

IMMIGRATION NEWS

(Volume 140)

Future Changes to DIAC Rules Ahead



23rd July 2009

Dear Students

Welcome to the latest edition of IMMIGRATION NEWS. Welcome to the new subscribers to this free service.

Today's article is a special report on DIAC's vision for the Skilled Migration Program.

Special Report - Migration Institute Australia Seminar in Sydney 23rd July 2009

Today at a MIA Seminar in Sydney, Mr. Peter Speldewinde, DIAC's Assistant Secretary Labour Market Branch Migration and Visa Policy labeled Monash Universities Dr. Bob Birrell's statements on the national media yesterday as "**fallacious**". He was referring to comments Dr. Birrell made on the ABC National Radio AM program "*the Government has changed the migration selection rules such that students with cooking and hairdressing qualifications are no longer eligible for permanent resident visas under most of the skilled visa categories.*"

Mr. Speldewinde expressed concern of the effect Dr. Birrell's comments have had on international students and within education industry. He said, "***My Minister wants you all to know, there is no issue with international students in Australia. We have our processing priorities in place and that will continue including the ones at the bottom of the list (cooks and hairdressers).***"

Under the Migration Act DIAC is obliged to process all applications it receives. There is no possibility that an application will not be processed. Mr. Speldewinde said "*We are obliged to process visa applicants that are lodged and complete. However, the Act does not mention a time frame which they must be processed.*"

Indian Students Baited

It seems clear to our office that the remarks made by Dr. Birrell yesterday and then unquestionably taken up by sections of the media (ABC Radio and The Australian) were designed to bait the Indian students to make a response.

Unfortunately they did take the bait, with the Society of Indian students then publicly threatening legal action against the Australian government.

This was not a wise comment to make and in fact it can backfire on the students for the Australian public and the media in general will not appreciate such a threat.

Our main point at this time is to re-assure international students that under the current points test, applications will be processed in due time. Yes the CSL (Critical Skill List) applicants currently have an advantage and processed faster but all applications will be accepted and processed including cooks and hairdressers. However it may be a long wait but the visas will be granted.

Background Statistics provided by DIAC

08/09	115,000 total		09/10	108,000 total	
ENS	GSM	Bus.Skills	ENS	GSM	Bus.Skills
38,000	69,000	7,500	35,000	65,000	7,800

ENS (Employer Nomination Scheme)

GSM (General Skilled Migration)

Bus.Skills (Business Skills)

These figures show that the over number of skilled migrants have not altered significantly since the 07/08 financial years total of 108,540.

When the announcement of the General Skills intake would be cut it seems that DIAC has struck trouble. Mr. Speldewinde stated *"We ran into a problem when we tried to put the brakes on. We were pushing hard on the accelerator and now we have to put on the brakes. We are trying to ensure the program does not shut down."*

Processing times

Currently the GSM program is demand driven and DIAC has introduced the Critical Skills List (CSL) with the last update in January 2009. DIAC is currently reviewing the CSL. Mr. Speldewinde stated *"We are looking at it again at the moment; it is a temporary measure only."*

Our office has identified the greatest concerns for international students who have already lodged their permanent residency applications are;

1). Are they going to get the visa?

As long as an applicant passes the point test reaching the pass mark and also passes all medical and police requirements there is certainty the visa will be granted. DIAC is not looking to change any rules after an applicant applies that may adversely affect them later.

2). How long is it going to take?

As mentioned above DIAC is again likely to change the CSL. If this occurs then if applicants who lodged their files whilst on the CSL may find themselves having wait a considerable period if their occupation comes off the CSL.

Currently DIAC has approximately 134,000 applications in the pipeline. This is a significant number but not all are GSM files.

Rise of Hospitality Management Courses

The significant rise in vocational courses international students can enroll into has risen dramatically. The statistics released by DIAC today identified enormous growth in Hospitality Management programs. The rise in the enrolments in these types of courses outstrips the rise in nearly all other courses put together.

This is a fact that is causing DIAC the greatest headache.

Mr. Speldewinde stated *“Generally in the VET sector they have cheaper courses where there are lots of them, they are quicker to finish and the points system as it stands today, gives them an advantage. We made a mistake in listening to various industry groups not to increase the English requirement to 6.0 on each for the VET sector back in September 2007.”*

It is clear that DIAC is now going to remedy this perceived error by enforcing a 6.0 requirement for each of the IELTS component which starts on the 1st January 2010.

Current Problems with VET Colleges

DIAC is acutely aware of the problems within the VET sector providers (hopefully by reading these newsletters). He said *“It is difficult to make changes to a large export industry when the government has a large budget deficit. I can assure you that change is coming and currently there is a robust debate about these problems.”*

When asked when those changes may come Mr. Speldewinde replied *“We are discussing this at the moment.”*

Changes Are Coming!

There is no doubt students are worried what is coming up in DIAC's policies. It seemed clear today that they are going to change the Skilled Occupation List (SOL) and change the points that many occupations receive on this list. Mr. Speldewinde said *“my Minister asked me to write in 25 words or less why a cooking student with a Cert III in Cooking can get the same points as a Doctor?.....Where things end up, I cannot speculate. Maybe the government will decide there is no change that will be up to them. Remember the point's allocation has nothing to do with, TRA or any other assessing authority.”*

He went on to describe that back in September 2007 when the new points system began it was to be considered as only Stage 1 of a reform process. Now

students need to prepare that Stage 2 is on the way.

DIAC is going to review the CSL again soon. They are also going to bring in the job ready test, primarily for trade occupations first (cooking and hairdressing). They are also in the process of reviewing the points test because as Mr. Speldewinde stated today *“we do need to review the points test for the way it is operating today it is throwing up some perverse incentives.”*

Changes to the MODL?

DIAC also plans to review the MODL and use it as an identifier of medium and long term needs. At the moment DIAC is aware that there are pockets of employment in various areas that the MODL does not address. When questioned whether any change in the MODL would be retrospective Mr. Speldewinde said *“we put a lot of thought into that but we decided that we would not be able to get any retrospective laws past the parliament. I can't see that happening.”*

When is all this going to change?

From his comments today we felt sure that the new SOL when it comes into place will be revised dramatically. It is expected an announcement will come in the next couple of months from DIAC regarding this issue but we are not sure when DIAC will actually change the regulations, if at all. They are also looking at the possibility to change the points system.

However I should point out that all of those students who are currently studying the Professional Year program (Accounting, IT and Engineering) will be unlikely to lose the extra points they are aiming for, so do not panic.

It does seem likely though that somewhere in the near future DIAC plans to implement rules to try and curb the number of enrolments into Hospitality Management courses. It doesn't mean hospitality students cannot apply for residency in the near future but I feel DIAC will make it harder to obtain the 60 points in any trade occupation.

How hard? We are not sure yet but Mr. Speldewinde did mention he was not happy with a 40 week Certificate III and then just Diploma Hospitality mix in order to obtain the 60 points. Perhaps students will require a minimum Cert IV instead, a full 2 year trade program?

We'll report more news as it comes to hand.

It's been a busy day so I am sorry I have not been able to squeeze the comments we receive by email in this edition.

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Kind regards

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