



Frequently Asked Questions for the international education sector regarding the changes in the General Skilled Migration program – January 2010

On 8 February 2010 the Minister for Immigration and Citizenship, Senator Chris Evans, announced changes to General Skilled Migration (GSM) in response to the outcomes of the Migration Occupations in Demand List (MODL) review. The Government has revoked the MODL and will replace the Critical Skills List (CSL) and the Skilled Occupations List (SOL) with a new SOL formulated by Skills Australia in the second half of 2010.

For detailed information about changes to migration, go to www.immi.gov.au.

Answers to some frequently asked questions are provided below for international students and Australia's international education sector.

When do these changes take effect?

Immediately. The MODL has been revoked as of 8 February 2010. Skills Australia is working on the new SOL, which is expected to be announced in April 2010 and take effect from mid-2010. The CSL will be revoked when the new SOL comes into effect.

Will these migration changes affect international students currently undertaking study in Australia?

No. This is a decision made to enhance Australia's migration program to better assist in meeting Australia's labour force needs. Any changes to the criteria for the grant of a General Skilled Migration visa would not affect student visa conditions.

Will Australian qualifications still earn points for GSM?

Skills Australia (www.skillsaustralia.gov.au) is formulating a new SOL, which the Department of Immigration and Citizenship (DIAC) will use to inform the GSM process.

Will applications for a Skilled Temporary – Graduate (subclass 485) visa be affected by the changes to the Skilled Occupation List announced by the government?

If a student lodges an application for a subclass 485 visa before the new SOL commences in mid 2010 the application will not be affected. The application will be processed under the arrangements and legislation in place at the time it was lodged.

If a student applies for a subclass 485 visa after the new SOL commences in mid 2010 and did not hold a student visa subclass 572, 573 or 574 on 8 February 2010, the application will be subject to the new SOL.

If a student applied for a Skilled Temporary – Graduate (subclass 485) visa before 8 February 2010 can that student, when it is granted, apply for a permanent General Skilled Migration visa?

Yes. Students can apply for a permanent GSM visa and nominate an occupation which is on the SOL at 8 February 2010. Students will not be subject to the new SOL provided they apply for a permanent GSM visa before 31 December 2012.

If a student applied for Skilled Temporary – Graduate (subclass 485) visa on or after 8 February 2010 can that student, when it is granted, apply for a permanent General Skilled Migration Visa?

Yes. However, students applying for a permanent GSM visa after mid 2010 will need to nominate an occupation that is included on the new Skills Occupation List (SOL). If the nominated occupation is not on the SOL then students may wish to seek sponsorship from an employer and apply under the Employer Nomination Scheme (ENS) and Regional Sponsored Migration Scheme (RSMS) visa categories.

If a student holds a vocational education and training/higher education/postgraduate research student visa can that student, after completion of studies, apply for a Skilled Temporary – Graduate (subclass 485) visa?

Students will be able to lodge a Temporary Skilled – Graduate (subclass 485) visa application when they complete their studies if the nominated occupation is on the SOL that existed before mid-2010, provided they satisfy other visa criteria and hold a:

- Vocational Education and Training Sector (subclass 572) visa;
- Higher Education Sector (subclass 573) visa; or
- Postgraduate Research Sector (subclass 574) visa.

The application must be lodged before 31 December 2012.

What skilled migration pathways are available to international graduates?

International graduates still have a number of pathways to skilled migration available to them. These include:

- the General Skilled Migration independent categories;
- the employer-sponsored categories; and
- the state-sponsored categories.

In addition to the Permanent Migration program there are a number of temporary migration arrangements that include a work right available to international graduates.

When will occupations on the new SOL be known?

The new SOL will be announced in April 2010 and will take effect in mid-2010.

Do holders of Skilled Temporary – Graduate (subclass 485) visas have to leave Australia when their visa expires?

Yes, unless the graduate holds another visa to remain in Australia.

Can students get a new skill assessment in a different occupation from the occupation nominated in their subclass 485 visa in order to lodge a permanent GSM application?

Yes. Students can nominate an occupation in their permanent GSM application that is different from their subclass 485 visa. Students must also ensure that they meet all other requirements for the visa class for which they have applied. It is important to note that qualifications obtained in Australia must be closely related to the new nominated occupation.

When applying for a permanent GSM visa, can students change the nominated occupation stated on their current subclass 485 visa if that occupation is not on the new SOL?

Yes. The qualifications obtained in Australia must, however, be closely related to the new nominated occupation.

After completing studies in Australia, can students go offshore and get work experience and then apply for an offshore GSM visa?

Yes, if students' nominated occupation is on the new SOL they can apply for an offshore GSM visa. They will, however, need to satisfy all other criteria to be granted a GSM visa. All applicants are encouraged to carefully consider whether or not they meet the criteria for a visa prior to making an application. More information on visa criteria is available at www.immi.gov.au.

Can students change their course of study if the occupation they intended to nominate is not on the new SOL?

Students are encouraged to undertake study in a field they intend to work in once they graduate. It is strongly advised that students do not undertake studies with the sole purpose of obtaining a migration outcome. The student visa process is an entirely separate process to skilled migration and there is no guarantee that a student will be eligible for skilled migration purely on the basis of having undertaken a course related to an occupation on the SOL. The SOL can, and does, change in light of labour market needs in Australia. There is no guarantee, therefore, that if a student switches courses now, that their new nominated occupation will remain on the SOL at the time he or she completes their studies.

The Australian Government wants a targeted, high-value, demand-driven, skilled migration program that is responsive to the needs of the Australian labour market. As these needs change rapidly, the skilled migration program will be adjusted accordingly.

Students who wish to change their course of study prior to the completion of the first six months of the principal course of study may be required to obtain a letter of release from their education provider. In a package of courses the principal course is usually the final course of study undertaken. Students are therefore advised to discuss any plans to transfer courses with their education provider in the first instance. Students need to be aware that a transfer of provider will not necessarily exempt students from their obligation to pay fees to their current provider. Students are advised to refer to their student/provider agreement for an outline of their obligations in regard to fees and any refund provisions which may apply. A change of providers may also have visa implications. Students should seek advice from DIAC before transferring to another provider.

What do these changes mean to those who were planning to study in Australia?

The changes to the GSM program announced by the Australian Government do not affect the requirements a student must meet to study in Australia.

On completion of study in Australia students may wish to apply for a visa to enable them to remain in Australia and work. This is an entirely separate process from student visa arrangements.

More information on obtaining a student visa to study in Australia is at:

www.immi.gov.au/students

Will the changes affect the current Tuition Assurance Arrangements – the Schemes and the Fund?

The Government has a comprehensive suite of protection mechanisms to safeguard the interests of overseas students under the Education Services for Overseas Students Act 2000 (the ESOS Act), which remains in place. There are three layers of protection:

- If the provider defaults, the provider carries the initial responsibility to place students in an alternative place or pay them a full refund.

- If the provider is unable to meet this obligation within a reasonable time, DEEWR will refer the matter to a Tuition Assurance Scheme (TAS) to arrange places for the students.
- In instances where the TAS cannot place students in a suitable alternative course within 28 days, they will be referred to the ESOS Assurance Fund and placed in a suitable alternative course or provided with a refund.