

COVID-19 (AUSTRALIA): MIGRATION UPDATE – SEPTEMBER 2020 CHANGES

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Labor, Employment, and Workplace Safety Alert

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NEW OCCUPATION LIST ANNOUNCED FOR PRIORITY ENTRY UNDER COVID-19

Acting Minister for Immigration Alan Tudge has announced a new Priority Migration Skilled Occupation List (PMSOL) in a joint media release with Senator Michaelia Cash on 2 September 2020. The PMSOL contains 17 occupations in the healthcare, construction and IT sectors that will 'supercharge' Australia's health and economic response to COVID-19.

Visa holders sponsored by an Australian employer in an occupation on the PMSOL have been added to the categories of people eligible for an exemption from Australia's current travel ban. Applicants applying for an employer-sponsored visa under a PMSOL occupation will also have their visa application prioritised for processing.

The 17 occupations (with ANZSCO codes) currently on the PMSOL are:

- Chief Executive or Managing Director (111111)
- Construction Project Manager (133111)
- Mechanical Engineer (233512)
- General Practitioner (253111)
- Resident Medical Officer (253112)
- Psychiatrist (253411)
- Medical Practitioner nec (253999)
- Midwife (254111)
- Registered Nurse (Aged Care) (254412)
- Registered Nurse (Critical Care and Emergency) (254415)
- Registered Nurse (Medical) (254418)
- Registered Nurse (Mental Health) (254422)
- Registered Nurse (Perioperative) (254423)

- Registered Nurses nec (254499)
- Developer Programmer (261312)
- Software Engineer (261313)
- Maintenance Planner (312911)

The occupations on the PMSOL were identified in consultation with the National Skills Commission and other relevant agencies and will be reviewed regularly. Australian businesses nominating occupations on the PMSOL are still required to satisfy labour market testing requirements to demonstrate that no Australian workers are available to fill the nominated position. The announcement of the PMSOL is also accompanied by additional labour market testing requirements outlined in the section below.

A full copy of the media release can be found [here](#).

NEW LABOUR MARKET TESTING REQUIREMENT COMMENCING 1 OCTOBER 2020

Accompanying the announcement of the PMSOL, the Australian Government also announced a new labour market testing requirement which requires sponsors nominating workers for subclass 457/482 and subclass 494 visas to advertise the nominated position on Australian Government's [Jobactive website](#) for at least 28 days before lodging the nomination. The new Jobactive requirement operates in addition to the existing requirement for the position to be advertised on at least two platforms, meaning a total of at least three advertisements will need to be placed.

The new Jobactive requirement will apply to all relevant nominations lodged on or after 1 October 2020 where advertising is required as part of the labour market testing process. Accordingly, the new Jobactive requirement does not apply to nominated positions that meet the definition of a 'select position' or 'select occupation' where advertising is not required, nor to nominated positions that are exempt from labour market testing under Australia's international trade obligations.

In addition to the subclass 457/482 and subclass 494 visa programs, the Australian Government has also expressed its expectation that nominated positions be advertised on Jobactive for subclass 186 and subclass 187 nominations to demonstrate that there is a genuine need for the position and that it cannot be filled by an Australian citizen or permanent resident. The Department of Home Affairs is currently working on clarifying elements of this expectation and no further details are available at this stage.

The Jobactive website has a number of unique settings, therefore employers are advised to take extra care when placing advertisements on the Jobactive website to ensure all relevant advertising requirements are satisfied.

CONCESSIONS FOR A NUMBER OF VISAS AFFECTED BY COVID-19

The Australian Government has also announced a number of concessions for subclasses 887, 888, 188, 790 and 485. The concessions apply to applicants and visa holders affected by the COVID-19 pandemic situation during the concession period commencing 1 February 2020. The end date of the concession period is yet to be specified.

The details of the concessions are extensive and will not be covered in this alert. Employers with employees that may potentially be eligible for these concessions are advised to seek professional migration advice if assistance regarding the new concessions are required.

GLOBAL BUSINESS AND TALENT ATTRACTION TASKFORCE ESTABLISHED

On 4 September 2020, the Australian Government announced the establishment of the Global Business and Talent Attraction Taskforce as its latest effort to identify and attract high-calibre individuals and businesses to Australia. The Taskforce is a joint effort by the Department of Home Affairs and the Australian Trade and Investment Commission and will operate in consultation with other Government departments. Eligible companies and individuals will have access to a number of benefits such as streamlined pathways to permanent residency and concessions on occupations.

The new Taskforce will operate in conjunction with the existing Global Talent Visa program, Global Talent Employer Sponsored program and Business Innovation and Investment program to attract high-calibre talent and investment to Australia. Companies and individuals with interest in the program are advised to seek professional migration advice to further explore eligibility and submit expression of interest.

HOW WE CAN HELP

K&L Gates has a dedicated Australian migration team working within the Labour, Employment and Workplace Safety practice to provide comprehensive advice and seamless services regarding employment of overseas workers.

During this challenging time, we can assist employers with:

- advising on the effects of new migration policies made in response to the COVID-19 pandemic on current and upcoming visa applications by non-Australian employees
- reviewing and advising on contract terms for existing temporary visa holder employees who may be affected by COVID-19-related migration policies
- advising on strategies for temporary visa holders in Australia to maintain their lawful status in Australia
- advising on eligibility and assisting with expressions of interest and/or applications for the Global Talent program, and
- other migration enquiries.

KEY CONTACTS



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