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Note: The permanent employer sponsored reforms are part of a legislative change process and are expected to be implemented by 1 July 2012. Due to this the department cannot respond to individual client specific requests.

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The skilled migration program

1. What is the permanent employer sponsored visa program?

The permanent employer sponsored visa program currently consists of the following:

- the Employer Nomination Scheme (ENS)
- the Regional Sponsored Migration Scheme (RSMS)
- permanent Labour Agreements.

These visas allow employers to sponsor foreign workers for permanent residence to fill genuine vacancies in their business.

The permanent employer sponsored program is the fastest growing component of the Skill Stream of the Migration Program. In terms of employment and economic outcomes it is one of the best performing visa categories – 96 per cent of migrants who were granted an ENS visa work full time and earn a median income of AUD77 000 per annum.

2. How does the permanent employer sponsored program differ to the independent points tested skilled migration programs?

From 1 July 2012, in order to apply for a General Skilled Migration (GSM) visa you will need to lodge an Expression of Interest (EOI) through *SkillSelect* and be invited to apply.

Visa applicants who have pre-arranged employment and who want to migrate to Australia through one of the permanent employer sponsored programs can by-pass the EOI process.

However, if you do not have pre-arranged employment you can lodge an EOI through *SkillSelect* and indicate that you are interested in finding employment in Australia. Employers who are looking for skilled workers for their business will be able to search the EOI database to see if they can find people with the skills, qualifications and experience they require.

3. What is the difference between short, medium and long term labour market needs and how do the Australian government's skilled migration programs respond to them?

The employer sponsored programs are designed to enable employers to respond to short to medium term labour market needs. A wide range of skilled occupations are eligible for this category, provided an employer is willing to sponsor you.

The independent points tested skilled migration programs, which do not require an employer sponsor, are for Australia's medium to long term skills needs. They are sharply focussed on helping to build Australia's future. Only occupations from a limited list of high value skilled occupations are eligible for this category and you must have a range of skills and attributes.

Both the subclass 457 and permanent employer sponsored programs require employers or sponsors to either train or allocate funds for training of their workforce including Australians and permanent residents as their contribution to skilling up the workforce.

Skilled migration seeks to complement opportunities for Australians and not adversely impact on Australian wages and conditions.

The permanent employer sponsored program reforms

1. Why is the Department of Immigration and Citizenship reforming the permanent employer sponsored program?

The Skilled Migration program has a limited supply of places and we want to make sure that we get the best migrants who will be able to make the greatest contribution to Australia (economically and socially). There is no doubt that we need people – Australia has always been privileged to have more opportunities than we do people.

The permanent employer sponsored visa program reforms are part of the broader review of the Skilled Migration Program. These reforms will improve the operation and effectiveness of the permanent employer sponsored visa categories.

In addition, in the 2011-12 Budget, the government announced that it would establish a simplified pathway from the Temporary Long Stay (Business) subclass 457 visa to permanent residence through the permanent employer sponsored visa program.

To identify the best way to establish this pathway a review of the program was conducted and recommendations were given to the government. The review found that while the permanent employer sponsored program performs well there is scope for simplification, reducing administrative costs for program users and the department, and in improving program integrity.

In addition, there will be greater checks and balances in the programs to ensure that these prospective migrants who have not been tested in the Australian labour market succeed.

2. What is the purpose of the reforms?

These reforms will ensure that the skilled migration program continues to deliver benefits to the economy through greater productivity and migrant employment outcomes.

They will ensure that the employer sponsored programs continue to be responsive to labour market pressures and address short to medium term demand for specific skills.

Furthermore, these reforms will make it easier for subclass 457 visa holders to transition from temporary residence to permanent residence after they have worked for their employer sponsor for at least two years and will continue to do so after their permanent residence visa is granted.

3. What are the reforms?

The key reforms include:

- simplifying the current visa structure
- introducing a streamlined and simplified pathway to permanent residence for eligible subclass 457 visa holders
- changing the upper age limit from less than 45 to less than 50 years of age
- changing to key visa criteria including English language and skill requirements
- introducing one consolidated sponsored occupation list to replace the 457, ENSOL and StatSOL occupation lists
- strategically refocussing the Regional Certifying Body (RCB) network to the Direct Entry stream of RSMS

- integrating the new ENS and RSMS visas with the skilled migrant selection model, SkillSelect, which will be launched on 1 July 2012
- replacing the subjective exceptional circumstances provisions with clear and objective exemptions.

4. Where can I get more information about the reforms?

More information about the skilled migration program reforms is available on the department's website.

See: www.immi.gov.au/skilled

Due to these changes being subject to the legislative change process the department cannot respond to individual client specific enquiries. Please check our website for regular updates.

5. When are the reforms being implemented?

The reforms will be implemented from 1 July 2012.

6. How is the consolidated sponsored occupation list being developed?

A single sponsored occupation list is currently being developed by the Department of Immigration and Citizenship in consultation with the Department of Education, Employment and Workplace Relations.

The new list is subject to approval by the Minister for Immigration and Citizenship, the Hon Chris Bowen MP and the Minister for Tertiary Education, Skills, Science and Research, Senator the Hon Chris Evans. The list will be made available in advance of implementation on 1 July 2012.

Visa simplification and deregulation

1. How is the visa structure being simplified?

Currently, there are six visa subclasses that make up the permanent employer sponsored visa program. From 1 July 2012 this will be reduced to two visa subclasses, each with three streams.

This will be achieved by removing the existing distinctions between in and outside Australia, and absorbing the separate Labour Agreement visas as streams within the new visas.

The structure will include:

- An Employer Nomination (Class EN) Employer Nomination Scheme (Subclass 186) visa, with:
 - A **Temporary Residence Transition** stream
 - A **Direct Entry** stream
 - An **Agreements** stream.
- A Regional Employer Nomination (Class RN) Regional Sponsored Migration Scheme (Subclass 187) visa, with
 - A **Temporary Residence Transition** stream
 - A **Direct Entry** stream
 - An **Agreements** stream.

The reduction from six visa subclasses to two visas is in alignment with the department's commitment to simplify and deregulate its visa services.

2. What are the new visa streams?

Each visa will incorporate three streams:

- The **Temporary Residence Transition** stream is for applicants who have been working in their nominated occupation with their sponsoring employer for the last two years as a subclass 457 visa holder, and their employer wants to sponsor them for permanent residence in the same occupation, in order to retain their skills within the business.
- The **Direct Entry** stream is for applicants who are not eligible to apply for either of the other streams. That is, applicants who are outside Australia, are in Australia but do not currently hold a subclass 457, or do but have not held it for the required two year period, or applicants who are not being sponsored under an Agreement
- The **Agreements** stream is for applicants who are being sponsored by an employer through a Labour or Regional Migration Agreement which provides a permanent residence option.

3. If I apply after 1 July 2012, and do not hold a substantive visa, will I have to satisfy the schedule 3 criteria?

No. The schedule 3 criteria will not apply to permanent employer sponsored visas from 1 July 2012.

SkillSelect

1. What is SkillSelect?

SkillSelect is a new approach to skilled migration. SkillSelect is a web based interface that enables skilled workers interested in migrating to Australia to record their details to be considered for a skilled visa through an Expression of Interest (EOI). Intending migrants can be found and nominated for skilled visas by Australian employers or state and territory governments, or they can be invited by the Australian Government to lodge a visa application. This will give the government greater control and flexibility to adjust to changes in the economy.

2. Will it be compulsory for me to use SkillSelect?

SkillSelect will be optional for permanent employer sponsored visa applicants.

However, if you do not have an employer to sponsor you for skilled migration to Australia, then SkillSelect allows you to register an Expression of Interest (EOI) for skilled migration and permanent residence in Australia.

If you have pre-arranged an employer to nominate you to work in Australia, then it is not necessary for you to also register an EOI in SkillSelect.

For visa applicants

1. What will the new age requirement be?

From 1 July 2012 the age requirement will be increased from less than 45 to less than 50 years of age.

Exemptions for age may include applicants:

- nominated in specific occupations where the typical age profile is older due to the specialised or technical nature of their work, for example Ministers of

- Religion and researchers or scientists employed by the Commonwealth Scientific and Industrial Research Organisation (CSIRO) or the Australian Nuclear Science and Technology Organisation (ANSTO); or
- applying through the TRT and have been employed with their sponsor for the last four years and their salary is at least equivalent to the Fair Work Australia High Income Threshold (AUD118 100 as at 1 July 2011).

2. What will the new English language requirements be?

There will be changes to the current English language requirements for permanent employer sponsored visa applicants.

Currently ENS applicants need to demonstrate they have a vocational level of English language proficiency. This is equivalent to an International English Language Testing System (IELTS) test score of 5 in each component of speaking, reading, writing and listening. RSMS applicants should have a functional level of English, which is an average IELTS score of 4.5.

From 1 2012 July the English language requirement will be determined by the stream that you apply for.

Temporary Residence Transition stream applicants must demonstrate that they have 'Functional English' language ability commensurate with the Subclass 457 visa requirement. That is, an IELTS score of 5 in each test component of speaking, reading, writing and listening. They will not be required to undertake another test if they have done one for their subclass 457 visa in the last three years, or for the purposes of obtaining their license or registration and the requirement was an IELTS score of 5 or higher, or a 'B score' in the Occupational English Test (OET).

Direct Entry stream applicants will need to have at least competent English, which requires a minimum IELTS score of 6 in each component of the test.

Agreements stream applicants may be subjected to lower English levels if this has been negotiated as part of the associated Agreement.

Exemptions to the English language requirement may be available to applicants:

- nominated in an occupation that the Minister for Immigration and Citizenship considers is exempt, for instance Ministers of Religion
- who are a citizen of and hold a valid passport from the United Kingdom, the United States of America, Canada, the Republic of Ireland or New Zealand
- who have obtained a score of at least 'B' in each component of the OET
- applying through the **Temporary Residence Transition stream** and have completed at least five consecutive years of full-time study in a secondary and/or higher education institution where all of the tuition was delivered in English.

3. Why are the English language requirements being changed?

English is an important attribute that contributes to labour market and social outcomes. The English language requirement is changing to ensure that migrants can participate in the community and the workplace in order to make the best contribution to Australia.

In addition, the changes to the English language requirement will ensure that workers are not in a situation with little bargaining power, are not vulnerable to potential exploitation because they are more likely to be unaware of their workplace rights and confused about options available to them to rectify any complaints.

4. Will there be new skill requirements for Employer Nomination Scheme (ENS) visa?

Yes. The skill requirement you need to meet will depend on the visa stream you apply for.

If you are applying for an ENS visa through the **Temporary Residence Transition** stream you will be deemed to have met the skill requirement because you have been employed for two years or more on a subclass 457 and your employer continues to want to sponsor you in the same occupation for permanent residence. Your skills will have already been proven.

Applicants who apply for an ENS visa through the **Direct Entry** stream will be required to provide a positive skills assessment and show that they have three years relevant work experience.

Exemptions will be available to applicants who are:

- nominated in an occupation where formal academic training is uncommon, such as Ministers of Religion
- in an occupation where they would be paid executive-level salaries
- scientific and technical specialists employed by Australian universities or scientific research agencies such as the CSIRO or ANSTO for research, academic, scientific or other specialist work
- academics employed by a university in Australia.

ENS **Agreements** stream applicants will need to demonstrate that they have the skills, qualification or experience as required by the relevant Agreement.

5. Will there be new skill requirements for Regional Sponsored Migration Scheme (RSMS) visa?

Yes. The skill requirement you need to meet will depend on the visa stream you apply for.

If you are applying for an RSMS visa through the **Temporary Residence Transition** stream you will be deemed to have met the skill requirement because you have been employed for two years or more on a subclass 457 and your employer continues to want to sponsor you in the same occupation for permanent residence. Your skills will have already been proven.

Applicants who apply for an RSMS visa through the **Direct Entry** stream will have access to a broader range of eligible occupations at the Australian and New Zealand Standard Classification of Occupations (ANZSCO) skill level one to three. They will be required to show they have qualifications and skills that are relevant to their nominated occupation. Qualification and skill requirements will be determined by ANZSCO. ANZSCO skill level 3 trade occupations who have an overseas trade qualification will need to have their skills assessed by the relevant assessing authority.

RSMS applicants for the **Agreements** stream will need to demonstrate that they have the skills, qualifications or experience as required by the relevant Labour or Regional Migration Agreement.

6. Will RSMS visa applicants have to undertake a skills assessment?

The bulk of RSMS visa applicants will not need a skills assessment.

However, applicants who are being nominated to fill a trade occupation at ANZSCO skill level 3 and who have overseas qualifications will need to have their skills assessed by the relevant assessing authority.

7. Will there be any exemptions available?

Currently, if an applicant is older than the upper age limit, or they do not have the required level of English or cannot meet the skill or qualification requirements it is possible to grant them a visa, but they must demonstrate that exceptional circumstances exist in their case.

From 1 July 2012 the subjective exceptional circumstance provisions will be replaced with more objective exemptions. This will allow the program to continue to respond to unique and special cases.

8. Why are the exceptional circumstance being replaced?

The current exceptional circumstance provisions are subjective and administratively difficult to manage.

Introducing a new exemption model that is objective will provide more certainty and clarity for clients while also ensuring that the programs continue to have a responsive and flexible 'safety net' to cater to those cases where there are circumstances that justify an exemption from outside the main requirements.

9. What options do I have if I don't meet the new requirements and I am not exempted?

If you are unable to meet the higher benchmark for the **Direct Entry** stream, and are not exempt, you may still have a skilled visa option. You may be able to obtain a subclass 457 visa first and, if your employer wants to continue to sponsor you after two years work in Australia, you may be eligible to qualify for the streamlined, fast-tracked, **Temporary Residence Transition** stream.

10. Why are the criteria for the Direct Entry Stream more difficult than the other streams?

Many of the applicants who will be coming through this stream will have little to no exposure to the Australian labour market. People who meet the new eligibility thresholds will be able to compete in the Australian labour market outside of the economic cycle while also being able to make their best contribution to and participate in life in Australia.

11. If the distinctions between in and outside Australia are being removed, how do I qualify to apply for a permanent employer sponsored visa in Australia?

For the Temporary Residence Transition stream you must be holding a subclass 457 visa and have been with your employer in the nominated occupation for at least two years.

For the Direct Entry stream you must hold a substantive visa, or a bridging visa A, B or C.

12. If someone has been granted a subclass 457 visa on the basis of a temporary Labour or Regional Migration Agreement, will they be able to apply for permanent residence through the Temporary Residence Transition stream?

No. Any subclass 457 visa holder who was granted their visa on the basis of a Labour or Regional Migration Agreement would only be able to access permanent residence if the Agreement also offers a permanent residence option. They would then be eligible to apply through the ENS or RSMS **Agreements** stream.

If the Agreement does not offer a permanent option, but their employer is eager to nominate them for permanent residence, and their occupation is on the new consolidated sponsored occupation list it may be possible for them to apply for permanent residence through the ENS **Direct Entry** stream.

If their occupation is an ANZSCO skill level 1 to 3 occupation, and their employer is located in a regional, remote or low population growth area of Australia it may be possible for them to apply for permanent residence through the RSMS **Direct Entry** stream.

13. I currently hold a 400 series visa, but it is not a subclass 457. Will I be eligible to apply for a permanent employer sponsored visa through the Temporary Residence Transition stream?

No. The **Temporary Residence Transition** stream is only for you if you hold a subclass 457 visa and have been working in your nominated job with your sponsoring employer for the last two years as a subclass 457 visa holder and your employer wants to sponsor you for permanent residence in order to retain your skills within the business.

However, you may still apply for permanent residence through the permanent employer sponsored program if you meet the requirements under the **Direct Entry** stream.

14. I am a medical practitioner and an independent contractor. I was granted a subclass 457 visa; will it be possible for me to access the Temporary Residence Transition stream?

Yes. Up until now it has not been possible for a medical practitioner employed on a subclass 457 visa through an independent contractor arrangement to access the permanent employer sponsored visa programs. This is due to the fact it has been difficult for them to demonstrate that they satisfy specific nomination and visa application criteria.

However, from 1 July 2012 in recognition of the intention to streamline subclass 457 visa holders to permanent residence, arrangements will be made through a legislative instrument to accommodate medical practitioners employed on a subclass 457 under independent contractor arrangements.

15. I am currently in Australia and want to apply for an employer sponsored visa but my family is outside Australia. Can they still be included in my visa application?

Yes. From 1 July 2012 the time of application criteria that applies to whether an applicant is inside Australia and outside Australia will be removed. This means that primary and secondary applicants do not have to be in the same location at time of application or at time of decision.

For nominating employers

1. What occupations will be eligible to access the ENS?

A single consolidated sponsored occupation list will be introduced from 1 July 2012. The new list will replace the current Employer Nomination Scheme Occupation List (ENSOL), subclass 457 occupation list and the State and Territory Skilled Occupation List (StatSOL).

The consolidated list will provide greater simplicity and support the streamlined transition from temporary to permanent residence.

2. What occupations will be eligible to access the RSMS?

Under the current RSMS, the nominated position requires a person who holds a diploma or higher qualification, or be an exceptional appointment.

From 1 July 2012 the range of occupations eligible to access the RSMS will be broadened to all ANZSCO skill level 1 to 3 occupations.

3. What are the different skill levels?

The ANZSCO is a classification model developed by the Australian Bureau of Statistics. It classifies occupations by skill level.

The department uses ANZSCO to understand what qualifications a skilled migrant would need to undertake the full range of duties required for their nominated occupation.

SKILL LEVEL 1

Occupations at Skill Level 1 have a level of skill commensurate with a bachelor degree or higher qualification. At least five years of relevant experience may substitute for the formal qualification. In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.

SKILL LEVEL 2

Occupations at Skill Level 2 have a level of skill commensurate with an AQF Associate Degree, Advanced Diploma or Diploma. At least three years of relevant experience may substitute for the formal qualification. In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.

SKILL LEVEL 3

Occupations at Skill Level 3 have a level of skill commensurate with an AQF Certificate IV or AQF Certificate III including at least two years of on-the-job training. At least three years of relevant experience may substitute for the formal qualifications. In some instances relevant experience and/or on-the-job training may be required in addition to the formal qualification.

4. How will trade occupations be affected by the changes to RSMS?

According to ANZSCO, trade occupations are classified as skill level 3, requiring at least an AQF Certificate III including two years on-the-job experience.

Under the current regime an employer nomination for a trade occupation can only be approved through the exceptional appointment regime because it requires a person who holds a qualification that is lower than a diploma. Under policy, in recognition of the acute shortage of trades workers in regional Australia, trade occupations classified at skill level 3 are considered to meet the exceptional appointment provisions without further enquiry.

From 1 July 2012 this approach will be formalised with all ANZSCO skill level 1 to 3 occupations being considered eligible under the RSMS.

For information on how a RSMS visa applicant nominated to fill a trade position will meet the skill requirement from 1 July 2012, refer to questions 5 and 6 in the 'for Visa Applicants' section.

5. Will ENS nominators still be required to meet training requirements?

Yes, however the training requirement will be changing.

Currently, ENS nominating employers must show that they provide training to their existing employees, or that they are committed to providing training to their employees.

From July 1 2012, ENS nominating employers will need to meet training requirements that are in line with the subclass 457 visa training requirements.

This will be one of the following:

- recent expenditure of at least two per cent of the business payroll to be paid as a contribution to an Industry Training Fund
- recent expenditure of at least one per cent of overall payroll to be spent on training existing Australian employees.

6. Will there be a training requirement for RSMS nominators?

No, there will continue to be no legislative training requirement for RSMS nominators from 1 July 2012.

7. Is the Minimum Salary Level (MSL) going to change?

Yes. At the moment ENS nominating employers must pay their nominated employees a salary that is at least the current MSL. Currently, the MSL requires a minimum annual salary of AUD67 556 for certain information technology occupations and AUD49 330 for all other occupations.

Currently, RSMS employers are required to pay their nominee in accordance with the Australian award or minimum wage as specified by industrial relations law.

From 1 July 2012 all ENS and RSMS nominators will be required to pay their nominee the market rate. This will apply to the **Direct Entry** and **Temporary Residence Transition** streams.

8. How do I work out the market salary rate?

The market salary rate is the salary paid to an Australian performing the duties of that occupation.

If you employ an Australian in an equivalent position, you should pay the nominated skilled foreign worker no less than you pay the Australian. You can demonstrate what you pay your Australian worker by providing pay slips, the applicable enterprise agreement or employment contract.

If you do not employ an Australian worker in an equivalent position, you must demonstrate what an Australian worker would be paid in that position. You can demonstrate this by providing evidence of an enterprise agreement from another workplace, job advertisements for a similar position, or remuneration surveys which show what Australians are paid.

9. Will the Temporary Skilled Migration Income Threshold apply to permanent employer sponsored nominations from 1 July 2012?

No. The Temporary Skilled Migration Income Threshold (TSMIT) is used in the subclass 457 program.

From 1 July 2012 the permanent employer sponsored program will use a market salary regime - this means that skilled foreign workers must be paid no less than Australian workers in equivalent positions. This market salary rate must be at least as much as the award rate which applies to that occupation.

While the award rate is the minimum salary that an Australian or skilled foreign worker can be paid, in many industries the market salary is well above the award rate. Simply providing evidence of the award rate is not sufficient to demonstrate the market salary rate - the employer must demonstrate what Australians are actually paid.

Where there is no Australian worker performing equivalent work in the same workplace, the employer may demonstrate the market salary rate by reference to what an Australian would be paid in that occupation. The employer can demonstrate what an Australian would be paid by referring to job advertisements for similar positions, enterprise agreements in another workplace or remuneration surveys.

10. What will these reforms do for employers in regional Australia?

The RSMS will continue to support regional employers, in recognition of the complex labour market conditions and limited skilled labour supply available in many regional and remote areas.

An employer located in regional Australia who chooses to use Direct Entry RSMS will:

- have access to a broader range of occupations at ANZSCO skill levels 1 - 3
- have no nomination application fees
- have relaxed skill requirements for the prospective migrants, such as not requiring them to have extensive work experience in the nominated occupation
- not have to meet relevant training criteria
- not have to demonstrate through financial papers that they are actively and lawfully operating for applicants using the Temporary Residence Transition stream as this would have been done at the subclass 457 sponsorship stage.

Regional certifying bodies

1. What are Regional Certifying Bodies?

Regional Certifying Bodies (RCBs) are a diverse network of state and territory government agencies, local chambers of commerce, local government councils and regional development bodies.

RCBs certify RSMS nominations made by employers. The certification process is intended to ensure all RSMS nominations have been scrutinised by people outside the department who are familiar with local labour market conditions and who may be able to provide information on regional matters which the department may not be aware of.

2. Will the role of RCBs change?

Yes. Under the revised regulations, RCBs will provide 'advice' to the department as to whether a nomination satisfies certain criteria rather than certifying that such criteria are met. A departmental decision maker will consider the advice provided by the RCB in deciding the nomination. In addition, the scope of RCB activities in assessing RSMS nominations and the criteria that they assess nominations against, will also change.

3. How will the scope of RCBs activities change?

At present, all RSMS nominations must be certified by an RCB. From 1 July 2012 only nominations lodged under the RSMS Direct Entry stream will need to be assessed by an RCB.

4. From 1 July 2012 what criteria will RCBs certify?

Currently RCBs certify that:

- the nominating business is actively and lawfully operating
- there is a genuine need for the position
- the nominated position is available full time for at least two years
- unless the position is exceptional, it requires skills at least at Australian diploma level qualification.

From 1 July 2012 RCBs will be required to provide advice as to whether the nomination meets the following criteria to certify that:

- the position cannot reasonably be filled locally;
- there is a genuine need for the nominated position
- the prospective migrant will be paid the 'market rate'. That is, the nominee will be paid the same as an Australian employed in the same position in the same location.

5. Will nominations certified before 1 July 2012 still be valid after the reforms are introduced?

RSMS employer nominations that have been certified by an RCB before 1 July 2012 where the nomination has been lodged with the department prior to the reforms coming into effect on 1 July 2012 will be valid and will continue to be processed.

Certifications by an RCB made on the *Employer nomination under the Regional Sponsored Migration Scheme Form* (number 1054) and the form is lodged with the department on or after, 1 July 2012 will not be considered valid for a Direct Entry RSMS Employer Nomination application.

From 1 July 2012 RSMS **Direct Entry** nominations must be certified against the new RCB criteria and be made on the new *Regional Sponsored Migration Scheme – Regional Certifying Body advice*.

Transitional arrangements

1. If an employer lodges an employer nomination before 1 July 2012, what will happen if the visa applicant lodges their visa application after the reforms are introduced?

Employer nominations are valid for six months. After the reforms have been implemented an 'old' nomination will continue to be valid.

Any visa application lodged after the reforms which is associated with an old nomination will be considered against the new ENS or RSMS **Direct Entry** stream requirements.

2. Will a visa application still be considered against the old ENS or RSMS criteria if it is lodged after the reforms are introduced but the nomination was lodged beforehand?

No. The current ENS, RSMS and Labour Agreement visa subclasses will be closed to new primary applications for 1 July 2012.

If a nomination has been lodged that names the applicant as the nominee, the applicant can still lodge a visa application in association with the nomination, but they will have to meet the new ENS or RSMS **Direct Entry** criteria.

3. What will happen to applications that have already been lodged but have not been decided?

Any application that was lodged before 1 July 2012 that has not been decided will continue to be processed and considered against the pre-1 July 2012 legislation.

4. Will independent GSM visa applicants who apply for a permanent employer sponsored visa meet concessional visa criteria?

No. They will be considered against the **Direct Entry** stream criteria of the ENS or RSMS visa subclass.

5. If a visa applicant holds a subclass 457 visa, and eventually applies for permanent residence, what will happen if their current occupation is not on the new consolidated sponsored occupation list?

To qualify for the Temporary Residence Transition stream for a permanent residence application, the visa applicant must be nominated to fill a position in the same occupation as the one that they filled for their subclass 457 visa.

General

1. Will it still be possible for semi-skilled occupations to be nominated in the permanent Employer sponsored visa program?

Previously, some semi-skilled workers, ANZSCO skill level 4 and below occupations, were accommodated through the RSMS, using the exceptional appointment provision. This will not be possible from 1 July 2012.

Employers who want to nominate semi-skilled workers in their business will be able to access permanent residences through the negotiated and scrutinised Agreements stream of the ENS or RSMS visa.

2. Under the Temporary Residence Transition stream, what is a consistent occupation?

The Temporary Residence Transition stream is for subclass 457 visa holders who have worked for their employer for the last two years and their employer wants to offer them a permanent position in the same, or consistent, position for another two years.

A consistent position will be one that is in the same ANZSCO four digit unit group. For instance, the four digit unit group 2544 is for registered nurses and consists of 13 individual occupations.

3. Agreements are difficult to negotiate and time consuming. How can I employ workers now?

Labour agreements allow employers to negotiate concessions to the standard visa arrangements. Negotiations concerning concessions may be protracted due to the department's efforts to ensure that the risk of exploitation is mitigated and that opportunities for Australians are safeguarded.

While Labour Agreements are complex, the length of time to negotiate an agreement depends greatly on the quality and completeness of the information provided by the company seeking an agreement. The average negotiation timeframe is approximately six months.

4. How long does it take to make a decision on an ENS application?

The standard processing time for an ENS application is between three to eight months.

Information about the processing times of an employer sponsored skilled migration visa is available on the department's website.

See: www.immi.gov.au/about/charters/client-services-charter/visas/8.0.htm

5. How long does it take to make a decision on an RSMS application?

The standard processing time for an RSMS application is between five to eight months.

Information about the processing times of an employer sponsored skilled migration visa is available on the department's website.

See: www.immi.gov.au/about/charters/client-services-charter/visas/8.0.htm