

Review of *457 Visa Law: Addressing Australia's Skilled Labour Shortage*

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Title & Edition: *457 Visa Law: Addressing Australia's Skilled Labour Shortage*[†]

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1. Introduction

It is evident from the outset that Maria Jockel has an intimate knowledge of migration law and policy and the 457 visa program. Unfortunately the timing of the book's release would have been somewhat eclipsed by the sudden economic downturn faced by Australia.

There is significant reference to immigration policy and it must be pointed out that the lay person does not have ready access to this policy unless they are paying subscribers to systems such as *LegendCom* or *Lexis Nexis*. For a practitioner in the 457 visa area however, this book provides an invaluable resource as it is packed with references to the *Migration Act*, relevant Regulations, case law and immigration policy. One must take note of the author's acknowledgement in the Introduction which counsels the reader about the codified and ever changing nature of migration law and directs the reader to go to the source for more detail. Whilst there is no dearth of detail, the main issue is the currency of the detail, especially in the face of the recent changes to the 457 visa law and with more to come.

There is a logical sequence to the book, which although not structured so, could be said to be broadly divided into three parts. The first part deals with an introduction to the migration program, relevant legislation, case law and immigration policy. The second part is devoted to the 457 visa program and the different pathways within that program. The third part concentrates on the visa applicant, the monitoring aspects of the program and employer sanctions. Every topic is loaded with a plethora of legislative references, policy and case law which serve to elucidate this complex area of migration law.

2. Discussion

Maria Jockel is a lauded immigration lawyer who has earned a place in the *Who's Who of Corporate Immigration Lawyers* (2008) and *Best Lawyers International: Australia* (2008). She sits on the National Immigration Specialisation Committee for Immigration Law and is a member of the Executive Committee, International Law Section, Law Council of Australia.

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In this book, she brings together all aspects of the 457 visa program in a comprehensive and user-friendly manner.

The first six chapters of the book introduce the reader to Australian migration law and the role of policy and case law within that framework. The next couple of chapters provide a broad overview of the 457 visa and from there on the reader can expect in-depth information and analysis of the 457 visa program.

The book presents a logical progression through all stages of the program namely sponsorship, nomination, monitoring, and the assessment of the visa application. Each topic is dissected with the skill and meticulousness of a scientist.

At the sponsorship stage, the author examines in great depth, the requirements for sponsorship approval – both legislative and evidentiary. Case law and policy have been effectively used to clarify any potentially grey areas. The author has also analysed the training or new technology or business skills requirement methodically and once again has used both policy and case law in this analysis. The author continues seamlessly into the next chapter that deals with the sponsor's undertakings.

Just prior to commencing the next step in the 457 visa process, namely nomination of the position, the author provides the reader with information on Condition 8107. This is a visa condition which would have been more suitably addressed after the chapter on visa assessment and grant, rather than at this stage. However, Ms Jockel leaves no stone unturned in the information she provides and admirably covers the key scenarios that would construe a breach of this condition.

Business Activity Nomination is a small but key part of the 457 program. The author has provided satisfactory detail on the requirements of this part. She has also discussed regional nominations in some detail, throwing valuable light on the role of the Regional Certifying Bodies (RCB) and the key criteria considered when making a determination on whether a position is suitable for regional approval.

The monitoring and sanctioning aspects of the 457 program are a combination of complex areas of law and detailed policy. It is not surprising therefore that the author has provided a robust discussion of this topic calling on a vast number of information sources to provide the reader with a clear understanding of obligations and expectations in this area. In discussing the issue of sanctions, Ms Jockel draws heavily on policy, and by now the reader expects, and is rewarded by excellent coverage on this topic.

When reading the chapter of the Assessment of the Visa Applicant, the reader must take into consideration that there have been major changes to skill and English language requirements, with more to come. That being said, the structure of the visa application process remains the same and the author delivers this with her trademark thoroughness.

At this point the author, unsurprisingly, moves into the realm of compliance with visa conditions and visa cancellations under various cancellation powers written into the *Migration Act*. The author also briefly touches on electronic lodgement of sponsorship, nomination and visa application. The final few chapters deal with the *Migration Amendment (Employer Sanctions) Act 2007*, compliance issues and checking work rights.

3. Evaluation

Without a doubt, Ms Jockel has taken an extremely complex area of migration law and through the use of plain English, departmental policy and case law, has put together a valuable source of information on 457 visa law. Although the book is more suited to practitioners in the area, it would provide human resource personnel with insight into the program and its legislative requirements.

All this information however comes at a high price and if one were to invest in the book, it would be mainly to acquire a handy reference guide to direct the user to the relevant legislative references on a specific issue. At the end, the most accurate and up-to-date information lies at the source, as acknowledged by the author herself.

4. Summary

457 Visa Law: Addressing Australia's Skilled Labour Shortage is a handy and in-depth compilation of the 457 visa program and directs the reader to the relevant legislation, policy and case law on the subject. Maria Jockel shares with her readers, her wealth of knowledge and experience in the area and this is presented without too much legal jargon, making it easy to read and understand.