

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 19 OCTOBER 2010

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(164) Program 1.1: Visa and Migration

Senator Cash asked:

- (1) How many 457 applications were approved prior to the changes to the International English Language Testing System?
- (2) Should these 457 visa holders wish to extend their visas will they be subjected to the more rigorous assessment process?
- (3) If yes, what consideration was given to the impact on the workforce in the event that the visa holder does not pass the new test?

Answer:

- (1) The regulatory criterion relating to English language proficiency for certain Subclass 457 visa applicants was changed on 1 July 2007, 1 April 2009, and again on 14 September 2009.

Prior to the English language requirement being introduced to the Subclass 457 program on 1 July 2007, applicants were only required to demonstrate English language proficiency where required for licensing or registration in their nominated occupation.

On 1 April 2009, the requirement for English language proficiency was increased to a score of IELTS 5 overall (average across four components).

On 14 September 2009, the requirement for English language proficiency was increased to a score of IELTS 5 in each of the four components.

In the four years prior to the 1 July 2007 changes to the English language requirement, a total of 135,950 subclass 457 visas were granted.

In the four years prior to the 1 April 2009 changes to the English language requirement, a total of 193,790 subclass 457 visas were granted.

It is important to note that these changes to the English language requirement only apply to certain Subclass 457 visa applicants.

Subclass 457 visa primary applicants must meet the English language requirement unless they have been nominated for a position that does not require English language for licensing or registration and any one of the following exempted person categories apply:

- their first language is English and they are a passport holder from Canada, New Zealand, the Republic of Ireland, the United Kingdom or the United States of America
 - their nominated occupation is a highly skilled profession, including managers, administrators, professionals and associate professionals
 - they are to be paid at least a salary specified in a legislative instrument (currently \$85,090) or
 - they have completed at least five years of continuous full-time secondary and / or tertiary education at an institution where at least 80 per cent of instruction was conducted in English
- (2) Subclass 457 visa holders whose visas were granted on the basis of previous requirements for English language proficiency who wish to apply for a subsequent subclass 457 visa will be subject to the English language requirement in effect at the time their visa application is assessed.
- (3) The vast majority of subclass 457 visa applicants were not affected by the changes to the English language requirement outlined above. Many applicants for subclass 457 visas are in occupations for which they are required to obtain registration or licensing. For these applicants, the English language requirement they must meet is set by the relevant registration or licensing authority and is not affected by changes to the English language requirement in the *Migration Regulations 1994*. Some applicants may also access the exemptions to the English language requirement as outlined in the response to question one.

The Department has conducted analysis into the effect the change to the English language requirement would have on those applicants to whom the requirement in the *Migration Regulations 1994* is applicable.

Less than 5 per cent of onshore subclass 457 visa holders whose visas were granted prior to the English language requirement coming into effect on 1 July 2007 were affected by the most recent change in the English language requirement when it came into effect on 14 September 2009. If these visa holders who did not meet the English language requirement when they applied for their initial visa wish to apply for a subsequent Subclass 457, they will be required to meet the English language requirement of IELTS 5.

Some of these visa holders will have developed sufficient English language proficiency in English in their four or more years in Australia to pass the new English language requirement. Others may be nominated by their employer for the Regional Sponsored Migration Scheme, which currently has a lower English language requirement of IELTS 4.5, and an exemption to this requirement if exceptional circumstances apply.

There may be a small number of onshore Subclass 457 visa holders who are unable to meet the legislative criteria for the grant of a subsequent subclass 457 visa or alternative visa. In these cases, these visa holders may need to depart Australia. It is important to note that the Subclass 457 visa program is designed to allow employers to fill skills gaps on a temporary basis; when a Subclass 457 visa is granted, there is no guarantee that the visa holder will be able to stay beyond the term of the visa granted.

The English language requirement was raised in 2009 as part of a package of reforms designed to address the integrity issues associated with the Subclass 457 visa program highlighted by the business-led External Reference Group (ERG), the Subclass 457 Integrity Review conducted by Ms Barbara Deegan, and by the Skilled Migration Consultative Panel. The Subclass 457 Integrity Review found that temporary visa holders with English language skills are better able to:

- understand and respond to OH&S risks and practices in the workplace
- raise any concerns about their welfare with appropriate authorities
- benefit Australia by sharing their skills with other workers and
- participate more effectively in the Australian labour market.