



MIGRATION NEWS

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GOVERNMENT CUTS TO SKILLED MIGRATION

Amidst a bad and still deteriorating world economy, Minister for Immigration Chris Evans has announced significant cuts to Australia's booming skilled migration intake.

These cuts come at a time when the Australian economy is suffering a major downturn with large numbers of retrenchments of skilled and professional employees by Australian companies.

Minister Evans announced a 14 percent cut in the skilled migrant program for the current financial year ending 30 June 2009. That means a reduction from 133,500 to 115,000 places.

The Minister also announced the removal of most of the trades occupations from the "Critical Skills List".

Australia had endured serious shortages in the trades skills area for many years, so this cutback reflects a rapidly changing Australian labour market, where employers are virtually "shutting up shop" while they await an improvement in economic conditions. At the same time employees are tending to "stay put" and avoiding the risks associated with changing jobs in these difficult times.

The critical skills list has been reduced to the extent that it now only includes health, medical, engineers, accountants, IT professionals, surveyors and planners.

The critical list is designed to fast-track people in these occupations (either independent or sponsored by Australian employers). They do not affect an intending migrant's eligibility under the skilled migration points test.

It is important to note that these changes do not affect the basic structure and layout of the Points Test for Skilled Migration.

At this stage Minister Evans has made no announcement about changes to the points test. In particular, the additional points awarded for being in an occupation on the Migration Occupations In Demand list (MODL) are still in place.

We therefore believe that the cutbacks announced by the Minister will have the effect of slowing down the processing times for all those applicants in the trades who were expecting to see their migrant visas quickly.

Applicants in these trades occupations will still get through but there will be longer queues as they wait for their place in a queue reduced by 14 percent.

It is fair to say that these are very turbulent times and there is no certainty that the Minister will not announce further cuts to skilled migration.

We have to wait and see how and when the global economic crisis turns for the better.

Many people believe we may not see things improve until 2010/11, so these cuts mean longer queues for many migrant applicants for the time being.

Remember that migrant applicants in the queue are processed according to the policies and regulations that applied at the time of their application, including one's age.

Another thing to remember in our experience over the years is that there is no better time to apply for migration than when you first become eligible, and that is particularly so in times of volatility and uncertainty. Having acquired an Australian permanent resident visa it is not that difficult to maintain its validity for many years.

The longer queues we are going to experience in skilled migration to Australia are still most likely quite short by world standards. Major migrant receiving countries like the UK, USA and Canada generally have much longer queuing times than Australia, even in these difficult times.

So to summarise, these cuts are only going to have the effect of slowing down processing. There is no change at this stage to the points test which determines eligibility for skilled migration to Australia. There may be some change in the future, but we have no knowledge of such thinking at the time of writing.

CONSULTING TRIPS

LONDON

Our firm's Managing Director, Cecil Bass, will be consulting in **London** from **27 April** to **29 April 2009**.

To arrange a consultation please contact our Marketing Manager (UK / Europe) as follows:

London: Anna Geor (a-geor@hitchcock-immigration.co.uk) - + 44 782 553 8606

SOUTH AFRICA

Cecil Bass will also be consulting in **South Africa** from **30 April** to **12 May 2009**.

To arrange a consultation please contact our South African Marketing Team as follows:

Durban: Sandra Krysztofiak (sandra@hitchcock.co.za) - +27-31-312-5038

Johannesburg & Pretoria: Valerie Small (val@hitchcock.co.za) - +27-11-787-8349

Cape Town: Gail Durr (gail@hitchcock.co.za) - +27-21-785-5685

Appointment times are filling up fast, so please don't miss your chance to secure a meeting time!

ONE YEAR RELATIONSHIP RULE: PARTNER MIGRATION

When it comes to the migration of partners of Australian citizens or permanent residents, couples living in *de-facto* or common law circumstances are treated differently to those who are legally married. There is a 1-year relationship rule along the following lines.

For the 12 months immediately prior to applying the couple must show:

1. They had a mutual commitment to a shared life to the exclusion of all others
2. Their relationship is genuine and continuing
3. They live together and do not live separately and apart on a permanent basis.

Readers would understand that there is a wide level of discretion and interpretation available to DIAC officers who go through the process of assessing information provided by applicants and their sponsors against the above criteria.

The variety of possible forms of evidence is considerable. The usual items (joint leases, shared assets, bank accounts) need to be presented in such a way as to cover a minimum of 12 months. Sometimes we see client documents being presented that do not adequately cover the chronology of the relationship.

If the evidence presented shows a relationship of 11 months and 14 days, DIAC could possibly reject the application, and over the years we have seen cases where that is exactly what happened.

One way of ensuring that the chronology of a relationship is adequately covered (where the 12 month relationship requirement is concerned), is for both partners to make statements describing the history and dates of events in their relationship. At Hitchcock and Associates we call this a relationship history statement.

While there is no legal

requirement for these statements to be in the form of affidavits or sworn in front of a Justice of the Peace, it is a good idea to do so.

Another issue which needs to be covered is whether there are gaps in a living together relationship. It may be that a couple have needed to be apart for short-term employment in another location or completing study in another country. Such gaps in a living together relationship are acceptable so long as they are properly explained.

In the current economic climate, we are seeing greater numbers of Australians overseas returning to these shores than in previous years. Many Australian citizens and residents have entered into *de-facto* partner relationships and need to sponsor their partners for permanent residence in the process of moving back to Australia.



DID YOU KNOW?
A permanent resident of Australia who serves for 3 months in Australia's defence forces can apply for citizenship without the usual 4 year residential qualification?

SPECIAL ELIGIBILITY MIGRATION STREAM

The words "special eligibility" have a definite air of mystery and intrigue about them.

In years gone by Australia had a range of special migration categories, including programs for orphans from the United Kingdom, and for refugees from White Russia in Soviet years. Special eligibility also used to include the Distinguished Talent category, but that was moved some years ago to where it rightly belongs in the skills stream. Nowadays, there is only one migration category in the special eligibility migration stream and that is the "Former Resident" visa subclass (for simplicity's sake, let's call that a "category").

Not many people are aware that this category exists and relatively few people are granted permanent resident visas each year compared with the family migration stream or the skilled stream. Nevertheless it does exist and given the increased mobility in the world (despite the current global crisis people are still moving countries), it is likely to become increasingly popular in future years.

Basically the Former Resident category enables people who were permanent residents of Australia in their younger years, and whose visas had expired, to apply to have their residence re-instated.

There are two basic criteria which must be addressed:

1. An applicant must have spent at least 9 out of their first 18 years (from birth) in Australia as permanent residents, and have since maintained business, cultural or personal ties with Australia
2. An applicant must be below age 45 at the time they lodge their application

There is a special concession for people who, as former permanent residents, served for 3 months in the Australian Defence Forces (as they have been variously constituted over the years). These people do not have to live in Australia for the 9 out of 18 years, and there is no age limit. There is also provision for people who were medically discharged not having to do the full 3 months continuous service.

These types of cases come up in Hitchcock and Associates from time to time. We regularly meet with new clients who were permanent residents as young children when their parents came here years ago, and have since moved on to other countries without taking out Australian citizenship.

Obviously the main areas in which we work with such clients is to prepare evidence that they in fact were permanent residents in their young years in Australia, along with showing well-documented evidence that they have maintained ties with Australia of a business, cultural or personal nature. For example, a personal tie may be something as simple as maintaining contact with a friend by email, or an occasional visit to a sibling still living here. Alternatively, a person might have become a member of an Australian Chamber of Commerce or friendship association in another country and in that sense is maintaining a business or cultural tie.

The provision of evidence as to previous residence can get interesting. It often occurs that documentary evidence and visa stamps are not available because passports have been lost, destroyed or hidden somewhere deep down in a cardboard box in a garage! In these cases we help the client gather other evidence such as school records, photos, affidavits from friends or relatives etc.

This is a most interesting visa category for migration professionals. In meeting new clients for the first time, we invariably ask about any previous time in Australia and information about parents. It sometimes occurs that the client before us has claim for Australian citizenship or eligibility under the Former Resident category and they were not aware that this was the case.

Sometimes this information is really important to them because they may have no other basis on which to return to live in Australia on a permanent basis.

STOP PRESS! BUSINESS SKILLS MIGRATION CAPPED

20 March 2009: With longer queues for Points Tested migrants now a reality, remember that some people in the trades may be eligible for Business Skills Migration because they operate sub-contracting businesses employing a number of other tradesmen and workers. Such people may be eligible for one of the business skills categories, particularly those involving sponsorship by one of Australia's state government authorities where the criteria are more generous for applicants with smaller businesses.

As part of Minister Evans' recent announcement (see "[Government Cuts To Skilled Migration](#)"), a cap has been placed on the number of Business Skills visas to be issued this year. We have had direct contact with the Department of Immigration and Citizenship today and they are waiting for details from Minister Evans as to the "capped" numbers.

This is likely to result in a slowdown in Business Skills visas issued until 30 June 2009. We are moving ahead as usual with the lodgement of these applications.

LIVE IN CANBERRA

Hitchcock and Associates will be coordinating seminars for the **Live In Canberra** team, who will be touring South Africa in conjunction with the ACT Brumbies during March/April 2009.

The Live In Canberra team will be conducting free seminars, and recruiters will be on hand to discuss potential job opportunities in Canberra.

The seminars will focus on "living in Canberra": the demographics of Australia's Capital City, its weather, infrastructure, businesses and property prices.

Business skills specialists and representatives from recruitment organisations based in Canberra will also be attending the seminars.

Please contact our South African Marketing Team (as below) to express your interest in attending these seminars:

Durban:

Sandra Krysztofiak (sandra@hitchcock.co.za) - +27-31-312-5038

Johannesburg & Pretoria:

Valerie Small (val@hitchcock.co.za) - +27-11-787-8349

Cape Town:

Gail Durr (gail@hitchcock.co.za) - +27-21-785-5685



POINTS TESTED MIGRATION

Remember!

The cutbacks to skilled migration do not at this stage involve any changes to the Points Test.

The 14 % reduction in numbers for the current year will mean longer queues. We doubt applicants approved and medically cleared and waiting for visa grants right now will see their visas granted before 30 June.

We think the new program size of 115,000 places is already full and no new visas will be granted until after 1 July 2009. This delay in visa grants has happened in previous years as we move towards the end of a program year. It might be more pronounced this year given the cut backs.

However, there is still no change at all to the structure and content of the Points Test. Readers may be assured we are watching for any future developments in this regard and will report on same as soon as practicable. Sometimes we hear unsubstantiated rumours about possible changes, however it is essential to present our readers with factual, verifiable information about such changes.