

# Migration News

## Federal Government Budget: Immigration Announcements

As many readers would know, a modern day migrant visa has an unlimited multiple travel endorsement, is valid for 5 years, and is readily extendable for further periods of 5 years if needed. We have always advised our clients, whatever the migration category they are eligible for, to apply when you are eligible. It is just as possible to lose one's eligibility to migrate as it is to gain that eligibility. Peoples' circumstances change. A simple event like a birthday does a little damage to one's Points Test outcome as a skilled migrant applicant, for example. The experts are saying that the recession is "shallow" and wont last forever. History has certainly shown that to be the case. We do not stay in recession forever, and that has never been the case. The experts are saying the Australian economy will have recovered well within 5 years from now

In what most commentators believe to be a fairly benign federal budget announced this month, there have been some significant immigration related announcements. The Minister for Immigration, Senator Chris Evans, made a series of announcements concerning the next migration program year commencing 1 July 2009 that are reflective of the current and continuing global recession and the impact this is having in Australia. The main announcements of interest are detailed as follows:

\* The recently-announced cut in the skilled migrant component of the overall program in 2008/2009 to 115,000 places will be further reduced to 108,100 places for 2009/10. This is an overall reduction of 20% in the skilled migrant intake from the originally

planned 2008/09 figure.

\* Employer and state government sponsored visas will continue to be fast tracked and remain unaffected by the reductions. Applicants in occupations on the Critical Skills List will also be unaffected by the reductions.

\* There will be a further tightening of the English Language Testing (IELTS) arrangements so that IELTS level 6 results will be mandatory for all applicants in trades occupations from 1 July 2009.

\* An additional "job readiness" test is inclusive to the usual skills assessment procedures for applicants in some trades where the assessment is undertaken outside of Australia. We have not seen any details of the nature of this test at the time of writing.

\* Significantly, there will be an increase in the family component of the overall intake to 60,300 places for 2009/2010. The actual increase of 3800 will comprise an additional 2500 for partners, 1000 for contributory parents and 300 for sponsored children.

\* A significant (10%) reduction in DIAC staff numbers for 2009/2010. This would translate in actual numbers to a reduction of approximately 650 staff members, and such a reduction would have to have some effect on DIAC service delivery including visa application processing times.

It is our general observation that these reductions and changes could have been a lot worse given the advent of economic recession and its labour market impacts. While the federal budget incorporates significant borrowings in an effort to stimulate the economy, it is generally agreed that the budget is not as harsh as expected.

There is no doubt that the skilled migration regime is tightening, particularly for those people wishing to migrate to Australia who have trades occupations. For such people it is going to be necessary for them to plan and prepare their applications well in advance for each step along the way. By this we mean ensuring that efforts are made to ensure success with skills

assessments, English testing and in some cases the forthcoming "job readiness" test. We will be adjusting our services and assistance to such clients who may need to change the manner in which they approach their migration applications accordingly.

It is important to note that there has been no change in the actual Points Test for skilled migration. The fundamentals of the Points Test are still there, and Australia will actually grant visas to 108,000 skilled migrants in the year beginning 1 July 2009. That is a considerable number when measured against our current population of 21 million.

There will be a significant increase in family reunion and the increase of 1000 places for contributory parents in particular may ease the processing times and delays for migrating parents with adult children in Australia.

We mentioned in our last newsletter the likelihood that the reduction in skilled migration will cause longer delays with processing of applications. The news in the budget announcement of a 10% reduction in DIAC staff may exacerbate those expected delays, and we should all be prepared for longer queues. We may have to live with them for some time. However, Australia's migration program (incorporating a wide variety of visa categories) is still bubbling along and there is no suggestion of major or radical cutbacks that we can read into the Minister's announcement at the time of Australia's federal budget.

To some readers this newsletter may sound like "doom and gloom". However, we should remember that historically Australia's migration and temporary residence programs have continued for many years and adjusted to suit economic and social circumstances over that time. There is no suggestion that Australia is going to savagely cut these programs. Some articles in this newsletter discuss recent government announcements which may restrict some permanent and temporary residence activity in the short term. Australia will move out of the globally-induced recession we are currently in and demand for skilled migrants and expatriates will increase in the future.

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## Business Skills Migrants: Continued Eligibility

A recent case in the Migration Review Tribunal gives us cause to remind our business skills clients about the importance of maintaining their eligibility right up to the time a decision is actually taken on their application for permanent residence.

Business Skills Migrants begin their stay in Australia as holders of "provisional" (temporary) visas. Having met business / investment / residence criteria they then apply for and if approved, are granted full permanent visas. It is of the utmost importance that applicants who are changing from provisional to full residence visas ensure they do nothing to affect their eligibility during the critical period between the time of lodging their applications for permanent residence and the time a decision is made and communicated in writing concerning

that application.

The case to which we are referring was not one of our original clients, but was referred to us through professional colleagues here. The problem which caused rejection involved resumption by a local council of the property in which the business was located and the business was forced to close causing a gap in continued eligibility up to the time of decision on their permanent residence application. In addition there were considerable processing delays in DIAC.

This is an example of the importance of planning as far as possible to maintain business arrangements in a safe and sustained manner. Sometimes unexpected situations occur (such as unexpected resumption announcements!) which risk continued eligibility. Other situations arise where people in business

want to make positive decisions about inviting new equity partners, or selling their business for all the right reasons, however they must wait until a decision is made on their permanent residence application. There is considerable value in meeting with your Hitchcocks business skills consultant and accountant in the early stages of business planning to discuss these issues and ensure the business activity proposed will meet eligibility criteria in a sustained manner, right up until the final decision on the permanent residence application.

Fortunately the circumstances of the family involved in this case are such that an approach to the Minister for Immigration and Citizenship for him to grant their visas in the public interest is warranted and that is our intention in our endeavors to assist this family.

## Consulting Trips

### LONDON

**Greg Mitchell**, a Director of Hitchcock and Associates, will be consulting in **London** from **13 July to 16 July 2009**.

To arrange a consultation with Greg, please contact our UK / Europe Marketing Manager (UK / Europe), **Anna Geor**:

[ageor@hitchcock-immigration.co.uk](mailto:ageor@hitchcock-immigration.co.uk)

+ 44 782 553 8606

### SOUTH AFRICA

**Greg Mitchell** will also be consulting in **South Africa** from **22 June to 8 July 2009**.

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

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

**Johannesburg & Pretoria:** Valerie Small ([val@hitchcock.co.za](mailto:val@hitchcock.co.za))  
27-11-787-8349

**Cape Town:** Gail Durr ([gail@hitchcock.co.za](mailto:gail@hitchcock.co.za))  
27-21-785-5685

Our obligation-free consultations provide our clients with an opportunity to obtain expert advice from an Australian Registered Migration Agent about options and eligibility.

## Cost of Contributory Parent Migration

These costs have steadily increased in more recent years.

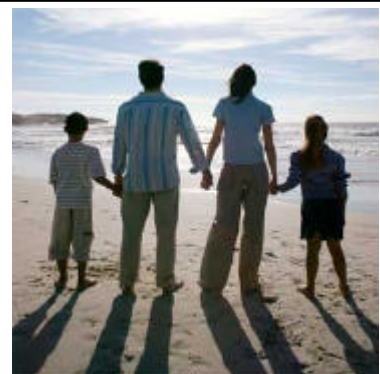
Nowadays, the budget for this type of application for a married parent couple:

Medicare Contribution:  $\$32725 \times 2 = \$65450$   
Refundable Bonds:  $\$10000 + 4000 = \$14000$   
DIAC Application Fee  $\$2105$

Total  $\$81,555$

We are currently advising that queues have increased to 18 months for Contributory Parent Migration applications.

This may reduce over the next year or two, as more places have been allocated to parent migrants in next year's migration program.



# Citizenship for Partners of Australian Citizens

We are seeing a steady increase in client work where the partner of an Australia citizen attains permanent residence and hence becomes eligible for consideration for a waiver of the usual residential qualification requirements for conferral of citizenship.



By partner we mean legally married partner, *de facto* partner or same sex partner.

The major changes to Australia's Citizenship Act in 2007 included several new concessions with the most significant of these being in relation to partners of Australian citizens.

Basically the concession to waive the residential qualification is available where relationships have been of 3 to 4 years duration and the couple have been living overseas. It is not necessary that the couple have been living overseas for the whole of that period.

Of course the applicant must have been a permanent resident during that period. One must be a permanent resident of Australia before they can apply for citizenship in any case.

There is also a requirement for the applicant to have maintained a "close and continuing association with Australia" during the period

concerned.

This concession does not apply to the permanent resident children of an Australian citizen parent. It only applies in partner relationships. Children would qualify for citizenship under the normal residential requirements.

Our casework for clients in these situations involves planning the timing of applications, and submitting evidence of partner relationships, evidence of close and continuing association with Australia, and generally ensuring such applications are thoroughly and carefully presented. This is a generous concession in the overall scheme of citizenship matters and one which is becoming increasingly popular with our offshore clients as well as those expatriate Australians who are returning to Australia having married overseas.

## Temporary Resident Visa Applicants

While employer sponsored procedures for skilled temporary residents have been largely unaffected, we have seen a significant tightening of eligibility criteria where applicants for 457 Temporary Resident Visas are concerned.

Announcements concerning the temporary resident program by the Minister for Immigration a few weeks ago included comments that the program had grown significantly in the past few years and there was a need to ensure it continued to compliment domestic recruitment and training initiatives and not replace them.

In addition, the Minister expressed concern that instances of exploitation of overseas workers and undermining of local wages and conditions through abuse of the temporary resident program were impacting negatively on community confidence about the program. This was particularly so for people in trades occupations.

The measure being taken to tighten the program which mainly affect visa applicants include:

\* Indexation of the minimum salary level to be paid to 457 visa holders by 4.1 % on 1 July 2009

\* Introduction of a new market based minimum salary level rather than the previous base level approach.

\* Increasing English language testing

requirement for all 457 visa applicants in trades occupations and for professional chefs.

\* Introduction of skills assessments from 1 July 2009 for 457 visa applicants from "high-risk" countries for trades occupations and chefs.

\* Checks to ensure employers are not discriminating against local job applicants and committing to training local staff.

At the time of writing, we do not have any information as to which countries are going to be defined as "high-risk" in terms of the extent to which there has been abuse of the temporary residence 457 program.

It is possible that the definition will include countries where the principal language is not English. We will advise further on this issue when more details are announced.



\*\*\*\*\* STOP PRESS \*\*\*\*\*

Just before release of this newsletter, the Minister confirmed that a range of less skilled occupations including some (but not all) of those in the **clerical, tourism and agricultural** sectors have been withdrawn from the group of occupations that fit within the standard 457 Temporary Resident sponsorship arrangements.

Occupations in the mainstream of usual 457 temporary resident-sponsored activity such as professional, technical, specialist, IT and managerial occupations are not affected.

The announcement also included information that the employer-sponsored permanent residence scheme (ENS) and regional-sponsored migration scheme (RSMS) still enables experienced people in some of these less skilled tourism, agricultural and clerical occupations to be sponsored for permanent residence by Australian employers.

One would expect that the skill level or specialisation for people in such occupations would need to be high.