The Parliament of the Commonwealth of Australia

Review of Australia's migration and temporary entry program for skilled labour

Information Booklet

Joint Standing Committee on Migration

July 2002 Canberra © Commonwealth of Australia 2002

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Terms of Reference

The main purpose of parliamentary committees is to carry out investigations and report the findings of those investigations to the Parliament. Each inquiry or review has *terms of reference* which outline the matters to be considered by the committee.

On 18 June 2002 the Minister for Immigration and Multicultural and Indigenous Affairs issued the following terms of reference to the Committee:

"The Committee review and report on Australia's migration and temporary entry program for skilled labour with particular reference to:

- International competition for skilled labour.
- The degree to which quality permanent skilled migrants are being attracted to Australia and settling well.
- Whether there are lessons to be learnt by Australia from the entry and program management policies of competing nations, including Canada, New Zealand, USA, Ireland, UK, Germany and Japan.
- The degree to which Australia's migration and temporary entry programs are competitive.
- Whether there are policy and/or procedural mechanisms that might be developed to improve competitiveness.
- Settlement patterns for new arrivals including the role played by State and local authorities."

As part of the review process, the Committee seeks written *submissions*¹ addressing the terms of reference.

Submissions, including the author's postal address and telephone contact number should be forwarded:

Electronically: *jscm@aph.gov.au*

By mail: Mr Ricl

Mr Richard Selth

Secretary

Joint Standing Committee on Migration

Parliament House

CANBERRA ACT 2600

Further information is available on the Committee's website:

http://www.aph.gov.au/house/committee/mig/index.htm

Membership of the Joint Standing Committee on Migration

The Committee consists of five Government and five non-government members and is drawn from both houses of the Parliament.

Ms Teresa Gambaro (Chair)	LP	Petrie, QLD
Mr Bernie Ripoll, MP (Deputy Chair)	ALP	Oxley, QLD
Senator Andrew Bartlett	AD	QLD
Senator Alan Eggleston	LP	WA
Senator Linda Kirk	ALP	SA
Senator Tsebin Tchen	LP	VIC
Mr L D T Ferguson, MP	ALP	Reid, NSW
Mrs Joanna Gash, MP	LP	Gilmore, NSW
Mrs Julia Irwin, MP	ALP	Fowler, NSW
Mr Alby Schultz, MP	LP	Hume, NSW

Background information to the Review

Skilled migration is a significant component of Australia's migrant intake.

In 2000/01 80,610 people migrated to Australia. Of these, 44,730 (55%) settled in Australia as skilled migrants.² In addition to this intake, 45,669 temporary visas were granted permitting entry by key business personnel, academics, teachers, researchers and medical practitioners.³ Overall, there may be more than 250,000 people in Australia on temporary visas who have a right to work.⁴

Australia encourages the migration of people with skills in demand

If, for example, intending skilled migrants are working in occupations listed on the current Migration Occupations in Demand List (MODL), this improves their ability to meet the skilled migration requirements.⁵ Other encouragement for permanent settlement of skilled migrants includes:

- sponsorship arrangements which may target specific individuals;6
- special provisions which encourage overseas students who have completed an Australian tertiary qualification to apply to remain permanently;⁷

² 41% came under the family program, DIMIA, Population Flows: Immigration Aspects, 2000/01, p. 17.

³ 28% of all temporary Resident visa grants, DIMIA, Fact Sheet 47: Temporary Residence in Australia 4 DIMIA estimate quoted in G. Hugo, "Emigration of Skilled Australians: Patterns, Trends and Issues", paper to Migration: Benefiting Australia conference 7/5/02, p. 1.

⁵ See http://www.immi.gov.au/allforms/modl.htm for the latest listing.

⁶ DIMIA, Fact Sheet 24: Overview of Skilled Migration to Australia, describes Employer Nomination and Skilled -Australian sponsored (7,510 and 7,200 visas respectively in 2000/01, DIMIA, Population Flows: Immigration Aspects, 2000/01, p. 17.)

⁷ DIMIA, Fact Sheet 25: Skilled Categories

- a database enabling prospective migrants to be linked with regional employers seeking specific skills;⁸
- sponsorship of business skill migrants by State/Territory governments improves their ability to meet the threshold selection criteria.⁹

Some temporary skilled temporary migration, chiefly in the business field, is encouraged through priority processing of those applications.¹⁰

Australian Skilled Migration: Visas Granted

	1997/98	1998/99	1999/00	2000/01	2001/02 (planned)
Permanent Residence ¹¹				·	
Employer Nominations ¹²	5,950	5,650	5,390	7,510	6,000
Business Skills 13	5,360	6,080	6,260	7,360	7,900
Distinguished Talents	180	210	110	230	170
Skilled Independent ¹⁴	13,270	13,640	15,610	22,380	25,050
Skilled Australian Sponsored ¹⁵	9,540	9,240	7,900	7,200	6,350
1 November Onshore ¹⁶	370	180	60	60	30
TOTAL permanent	34,670	35,000	35,330	44,730	53,50017

Temporary Residence

Economic Stream ¹⁸	37,300	37,020	39,180	45,670	No data
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⁸ For details of the Skill Matching Database see: http://www.immi.gov.au/skills/skill-emps.htm

⁹ DIMIA, Business Skills Migration booklet, p. 5.

¹⁰ DIMIA, Fact Sheet 48: Assisting Skilled and Business People.

¹¹ DIMIA, *Population Flows: Migration Aspects 2001 Edition*, p. 17. All figures rounded. 200/01, 2001/02 exclude NZ citizens

¹² Includes Employer Nomination Scheme, Labour Agreements, Regional Sponsored Migration Scheme and from 2000–01 State/Territory-Nominated Independent

¹³ Business Migration Program changed to Business Skills during 1991–92.

¹⁴ Named Independent prior to 1 July 1999.

¹⁵ On 1 July 1999 it was renamed the Skilled-Australian Sponsored category.

¹⁶ An Australian Government announcement directed at the Peoples Republic of China nationals who had earlier been granted 4-year temporary entry permits following the events of 1989 in China.

¹⁷ Includes 8,000 contingency reserve.

Skilled migrants must satisfy a range of basic requirements

In addition to meeting Australia's health and character requirements, applicants for the General Skilled Migration Programs must be less than 45 years of age and their occupations must be listed on the Skilled Occupation List (SOL).¹⁹ Depending on the type of skilled migration visa being sought, applicants must also generally have competence in the English Language, recent work experience, and relevant post-secondary qualifications.²⁰ Since 1999 applicants for the General Skilled Migration visa categories have been assessed by awarding points for skill, youth, English language ability, specific work experience and other attributes. These numerical values are then summed to determine whether the applicant's total meets the relevant Points Test score, which would permit them to migrate.²¹

Skilled migrants' backgrounds 2000/01

- Skilled independent visa applicants are, young, English speaking and highly qualified;²²
- more than 50 per cent of principal applicants have occupations on the MODL;
- approximately 50 per cent of applicants have an Australian qualification;²³

²⁰ See http://www.immi.gov.au/allforms/skill-basic.htm; http://www.immi.gov.au/allforms/skl-pts.htm

²¹ Points may also be gained through having an Australian relationship, having Australian skilled work experience, or fluency in one of Australia's major community languages. http://www.immi.gov.au/allforms/skl-pts.htm. See DIMIA, *General Skilled Migration* booklet, pp. 27-40 and Annex 2 for an outline of the scoring system.

²² 60% aged 18-29; 88% scored maximum points for English language; 90% scored maximum points, qualification directly relevant to occupation. DIMIA, *Population Flows: Migration Aspects* 2001 Edition, p. 19.

¹⁸ Includes Business Entry Visas; Educational Visas; Medical Practitioner Visas. DIMIA, Fact Sheet 47: *Temporary Residence in Australia*.

¹⁹ The list includes most occupations which require degree, diploma or trade level qualifications in Australia except: those which are clearly in significant oversupply throughout Australia; or in which new migrants would not be immediately employable in Australia; or which are more appropriately covered by other visa categories such as the Business Skills or Distinguished Talent categories. (http://www.immi.gov.au/facts/25skilled_categories.htm). See Annex 1 and http://www.immi.gov.au/allforms/skill-basic.htm; http://www.immi.gov.au/allforms/skl-pts.htm

²³ DIMA, Annual Report 2000-01, p. 33.

• 15% from UK, South Africa 14%, India 10%, Indonesia 9%, PRC 8%;

Settling in Australia

Skilled migrants who arrive to settle permanently under a variety of State-specific migration arrangements may be required to settle in specific designated areas of Australia. Of the 3,846 who migrated under these schemes in 2000/01, most (1,827) settled in Melbourne or other parts of Victoria. A further 750 settled in Adelaide or elsewhere in South Australia and some 814 settled outside the major metropolitan areas in New South Wales, Queensland or Western Australia. ²⁴

However, most skilled permanent migrants are not bound by such conditions and, like other Australians, may settle anywhere.

Settlement of	162.814	Skilled	Migrants:	1/7/1996 -	30/6/200125
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	Metropolitan (%)	Non- metropolita n (%)	Not stated (%)	Total (%)
New South Wales	37.8	2.2		40.1
Victoria	18.6	0.9	_	19.4
Queensland	9.2	3.8	-	13.0
South Australia	4.9	0.2	-	5.1
Western Australia	15.8	1.0	-	16.8
Tasmania	0.3	0.2	-	0.5
Northern Territory	0.4	0.1	-	0.5
Australian Capital Territory	-	-	1.4	1.4
Not stated	-	-	3.1	3.1
TOTAL %	87.0	8.4	4.5	100

International competition for skilled migrants.

The demands for skilled labour worldwide and the mobility of some sectors of the workforce mean that Australia has to compete with the larger economies for some of the scarce skills, such as those in information technology (IT). Germany, for example, introduced a "Green Card" scheme to attract foreigners with IT skills in

²⁴ DIMIA, Population Flows: Immigration Aspects 2001 Edition, p.21. The relevant schemes are summarised on pages 21-22, and discussed in detail in the Committee's report *New Faces, New Places: Review of State-specific Migration Mechanisms*, September 2001

²⁵ B. Birrell, V. Rapson, "Two Australias: Migrant Settlement at the End of the 20th Century", *People and Place*, Vol 10, No.1 2002, p. 15.

2000 and issued 11,230 cards in the first 20 months. The USA accepted some 19,600 skilled permanent migrants and 195,000 highly skilled temporary entrants in 2001. 26 Canada accepted 137,000 skilled workers and their dependants in 2001. 27

 $^{{\}it 26}\ DIMIA, \textit{Skilled Labour: Gains and Losses}, www.immi.gov.au/research/publications/skilledlab.$

²⁷ Citizenship and Immigration Canada, News Release 2002-11

Annex 1: General Skilled Migration to Australia - basic requirements²⁸

- Age under 45.
- English language sufficient ability in the English language for working in Australia ('vocational English'), but a higher level is required for certain occupations where English ability forms part of the skills assessment.
- Qualifications post-secondary (such as university or trade) qualifications
 assessed by the relevant assessing authority as suitable for the nominated
 occupation.
- Nominated occupation must be on the Skilled Occupations List (SOL).29
- **Recent work experience** duration depends on the nominated occupation (waived for those gaining an Australian qualification less than 6 months before lodging the visa application).

²⁸ For details see www.immi.gov.au/allforms/skill-basic.htm

The list includes most occupations which require degree, diploma or trade level qualifications in Australia except: those which are clearly in significant oversupply throughout Australia; or in which new migrants would not be immediately employable in Australia; or which are more appropriately covered by other visa categories such as the Business Skills or Distinguished Talent categories. (http://www.immi.gov.au/facts/25skilled_categories.htm).

Annex 2: Points Test outline³⁰

Points towards the required total required may be gained though:

Skill - for skills on the Skilled Occupations List:

- and where training is specific to the occupation 60 points
- more general professional occupations 50 points
- other general skilled occupations 40 point

Age/youth

- 18 to 29 years 30 points
- 30 to 34 years 25 points
- 35 to 39 years 20 points
- 40 to 44 years 15 points

English language ability - 15 or 20 if meeting specific competence

Specific work experience – 5 or 10 points depending on type of skill and duration of employment

Occupation in demand/job offer - 5 or 10 points if the skill is on the Migration Occupations in Demand List and whether a job is being offered or not.

Australian qualifications - applicants with Australian qualifications receive 5 points (PhD = 10) for having completed an Australian post-secondary degree (or higher qualification), diploma, advanced diploma or trade qualification from an Australian educational institutional, studying for at least 12 months full-time (one academic year) in Australia.

Spouse skills – applicants may receive 5 points **if** their spouse is also able to satisfy the basic requirements of age, English language ability, qualifications, nominated occupation and recent work experience **and** has obtained a suitable skill assessment from the relevant assessing authority for their nominated occupation.

Bonus points – 5 points may be allocated for any one of:

• Capital investment in Australia (minimum of \$100 000); or

³⁰ Full details can be found at http://www.immi.gov.au/allforms/skl-pts.htm

 Australian work experience (legally worked in Australia in any occupation on the skilled Occupations List for at least six months in the four years prior to application); or

Fluency in one of Australia's Community Languages (other than English).

Skilled - Australian Sponsored - applicants may receive 15 points if they or their spouse is sponsored by a relative (a non-dependent child, a parent, a brother or sister, or a niece or nephew), who is an Australian citizen or permanent resident.

Annex 3: Description of main Skilled Migration categories³¹

Skilled - Independent category

Skilled Independent, Skilled Independent Overseas Student and **Independent** migrants are selected on the basis of their education, skills and work experience, and their potential to contribute quickly to the Australian economy. They are not sponsored by an employer or relative in Australia. This group forms the largest contingent of skilled migrants each year.

For example, in 2000-01, over 55 per cent of Skilled Stream arrivals (14 234 people) were Independent migrants. They must score 110 in the points test that includes skills, age, work experience and English language ability (22,376 visas in 2000-01).

Skilled - Australian sponsored category

Skilled Australian Sponsored, Skilled Australian Sponsored Overseas Student and Skilled Australian Linked. Skilled - Australian Sponsored category migrants are selected on the basis of their skills, age, English-language ability and family relationship. They must be sponsored by a relative already living in Australia these total 7,200 visas in 2000–01. They may receive additional points for sponsorship by relatives in Australia. (Applicants under Skilled Regional Sponsored and Regional Linked requiring sponsorship by relatives in designated areas are not points tested).

Employer Nomination category

Employers may nominate (or 'sponsor') personnel from overseas through the:

□ Employer Nomination Scheme (ENS), allows Australian employers to recruit, on a permanent basis, 'highly skilled' positions with non-Australian citizens,

- where they have been unable to fill a vacancy from the Australian labour market or through their own training programs.
- Regional Sponsored Migration Scheme (RSMS), enables Australian employers in regional or low-growth areas to fill 'skilled' positions, on a permanent basis, with non-Australian citizens, where they have been unable to fill a vacancy from the Australian labour market or through their own training programs.
- □ **Labour Agreements** enables Australian employers to recruit a specified number of workers from overseas in response to identified or emerging labour market (or skill) shortages. This is a formal arrangement negotiated between the Commonwealth Government and the employer or industrial association.
- State/Territory Nominated Independent.

These visas enable Australian employers to fill skilled permanent vacancies with overseas personnel if they cannot find suitably qualified workers in Australia. A total of 7,510 visas were granted in 2000–01.

Business skills category

Business Skills migration-encourages successful business people to settle permanently in Australia and develop new business opportunities (7,364 visas in 2000–01).

Distinguished talent category

Migration arrangements for distinguished individuals with special or unique talents of benefit to Australia (229 visas in 2000–01) Skilled - Australian Sponsored category migrants are selected on the basis of their skills, age, English-language ability and family relationship. They must be sponsored by a relative already living in Australia.

Annex 4: Making a submission to the Committee

Who can make a submission?

Any individual or organisation can make a submission to the Committee.

What should be in a submission?

There is no prescribed form for a submission to the Committee. Submissions may be in the form of a letter, a short document or a substantial paper. They may include appendices and other supporting documents. Submissions should be relevant to the terms of reference for the review. They may address all or a selection of the points outlined in the terms of reference. Submissions may contain facts, opinions, arguments and recommendations for action. It is helpful if submissions are prefaced by a brief summary of the main points.

How to lodge a submission

Submissions may be in hard copy (written or printed) form, or can be made by E-mail.

A written submission must be signed by the author either on his or her own behalf or on behalf of the organisation making the submission. Those signing on behalf of an organisation should indicate the level at which the submission has been authorised (eg President, Chief Executive, Secretary). A return address for correspondence and a contact telephone number should be provided with the submission. Submissions forwarded by E-mail must include the name, postal address and phone number of the person or organisation making the submission.

Submissions should be lodged by the advertised closing date. An extension of time, if required, can be requested from the committee secretary.

Where possible, hard copy submissions should be typed on A4 paper. This helps with reproduction of the submission. Where typing facilities are not available, hand written submissions are acceptable, but care should be taken to ensure that they are legible and suitable for photocopying.

It is helpful if an electronic version of a hard copy submission is provided on computer disk as well as in hard copy form. This assists committees to publish submissions on the Internet. The preferred electronic format is Word 97 or Portable Document Format (PDF, <u>Adobe Acrobat Reader 5.0</u>).

Publication of submissions

Once a submission is received by the Committee, it cannot be withdrawn or altered without the Committee's permission, nor can it be published or disclosed to any other person unless or until the Committee has authorised its publication.

On receipt of a submission, the Committee decides whether to accept the submission and authorise its publication. Copies of submissions authorised for publication can be requested from the Committee secretariat and may be available on the Internet.

An author of a submission can request that all or part of the submission should remain confidential. This should be indicated clearly in the front of the submission. The Committee will consider individual requests for confidentiality, but retains the power to publish any submission.

Parliamentary privilege

The presentation or submission of a document to a committee is privileged. Essentially this means that a person is immune from legal action in respect of lodging the submission. If a submission is authorised for publication, its distribution also is immune from legal action.

Review evidence

The evidence on which a parliamentary committee bases its findings includes the written submissions it receives and the oral evidence taken at hearings. Those making submissions may be asked to appear before the committee at a public or closed (in camera) hearing.

Review process at a glance

The review processes may vary as circumstances demand but usually consists of the following steps.

- 1. Reference received by the committee.
- 2. Advertisements placed in relevant major newspapers, and submissions invited from individuals and organisations.
- 3. Submissions received and authorised for publication.
- 4. Committee conducts on-site inspections, background briefings and seminars (where appropriate).

- 5. Committee conducts public hearings with selected individuals and organisations requested to give oral evidence.
- 6. Committee considers evidence and prepares report.
- 7. The report is tabled in the Parliament and may be debated.
- 8. Copies of the report are sent to witnesses and persons who made submissions, and distributed through Ausinfo bookshops as well as being published on the Internet.
- 9. Government considers report.
- 10. Government responds to report.

Annex 5: Joint Standing Committee on Migration: previous activities

The first Parliamentary committee on migration matters was established on 31 May 1989, for the 35th Parliament. A Joint Committee with a similar focus on migration matters has been established in each Parliament since then.

35th Parliament

Under its resolution of appointment, the Joint Select Committee on Migration Regulations was required to inquire into the extent to which draft regulations and tabled regulations under the *Migration Act 1958* which relate to decision criteria for the grant of visas and entry permits:

- (a) reflect current and announced policies in relation to the grant of visas and entry permits as at 1 June 1989; and
- (b) are likely to achieve the goals of the policies referred to in subparagraph (a).

The Select Committee tabled two reports (November and December 1989) dealing with various aspects of the new Migration Regulations.

36th Parliament

Following the recall of Parliament after the 1990 election, the Select Committee became the Joint Standing Committee on Migration Regulations, with a broader resolution of appointment. The Standing Committee was required to inquire into and report upon:

- (a) regulations made or proposed to be made under the Migration Act 1958;
- (b) all proposed changes to the Migration Act 1958 and any related Acts;
- (c) such other matters relating to the *Migration Act* 1958, regulations or reports as may be referred to it by the Minister for Immigration, Local Government and Ethnic Affairs.

The Committee tabled five reports during the 36th Parliament:

Illegal Entrants in Australia—Balancing Control and Compassion (September 1990);

Change of Status on Grounds of Spouse/De Facto Relationships (May 1991);

Special Report No. 1, Recommendations to the Minister for Immigration, Local Government and Ethnic Affairs (September 1991);

Australia's Refugee and Humanitarian System: Achieving a balance between refuge and control (August 1992); and

Conditional Migrant Entry: The Health Rules (December 1992).

37th Parliament

In the 37th Parliament, the Committee's name was changed to reflect the broader focus of its work beyond scrutiny of the Migration Regulations. The resolution of appointment also was amended slightly. The Joint Standing Committee on Migration was required to inquire into and report on:

- (a) regulations made or proposed to be made under the Migration Act 1958;
- (b) all proposed changes to the Migration Act 1958 and any related Acts; and
- (c) such other matters relating to migration as may be referred to it by the Minister for Immigration and Ethnic Affairs.

The Committee tabled five reports during the 37th Parliament:

Asylum, Border Control and Detention (February 1994);

Australians All: Enhancing Australian Citizenship (September 1994);

The Immigration Review Tribunal Appointments Process (December 1994);

Protecting the Vulnerable? The Migration Agents Registration Scheme (May 1995); and

Australia's Visa System For Visitors (January 1996).

38th Parliament

The Joint Standing Committee on Migration in the 38th Parliament was appointed to inquire into and report upon:

- (a) regulations made or proposed to be made under the Migration Act 1958;
- (b) all proposed changes to the Migration Act 1958 and any related Acts; and
- (c) such other matters relating to migration as may be referred to it by the Minister for Immigration and Multicultural Affairs.

The Committee tabled three reports during the 38th Parliament:

Working Holiday Makers: More Than Tourists (August 1997)

Deportation of Non-Citizen Criminals (June 1998)

Report on Inspections of Immigration Detention Centres throughout Australia (August 1998)

39th Parliament

The Joint Standing Committee on Migration in the 39th Parliament was appointed to inquire into and report upon:

- (a) regulations made or proposed to be made under the Migration Act 1958;
- (b) all proposed changes to the Migration Act 1958 and any related acts; and
- (c) such other matters relating to migration as may be referred to it by the Minister for Immigration and Multicultural Affairs.

The Committee tabled six reports during the 39th Parliament:

Review of Migration Regulation 4.31B (May 1999)

Going for Gold (September 1999)

Not the Hilton (September 2000)

Review of Migration Legislation Amendment Bill (No 2) 2000 (October 2000)

2001 Review of Migration Regulation 4.31B (June 2001.)

New Faces, New Places (September 2001)

