

NEWSLETTER - 139

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How a High Court ruling could impact hundreds of visa decisions since 2016

This week, the High Court of Australia rendered a key decision in an immigration case that may have ramifications for hundreds of other cases involving identical visas that the Department of Home Affairs handles.

The judgement may specifically call into doubt the validity of the department's judgements made after 2016, when it denied requests for ministerial intervention in particular visa situations.

The High Court's ruling gives the government at least the chance to evaluate the ministerial intervention procedure in order to create a system that is clearer, fairer, and more transparent.



Direct pathway to Australian citizenship for New Zealand citizens from 1 July 2023

Citizens of New Zealand who have resided in Australia for four years or longer as of July 1, 2023, will be qualified to apply straight for Australian citizenship. They won't have to wait to apply for and receive a permanent visa. These modifications are applicable to New Zealand nationals who entered Australia after February 26, 2001, and who have a Special Category (subclass 444) visa (SCV). Holders of protected SCVs will still be able to apply directly for citizenship in Australia.

To meet the general residence requirement an applicant must be lawfully present in Australia for four years, including 12 months as a permanent resident, immediately before the date of application.

For further information regarding these changes, check our website regularly. Check on the day you apply to confirm your eligibility.

Subclass 309 Applicant Appeal Rights

This states that the applicant, not the sponsor, is eligible to request a merits review of a decision to deny a Subclass 309 Partner (Provisional) visa application where the visa might be granted in Australia.

COVID-19 concession provisions permitted applicants for Sc 309 visas to have their visas granted onshore during the period where travel was restricted as a result of the pandemic

Additionally, provisions for relationship termination were included to the Regulations to enable applicants SC 309 whose sponsoring partner had passed away, in cases where the applicant or members of their family had experienced familial abuse, or in cases where they had custody of a child, to be granted that visa onshore under the COVID-19 concessions.

Tasmania : Extra Subclass 190 places

In order to accommodate the surprisingly strong demand in that state, Tasmanian Skilled Migration has announced that 150 additional SC 190 spots will be made available by the Department of Home Affairs.

There will be no closing date for new registrations of interest or nomination requests for the Tasmanian Skilled Migration State Nomination. Invitations to apply for nomination will continue to be issued throughout the remainder of 2022-23 and into the 2023-24 program year.

Meeting with the United Nations High Commissioner for Refugees

The Honourable Andrew Giles, Minister of Immigration, Citizenship, and Multicultural Affairs, had the pleasure of meeting Mr. Filippo Grandi, the UNHCR's High Commissioner for Refugees.

The High Commissioner for Refugees is making his or her first trip to Australia in more than ten years.

Minister Giles spoke about Australia's ongoing commitment to support humanitarian and resettlement activities in response to worldwide displacement crises as well as its long-standing partnership with UNHCR.

The Minister also reaffirmed Australia's commitment to move beyond conventional responses by supporting additional resettlement paths, and to be a worldwide leader in finding lasting solutions for refugees and internally displaced people.

Slater & Gordon files class action against Optus

National plaintiff firm Slater & Gordon has commenced proceedings against telco giant Optus, on behalf of current and former customers who “are continuing to deal with the fallout” of the company’s massive data breach late last year.

New proceedings

In late September 2022, Slaters (ASX: SGH) announced it was investigating a class action against Optus for what it called, at the time, “potentially the most serious privacy breach in Australian history”, in which the personal information of up to 10 million customers – including customer names, dates of birth, phone numbers, email addresses, Medicare cards, drivers license's and passport numbers were accessed by, and/or disclosed to, an unknown number of unauthorized persons – had been compromised in a cyberattack.

Now, the firm has filed a Statement of Claim in the Federal Court accusing the telco giant of breaching privacy, telecommunication and consumer laws.

A ‘piecemeal’ response from Optus

Speaking about the proceedings, Slaters class actions practice group leader Ben Hardwick said that what occurred was “an extremely serious privacy breach both in terms of the number of people affected and the nature of the information that was compromised”.

“Very real risks were created by the disclosure of this private information that Optus customers had every right to believe was securely protected by their telecommunications and internet provider,” he proclaimed.

“There appears to have been a piecemeal response from Optus, rather than a coordinated approach that made sure everyone whose data was compromised is treated the same.”

“Any suggestion that affected customers have not suffered as a result of this data breach is like rubbing salt into the wounds of those who have lived it and are continuing to deal with the fallout,” Mr Hardwick concluded.

All migration and legal queries

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