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Skilled Regional Visa Transition Update



In the lead up to the introduction of the new Skilled Regional visas in November, Immigration has announced further details on the implementation dates for the 491 and 494 visas, and transitional arrangements for Subclass 489 and RSMS visas.

Lodgement deadlines

Most importantly, Immigration advises that the last date to be *invited* for a Subclass 489 Skilled Regional (Provisional) visa will be **10 September 2019**. The last date to then *lodge* an application based on an invitation would be 15 November 2019.

The last date to lodge a Subclass 187 Regional Skilled Migration Scheme nomination or visa through the direct entry stream will also be 15 November. Any direct entry RSMS nominations not finalised by 16 November will be **automatically withdrawn** unless the corresponding visa application has also been lodged.

The RSMS temporary residence transitional stream will remain open to certain 457 visa holders eligible through 'grandfathering' provisions, and those who held or had applied for a 482 visa prior to 20 March 2019.

Subclass 186 Employer Nomination Scheme (ENS) visa applicants will not be affected by these changes.

Regional Area Definition

The definition of 'regional Australia' will be simplified to include anywhere outside of Sydney, Melbourne, Brisbane, the Gold Coast, and Perth. Immigration will provide a list of postcodes to assist applicants to determine whether their area falls into the above metropolitan areas or if it is acceptable for regional migration.

Subclass 491 Skilled Work Regional (Provisional) visa

It will be possible to lodge an Expression of Interest for this visa from 16 November 2019, and States/Territories will also be able to nominate and invite applicants from this date.

This is designed to replace the Subclass 489 visa, with both the State/Territory and Family sponsored pathways available. This visa will be valid for 5 years, with a number of compliance conditions including the requirement for **all family members** to live, work and study only in a designated regional area, and to notify Immigration of any reportable changes within 14 days. Immigration can also ask visa holders to provide evidence of their activities or attend an interview. Failure to comply with these conditions can lead to visa cancellation and/or loss of a pathway to permanent residency.

Subclass 494 Skilled Employer Sponsored Regional (Provisional) visa

The Subclass 494 visa process mirrors the one for TSS applications as there needs to be a Business Sponsorship (or Labour Agreement), and a Nomination either approved or submitted before a visa application can be lodged.

From 16 November 2019, businesses with an existing SBS will be able to use this current sponsorship to nominate employees and lodge the corresponding subclass 494 visa application.

Nomination applications must include evidence that Labour Market Testing has been undertaken, as well as advice from a Regional Certifying Body confirming that the market rate is acceptable for the local area. A Skilling Australians Fund (SAF) levy is payable. Applicants must be less than 45 years of age, and hold a successful skill assessment at the time of lodgement.

Once granted, the visa will be valid for 5 years with the same regional compliance conditions as the 491 visa. Holders are also eligible for Medicare, so private health insurance is not required.

Visa holders will also be subject to a work limitation condition similar to the TSS visa, in that they are only able to work for their nominating employer. Should this employment cease, the holder has 90 days to find a new sponsor or to depart Australia.

Permanent residency pathway

Migrants who hold a Subclass 491 or 494 visas must remain on these visas in a regional area for at least 3 years before they can be considered for any other skilled visa. This includes applications for other GSM visas (189, 190), Employer Nomination Scheme, and Business visas. In addition, applicants are barred from applying for an onshore Partner visa until the 3-year residence requirement is met.

In order to be eligible for the Subclass 191 Permanent Residence (Skilled Regional) visa, applicants must meet the 3-year residence requirement, along with evidence that they have earned a minimum taxable income for three years as the holder of a regional provisional visa (amount to be confirmed) and have complied with the conditions of their 491 or 494 visa.

Amended GSM points test

The current GSM points test will be updated on 16 November, giving Skilled visa applicants additional points as follows:

- Nomination by state or territory government or sponsorship by an eligible family member to reside and work in a specified/designated area - **15 points** (currently 10)
- A Masters degree by research or a Doctorate degree from an Australian educational institution that included at least two academic years in a relevant STEM field - **10 points** (currently 5)
- Partner skill qualifications - **10 points** (currently 5)
- Partner with competent English but not eligible for Partner skill qualifications points - **5 points**(currently nil)
- Single applicants (no partner) - **10 points** (currently nil)

Our Advice

Migrants interested in applying for the Subclass 489 visa must ensure they are able to lodge an EOI as soon as possible, as there are now only 2 months remaining for his visa pathway (invitations must be issued by 10 September 2019). This includes having a positive skill assessment and competent level English at minimum.

Many skill assessing bodies and state nomination bodies have lengthy processing times, so it is vital to check if the 10 September deadline is realistic. We urge potential applicants to book a consultation appointment as soon as possible to determine the best way forward.

Similarly, migrants and businesses interested in a direct entry RSMS visa should immediately start looking at the RCB, Nomination, and Visa application requirements. Regional Certifying Bodies often have different or additional requirements to those set out by Immigration, including the need for Labour Market Testing (advertising the role) in set locations and for set periods of time.

People interested in the new 491 or 494 visa can start work on skill assessments and English language testing now, with a view to preparing an application shortly after the commencement date.