Skilled Migration Points Tests Applying from 1 July 1999

By David Bitel

Over the last few years Australian governments have entrenched skilled migration as a central feature of Australia's migration program.

From 1 July 1999 five new points tested migration categories have come into effect. These replace the previous points tested skills based categories.

The present government, since it came to power in March 1996, has expressed itself strongly in favour of enhancing the skills based migration categories at the expense of non-skilled family sponsored categories. A review of the previous points test conducted in 1997/1998 resulted in recommendations to the Minister which have been incorporated in the new visa categories.

The intention of the new points test is to enhance the selection process to ensure that migrants will be able to gain employment on arrival and thereby make a positive contribution to Australia's economy. The points test maintains the focus on age, skills and English language ability which existed in the previous points test, but changes substantially the structure of the points test to maximize the ability of younger English speaking skilled migrants to pass. It contains other new features which are described below.

The new points test contains core criteria which must be met as a prerequisite of eligibility. These are:

a) Skills

The points test incorporates the new concept of the Skilled Occupations List ("SOL"). An applicant must nominate his or her skilled occupation. An applicant whose occupation does not appear on the SOL can not apply. The list incorporates only occupations which have skill level requirements in Australia of a degree, diploma or trades certificate, based on the ASCO Dictionary, (the Australian Standard Classification of Occupations), although not all such occupations are in fact listed. Notable exclusions include some business professionals (e.g. manufacturers, wholesalers, exporters and farmers), artists and people involved in artistic pursuits, most occupations in the hospitality and tourism industry and agricultural professionals. Applicants must have either at least 12 months in the recent 18 months for 60 point occupations (see below) or 24 months in the recent 36 months post qualification work experience in the nominated skilled occupation for 40 or 50 point occupations 9see below), (previously, 6 months was acceptable), although this requirement will be waived for applicants who have completed an Australian qualification (at associate diploma level or above) involving at least 12 months full time study in Australia in the six months immediately before their migration application has been lodged. A concessionary period of mandatory employment experience applies to applicants for regional sponsored visas. In a major departure

from the previous regime, **all** applicants must have a skills assessment for the occupation **before** the application is submitted by a prescribed professional or trade organisation in Australia otherwise no valid migration is made. Further, if qualifications are not assessed as suitable for Australian standards for the occupation, the application will not be successful. One consequence of this change will be to hopefully result in more expeditious migration processing after the application has been submitted.

b) Age

All applicants must be under 45 at the time of lodging the migration application. There is no exception to this rule.

c) English Ability

All applicants must be proficient in English at the vocational level which is defined as evidenced where an applicant achieves a score of 5 or better in each of the 4 subtests of the International English Language Testing System ("IELTS") general module test. This is a different level to that which previously applied where vocational English was met where an applicant secured an average of 6 or better based on the 3 best of the 4 test results. Although not mandatory, applicants are encouraged to submit the IELTS test result with the migration application. An IELTS result remains valid for 12 months from the date of test. For applicants applying for the Skilled-Regional-Sponsored visa, a lower functional level standard may be acceptable in some situations. Note, that for regional sponsored visas a lesser level of English language ability is accepted.

The New Points Test

Having met the 3 above requirements, applicants must then pass the points test. Points are allocated in addition to the 3 core factors of skill, age and English language ability for 5 additional factors where the application is for a Skilled (Independent) visa (Visa Subclasses 136 or 137) and 6 factors where the application is for one of the 2 Skilled Australian sponsored categories 137 or 138. The current pass score for all of the visa classes is 110. The pool entry for independent visa class is 70 and the pool entry for the family sponsored category is 105. The scores may change. Note that as previously, applicants are assessed against the score in effect at the time of decision and not application.

Within these categories, points are allocated as follows:

a) Skills

The structure is completely new. Now, 40, 50 or 60 points are allocated depending on the occupation nominated by the applicant as prescribed in the SOL. Generally, 40 points are allocated for occupations which have diploma skill level requirements, 50 points for occupations with degree qualifications but are considered general occupations and 60 points for occupations which require degree or trade level qualifications and specific knowledge or training.

b) Age

The same points are allocated for age as were allocated under the previous points test namely 18 to 29 = 30 points; 30 to 34 = 25 points, 35 to 39 = 20 points and 40 to 44 =15 points.

c) English

Applicants who score 5 or better in each of the four IELTS subtests are allocated 15 points. 20 points are allocated for applicants who score 6 or better in each of the 4 subtests.

d) Work Experience

5 points are allocated for applicants who have been employed in a skilled occupation which is listed on the SOL for 3 out of the 4 years prior to application and 10 points are allocated where the applicant has nominated an occupation which attracts 60 points under the skills factor and have worked in that occupation or a closely related occupation for 3 of the 4 years prior to application.

e) Occupational Targeting

5 points are allocated for applicants who have recognised skills in the nominated occupation, on the new Migration Occupations in Demand List ("MODL"). There are currently only 20 occupations listed, being:

Occupation	ASCO 2 Code
Managers and Administrators	
Information Technology Managers	1224
Child Care Co-ordinators	1295
Professionals	
Electronics Engineer	2125-13
Accountants	2211
Computer Professionals in the following specialisations: Oracle, SQL Server, Java, Java Script, C++, Cisco Certified Professionals (CCPs), Advanced Web Design, E- Commerce, SAP, PeopleSoft (enterprise based multiple applications	2231 (part)
Nurse Managers	2321
Nurse Educators and Researchers	2322
Registered Nurse	2323
Registered Midwives	2324
Registered Mental Health Nurses	2325

Occupation	ASCO 2 Code
Registered Developmental Disability Nurses	2326
Hospital Pharmacist	2382-11
Retail Pharmacist	2382-15
Medical Diagnostic Radiographer	2391-11
Radiation Therapist	2391-13
Sonographer	2391-17
Associate Professionals	
Chefs (excluding Commis Chef)*	3322 (part)
Tradespersons	
Refrigeration and Airconditioning Mechanic	4312-11
Pastrycook	4512-13
Cabinetmaker	4922-11

*Chefs would normally be expected to have a relevant trade level (or higher) qualification, and at least 3 years relevant experience following the completion of that formal qualification.

A further 5 points are awarded to applicants who have a genuine job offer of full time employment in an occupation listed in the MODL by an Australian employer whose business meets certain minimum standards of size.

f) Australian Qualifications

5 points are awarded where the applicant obtained a diploma, trade qualification or degree from an Australian educational institution after a period of at least 12 months full time study in Australia and 10 points if the degree was a PhD.

g) Bonus

5 bonus points will be allocated if the applicant satisfies one of the following:

(i) 6 months of work experience in Australia in a skilled occupation within the previous 4 years, provided the applicant held a substantive visa at the time of undertaking the work experience.
(ii) Evidence that the applicant has deposited at least $100 000 Australian in a designated government investment for at least 12 months; or
(iii) Evidence of language fluency in a designated community language, either by proving that the applicant completed a University degree in that language or by having recognition of language ability by NAATI after completing a very difficult test.

h) Spouse Skills

5 points are awarded where the applicant also meets the above described requirements for skills including work experience and vocational English language ability described above and is under 45.

i) For the skilled Australian sponsored category 15 points are now allocated where the applicant has an Australian sponsor who is a parent, non-dependent child, brother or sister, aunt or uncle and where the applicant is sponsored by a relative who has been residing for at least 12 months in a designated part of Australia, a first cousin or grandparent.

The new visa program also contains a requirement for all Skilled Australian sponsored applicants to lodge a mandatory assurance of support at the time of application. A bond of $3,500 for the main applicant and $1,500 for each additional adult applicant included in the application must be paid before final approval. There are new strict requirements imposed in relation to evidencing the ability of the assurer to meet his or her obligations.

An analysis of the new regime highlights the difficulties that applicants coming from countries where English is not the first language will have in meeting the points test. Not only do such persons have the structural problem that their qualifications are frequently not recognised, but such person will also have difficulty meeting the mandatory English language requirement.

Whilst appeal rights will continue to applicants refused for the Skilled-Australian sponsored visas, no such rights apply in respect of applicants refused the Independent Skilled visas. The new regime however places a critical importance on applicants having their qualifications assess prior to the lodgment of the migration application by the relevant assessing authority. It may well be that appeal rights will lie against refusals by these authorities who may find that they have swallowed a bitter chalice by accepting the government's tender to assess qualifications of intending migrants.

The new system highlights the importance of ensuring applications for skilled recognition are properly completed. Fortunately, applicants will not lose their migration filing fee if qualifications are not recognised as was previously the case, as they will have not reached the stage of lodging a migration application.

It will be interesting to see whether the new regime leads to a downturn in the number of applicants applying. It may be anticipated that, initially at least, many people will be put off by the obligation to have qualifications pre-assessed. On the other hand, the new system represents a great bonus to overseas students who have legitimately completed courses of tertiary study in Australia. Provided such applicants lodge their applications within 6 months of completing their course they have a good chance of securing recognition of their qualifications for migration purposes, and also passing the points test. However, it must be remembered that the visa applications must be lodged offshore and can not be lodged in Australia. Further, applicants will not be granted bridging visas whilst the migration application is being processed and it will therefore be necessary for the applicants to maintain their lawful status in Australia by pursuing further studies or through some other legitimate

means whilst the migration application is being processed. This becomes particularly important, having regard to the enhanced rules relating to good character which came into effect on 1 June 1999 and permit the refusal or cancellation of visas of applicants who are deemed not to be of good character. In addition, the applicant must be offshore to be granted the visa.

Separate processing streams have been established at overseas posts for applicants applying under the new skilled-based programs. The Department's published statistics indicate in the first 12 months of the operation of the new system since 1 July 1999, 1189 primary visas have been issued for the 136 sub category and 84 for the 138 sub category. The average processing time was 15 and 21 weeks respectively for these new visa classes. During the same period 5912 primary visas were issued for the former independent skilled (subclass 126) visa and 2742 visas for the independent Australian linked (subclass 105) visas with average processing times 52 weeks and 67 weeks respectively.

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