIAC was going to enforce the Trade Test into the skill assessment procedure necessary for permanent residency. On the basis of the above information I can only advise the following;

- a) If you are able to lodge your PR application and your lodge your TRA application before the end of this year, I suggest you do so. Remember before the end of this year you only have to show you sent the TRA application; you do not need the final result.
- b) Try and lodge your TRA application before the end of the year even if you are not ready for your visa application until later. It will still be likely you will be able to use this TRA result for a 485 application at a later date.

- c) If you are going to use voluntary work experience for your 900 hours then also lodge your TRA application before the end of this year if you can.

Insufficient Notice

For the public record we would to say that the release of such an important law change just before the holiday season and only two weeks before it takes affect is unconscionable.

I am sure there will be hundreds of international students who will lodge their 885, 886 or 487 visas without realising that their applications will not be accepted without a positive skill assessment. If this happens then their applications will be deemed invalid and this may severely restrict their ability to lodge any further onshore applications.

It normally takes a considerable amount of time for students to absorb any new changes that DIAC releases. **To change the law in such a thoughtless manner will make many students fail in their applications.** We feel overseas students have enough difficulty as it is wading through the immigration requirements without adding further confusion created by changing legislation with little notice.

Recent News Story

Visa review may 'spark panic'

NICK O'MALLEY INVESTIGATIONS

Sydney Morning Herald, December 12, 2009

TENS of thousands of overseas students studying expensive courses in Australia in the hope of securing permanent residency could be sent home empty-handed under changes being considered by the Federal Government.

The *Herald* has obtained a document prepared by the Immigration Department recommending changes "in the relationship between the lodgement of an application and the legal obligation to grant a visa".

This means immigrants who have met the demands of the current system and would be automatically accepted could be arbitrarily refused.

"This is going to spark mass panic," Karl Konrad, a migration agent who has seen the document, said.

Such changes could affect anyone seeking to gain permanent residency through the skilled migration program, but would have the gravest effect on students who have spent thousands of dollars and years of their lives on courses here on the presumption they would secure residency.

There are 137,000 such students here waiting on approval who could have the rug pulled from under them if the

changes are made retrospective.

"The Australian Government has grown fat off these students with the lure that they can get permanent residency," Mr Konrad said.

It is understood the Migration Institute of Australia was to have been briefed by the Government but that the meeting had been delayed until next week.

The chief executive of the Australian Council for Private Education and Training, Andrew Smith, said such a change would immediately cut the number of students coming into Australia.

"[Schools] have taken deposits, hired teachers, set up classes ... there would be a considerable commercial impact," he said.

Mr Smith said the Government had created the expectation among foreign students that they could achieve permanent residency through study and had a responsibility to them as a result.

A spokesman for the department said the document was part of a consultation process and no decision would be made on the changes until next year.

The document also outlines recommendations to reduce the number of unsponsored skilled migrants accepted, but making it easier for 457 business visa holders to become permanent residents.

It notes "perverse outcomes" in the system that make it easier for a hairdresser to achieve permanency than a scientist. It noted that "integrity measures" in the skilled migration program needed review.

Australia's \$16 billion overseas student industry has been plagued with controversy over the past 12 months, with students demanding action from police over allegedly racially motivated attacks and appealing to the Government to better regulate the private colleges.

This year more than a dozen schools have collapsed, leaving students out of pocket and uncertain over their immigration status.

End Story: Link: <http://www.smh.com.au/national/visa-review-may-spark-panic-20091211-kok3.html>

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I promise that even if you don't like what I write I will print your reply. Please limit them to 200 words and they cannot be questions regarding migration regulations or points test requirements.

Our last edition generated many comments but we have not enough time to respond to them as yet. I will print them all in our next edition.

Wish to unsubscribe? unsubscribe@australiavisa.com

Kind regards

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