

Mobility: Immigration alert

May 2023



Australia

Outlining a new skilled migration strategy

Executive summary

The Australian government has responded quickly to the landmark report of the Review of the Migration System publishing an [Outline of the Government's Migration Strategy - A Migration System for a More Prosperous and Secure Australia](#).

The Outline is closely aligned with the Review's recommendations and several key reforms will be implemented in the near future. Business will have the opportunity to participate in consultation on other elements of the reform program during May and June 2023. A final migration strategy will be released later in 2023.

EY considers that this reform program is long overdue and that the proposed reforms will support Australian businesses attract and retain global talent. The proposals are generally consistent with EY's submission to the Review, [A resilient and competitive migration strategy](#).

The reform program is based on several new key strategic directions, particularly:

- a new three-tiered risk based temporary skilled visa framework
- an evidence-based approach to identifying labour market need in place of occupation lists
- a tripartite approach creating formal roles for industry and unions as advisors to government
- addressing exploitation including removing systems that create cohorts of permanently temporary migrants

EY's view is that while radical change has not been proposed, these reforms will significantly improve the skilled migration framework. The full program of reform will be implemented over a phased process.

Initial reforms

Temporary Skilled Migration Income Threshold increase

The Temporary Skilled Migration Income Threshold [TSMIT] will be increased to AUD70,000, exclusive of superannuation. At this stage there is no commitment to annual indexation of the TSMIT.

EY understands that the new TSMIT will apply to permanent and temporary applications lodged on and after 1 July 2023. We will seek assurance of this and make representations that the increased TSMIT should not be imposed on pending applications lodged before 1 July 2023.

Remuneration of existing visa holders will not need to be adjusted to meet the new TSMIT. However, employers should consider their pipeline of candidates and visa applications to assess whether or not an adjustment to the salary offered is advisable. The scheduled increase to the superannuation guarantee rate on 1 July 2023 to 11% also needs to be taken into consideration.

Permanent residence pathway for all sponsored employees

EY welcomes the announcement of a pathway to permanent residency for all temporary skilled workers by the end of 2023. We have made the case for this return to previous policy since the short-term occupation list was created.

During the consultation period EY will also recommend that arrangements are in place to ensure employees on short-term stream temporary visas can remain in Australia until the new permanent residence pathway is open.

Evidence-based approach to identifying labour market need – an end to occupation lists?

The Government has committed to establishing a formal role for [Jobs & Skills Australia](#) in identifying Australia's skills needs using labour market evidence, including advice from industry and unions through formal tripartite mechanisms. It is expected that occupation lists will be replaced over time by a list of skills in need. Delinking the migration system from the outdated Australian and New Zealand Standard Classification of Occupations [ANZSCO] will be a welcome reform.

Temporary skilled migration

New three-tiered temporary skilled visa framework

EY welcomes the concept of a risk-based approach to temporary skilled migration which is expected to result in a more efficient system. A three-tiered framework has been proposed for consultation:

1 *Streamlined pathway for highly specialised, highly skilled and highly paid workers*

This pathway is intended to provide a fast and simple process for skills needed to drive innovation and generate employment. EY supports this proposal and anticipates it will provide efficient processing for intra-company transfers and senior hires. It is likely that labour market testing will either be simplified or not required and occupation or skills lists may not be relevant. The salary threshold is yet to be determined.

2 *Mainstream pathway for workers with skills identified as in demand and earning above the increased TSMIT*

The Outline describes this as the pathway to bring in the core skills Australia needs 'using an improved approach to determining which skills we really need – doing away with outdated, inflexible occupation lists'. EY will make representations that labour market testing should not be retained for this pathway given the commitment to implementing a robust, tripartite evidence-based approach to identifying labour market need.

3 *Essential industries pathway for lower paid and lower skilled workers*

This highly regulated pathway is intended to support industries with recognised persistent labour-shortage such as the care sector. It will be developed and supported by tripartite arrangements with a focus on worker protections including post arrival monitoring. Current arrangements for lower skilled labour migration such as industry labour agreements may be replaced with or folded into 'industry sponsorship'.

Labour market testing

The Review recommended labour market testing be removed. The Government has expressed agreement with the view that labour market testing processes are complex and ineffective but is yet to provide definitive responses to this recommendation.

Integrity and compliance

The following recommendations to 'design-out' migrant worker exploitation have received in principle support from Government:

- greater flexibility to allow temporary migrants to move employers more easily
- provide migrant workers with targeted training on workplace laws and conditions
- employers of temporary visa holders to register through a light-touch process and those with a history of serious workplace breaches would be deregistered and ineligible to employ visa holders
- improved post-arrival monitoring and compliance enforcement including through coordination with the tax system
- employer fees and charges to be paid monthly, rather than up-front, to facilitate mobility between employers and increase access for small business

EY notes that while the proposal to pay fees and charges monthly may support smaller businesses, other businesses with a large mobility population may prefer to pay upfront to manage administration costs.

Visas for innovation – Global Talent and Business Innovation & Investment Program

The Global Talent program will be radically reshaped to improve clarity in the selection criteria. Consideration is also being given to removing the need for a nomination. The Business Innovation & Investment Program will also be radically reshaped and simplified.

Independent points tested migration

The points test will be recalibrated to better to select migrants who will make the greatest long-term economic contribution. It is anticipated that additional points will be awarded for skilled spouses and points for age will be more granular. EY will continue to recommend that the current system of preferencing candidates who persevere along on a linear career path should also be modified.

Student visa program

The student visa program has received particular attention in the Review and the Government's response as overseas students and recent graduates on temporary visas are both a significant cohort of prospective permanent residents and vulnerable to workplace exploitation. Policy reforms are expected to be designed in consultation with the education sector to:

- ensure that all international students are genuinely travelling to Australia to study, rather than work, including by tightening requirements for student visas and strengthening the quality assurance of education providers
- provide faster pathways to permanent residence for skilled graduates in areas of identified need

System-wide reforms

Ending permanent temporary residence

In addition to providing clear pathways to permanent residence for temporary skilled visa holders, other reforms will be implemented to ensure that all temporary visa holders have clarity on their prospects for permanent residence.

New approach to Migration Program planning

EY supports proposals to:

- replace annual planning of the size and composition of the program with long-term planning
- replace the reliance on setting permanent migration caps alone with planning based on net overseas migration accounting for both permanent and temporary residents
- plan the migration intake with State and Territory governments and align investments in infrastructure, service provision and housing

Improving participation and productivity

The Government is committed to improving post-arrival outcomes and participation of all migrants particularly women. As identified by the Productivity Commission, streamlined skills recognition processes will better support migrants enter the labour market at a level commensurate with their qualifications.

Next steps

EY will keep you informed when information regarding opportunities to participate in the consultation process is available. We will also engage constructively with the consultation process to advocate for:

- assurance that the increased TSMIT will not be imposed on pending applications lodged before 1 July 2023
- arrangements to ensure employees on short-term stream temporary visas can remain in Australia until the new permanent residence pathway is open
- opt-in monthly payment of employer charges and fees
- rapid progress on replacing multiple skilled occupation lists
- removal of or more flexible and commercially appropriate labour market testing
- retaining uncapped temporary skilled migration
- employer compliance measures that effectively address exploitation while avoiding an undue administrative burden on reputable businesses

If you wish to discuss participating in consultations or other issues discussed in this alert, contact your EY advisor.

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EYG no. 004148-23Gbl

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