

### Key Points

- Australian Government will reform 457 visa
- Relaxing of English language requirements
- Maintain the minimum salary threshold
- 'Streamlining' of processing of applications to ensure resources are focused on 'high risk' applications
- Closer collaboration between Department of Immigration and Border Protection, the Australian Taxation Office and Fair Work Commission to detect non-compliance

### Background

In September 2014 an independent review into the 457 visa (**Review**) commissioned by the Australian Federal Government published its recommendations on ways in which the visa could be improved for workers and employers. On 14 October 2014 the Government released its response to the Review.

The 457 visa allows skilled foreign workers to relocate to Australia temporarily where an Australian employer cannot find a suitable candidate for the position in the domestic labour market. It is one of the most common means by which foreigners are able to move to Australia for work. It is also one of the most controversial. This is because of the tension that exists between the need to ensure Australian employers have access to skilled foreign employees where there is a skills shortage, on the one hand, and the necessity to ensure that Australians are not being overlooked for positions for which they are qualified, on the other.

The 457 visa is important for our Spanish clients as it represents one of the key ways in which Spanish employees can be transferred to Australian subsidiaries or allied companies.

### Government Response

The Government has indicated that it will implement the following amendments in response to the Review's recommendations:

- A relaxation of the English language requirements. The Review recommended that the current requirement – for a score of at least 5 across all sections of the IELTS test – be relaxed to a requirement that the applicant can achieve an average of 5 across the whole test. The Government has not specified the precise manner in which the requirements will be relaxed, however it would seem relatively safe to assume that the methodology suggested in the Review will form the basis of any reform;

- The minimum salary of a 457 visa holder, the Temporary Skilled Migration Threshold (**Threshold**) be maintained at AU\$53,900 per annum (approximately €37,000). This is the minimum salary a 457 visa holder may be paid whilst in Australia. (There will remain a requirement that all 457 visa holders be paid the market rate for their position). The Government has said that it will maintain the Threshold at its current level for the next two years;
- The introduction of a 'streamlining' process. This will allow the Department to examine some applications with greater scrutiny than others. The criteria will include the size of the nominating company, its sanction history, the duration for which it has been an approved sponsor and the occupation that is the subject of the nomination. It is unclear at this stage whether the Government will adopt the methodology suggested in the Review, however it has said that it will focus on the applicant, which could mean that applicants from low-risk countries (including Spain) may benefit from faster processing times;
- Encouraging a closer collaboration between Government departments to ensure instances of non-compliance are identified. This will mean that 457 visa holders may be subject to more onerous reporting requirements

Perhaps significantly, the Government has not yet commented on the Review's recommendation that the requirements for a transition from the 457 program to permanent residency be relaxed. This may mean that attaining permanent residency in Australia will remain a time-consuming and complex process for 457 visa holders.

### What Does This Mean for Spanish Workers?

The Government's response to the Review represents a positive outcome for Spanish nationals hoping to relocate to Australia temporarily. It means:

- the English language test should be easier to pass;
- a guaranteed income for successful applicants of at least AU\$53,900 per annum; and
- a potentially faster application process.

It is important to note that these changes have not yet been made into law. We will continue to monitor these developments and update our clients accordingly.