

News Advisory
June 28, 2016

Australia prohibits asking for, offering or receiving 'benefit' for visa sponsorship

The Australian government is implementing a new legislation that make it unlawful for a person to ask for, receive, offer or provide payment or other benefits in return for a range of sponsorship related events.

Administrator Hans Leo J. Cacdac said the Migration Amendment (Charging for a Migration Outcome) Act 2015 which took effect on 14 December 2015 seeks to penalize the sponsor, visa applicant or other third party who benefit from visa sponsorship or employment of a foreign worker.

These sanctions are not limited to the 457 visa program but also include other temporary and permanent skilled visa programs where there is potential for 'payment for visas' activity to occur.

The law defines 'benefit' as a payment or other valuable consideration, a deduction of an amount, any kind of real or personal property, an advantage, a service, or a gift.

Australia's Department of Immigration and Border Protection said benefits may also include one-off lump sum payment, on-going regular payments, underpayment of a visa holder's wages and salary, repayment of a visa holder's wage and salary, unpaid work, being paid as hourly wage which is less than the guaranteed annual earning, and payment for goods and services.

A sponsorship-related event generally involves a sponsorship arrangement between a sponsor and a visa holder and may include (1) nominating to sponsor a person (2) becoming an approved sponsor (3) threatening to dismiss someone, affecting the person's visa status, and (4) withdrawing a nomination application.

As a criminal offense, benefiting from a sponsorship related event will be punishable by a maximum of 2 years imprisonment or a fine equivalent to \$64,000 for an individual or \$324,000 for a company or organization.

Civil penalties are set at \$43,000 for an individual or \$216,000 for a company or organization.

The Australian government was given discretionary power to consider cancelation of a temporary visa or permanent visa issued to any person who has engaged in 'payment for visas' activity.

The law, however, allows payment of a reasonable amount for professional fees to registered migration agents for services such as preparing, lodging and advising of an outcome on an immigration application.

Cacdac advised prospective applicants to be cautious of any job offer that requires upfront payment of work or sponsorship visas. /END