

ARE YOU OVER 49 YEARS OF AGE?

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A new points test under General Skilled Migration took effect on 1 July 2011. The pass mark has been decreased to 65 points. However, points will no longer be awarded for the nominated occupation but both the nominated occupation and recent work experience must be listed in the same schedule of the relevant Skilled Occupations List (SOL) at the time of application.

Under the new points test, the age limit of principal applicant at the time of application has been increased from 44 to 49 years of age. However, no points will be awarded to those aged 45 to 49.

According to the Explanatory Statement issued by the Minister for Immigration and Citizenship, *“The amendment recognises that in many professions, experience and time plays a significant factor in an applicant’s capacity to obtain occupational expertise”*.

Before the amendment, if you were 45 years of age or over, you were disqualified from applying under General Skilled Migration. Now, it is only when you turn 50 years old or over that you no longer qualify to apply under General Skilled Migration.

Notwithstanding, if you find an eligible employer who is willing and able to employ and sponsor you, even if you are 50 years old or over, you may still apply for an employer sponsored visa such as temporary working visa up to four years, or permanent resident visa under the Employer Nomination Scheme (ENS) or the Regional Sponsored Migration Scheme (RSMS) *under exceptional circumstances*.

There is no definition of *“exceptional circumstances”* under the Migration Act or Regulation. However, the Migration Policy provides certain guidelines to DIAC case officers when determining whether applicants who are over 45 years of age fall under *“exceptional circumstances”*.

The Migration Policy guidelines are accessible to most migration agents and it is suggested that you consult a registered migration agent who has experience in regard to what evidence are required to demonstrate exceptional circumstances, to minimise the risk of visa refusal.

This information is of a general nature and should not be taken as authoritative legal advice for specific cases. Australia has a scheme that requires persons who give immigration assistance to be registered as migration agent.

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