

Workers on 457 visas - market salary rates

On 14 September 2009, important changes to salary requirements for workers on 457 visas were introduced. These changes are designed to ensure that workers on 457 visas receive the same wages and conditions of employment as Australian workers doing the same job at the same workplace.

What does this new requirement mean?

Employers must provide workers on 457 visas with wages and conditions of employment no less favourable than those provided to Australian workers doing the same work at the same workplace. [Market rates includes salary and any penalties, allowances leave provisions or other conditions provided by the employer.](#)

How do I know what the market salary rate is?

The market salary rate is the wages and conditions that the employer currently provides to Australian workers doing the same work in that workplace. These wages and conditions of employment may be set by an award, collective agreement or common law contract.

What if there are no Australian employees doing the same job?

If there are no Australian employees doing the same work at the workplace, the employer must identify the market rate. They may refer to an applicable award or agreement, or if necessary, to remuneration surveys or earnings data. The Department of Immigration and Citizenship must be satisfied that the rate nominated by the employer is fairly set.

Does this mean some workers already on 457 visas could have their salaries reduced?

If the market salary rate is below the current applicable Minimum Salary Level (MSL), then employers must continue to pay existing workers on 457 visas the MSL for the duration of their visa.

A Temporary Skilled Migration Income Threshold (TSMIT) of \$45 220 has been introduced, which will be indexed. New visas will **not** be granted where the market rate is below the TSMIT.

So employers need to pay at least the TSMIT?

No. Employers need to pay workers on 457 visa holders the market salary rate: that is, the same pay and conditions of employment as they provide to Australian workers doing the same work at that workplace (or the MSL during the transitional period.)

The TSMIT has no bearing on what an employee should be paid. However, 457 visas will not be granted in relation to positions for which the market rate is below the TSMIT.

How will the new market rates requirement affect workers already on 457 visas?

For people who held a 457 visa on 14 September 2009:

- Where the market salary rate is **below** the current applicable minimum salary level (MSL), the employer must continue to pay at least the MSL for the duration of the existing visa.
- Where the market salary rate is **above** the current MSL, the employer must start paying their workers on 457 visas market salary rates by 1 January 2010. Until then, they must pay at least the MSL.

What is the Minimum Salary Level (MSL)?

The MSL will have a transitional role only. Workers will receive at least the MSL during the transition to market salary rates. The MSL will also ensure no worker already on a 457 visa is worse off.

There are five applicable minimum salary levels, depending on the circumstances surrounding the grant of the current visa. For most 457 visa holders the applicable MSL is \$45 220 per year. The MSL is higher for ICT professionals and for those granted visas on the basis of an English language exemption. Workers on 457 visas needing clarification of which MSL applies should contact the Department of Immigration and Citizenship on 131 881.

For more information on reforms to the 457 visa programme or other visa issues, contact your union, the ACTU on 1300 362 223 or:

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Disclaimer: This fact sheet has been prepared by the ACTU for general information purposes only. It summarises complex legislation. Detailed information on immigration requirements can be found at the Department of Immigration website: www.immi.gov.au.

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