



Australian Government
**Department of Immigration
and Citizenship**

Simpler visas

Making visitor visas simpler
Discussion Paper—April 2011



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Overview

The Australian Government has initiated a range of reforms aimed at improving productivity and international competitiveness. An ambitious regulatory reform agenda is an integral part of these reforms.

As part of this agenda, the Australian Government has agreed to rationalise Australia's visa framework to make it simpler and more efficient.

Specifically, the Australian Government has committed to reduce by 50 per cent the number of temporary residence work visa subclasses by 2012 and to target a 50 per cent reduction in the total number of visa subclasses by 2015. This reform is being taken forward as part of a Better Regulation Ministerial Partnership announced on 4 June 2010 by the former Minister for Immigration and Citizenship, Senator the Hon Chris Evans, and the former Minister for Finance and Deregulation, the Hon Lindsay Tanner MP.

At the time of the announcement, an initial public discussion paper was released that proposed a number of principles that would guide the visa simplification and deregulation process through to 2015. The initial paper also outlined some proposals for simplifying temporary residence work visas which have been developed further and are currently subject to final public consultation.

The second phase of the Visa Simplification and Deregulation (VSD) project will focus on simplification of the visitor visa group and is the subject of this discussion paper.

The visitor visa group allows for short term entry of tourist, business, medical treatment and family visitors. Visitor visa holders currently contribute to Australia's economic development, social and cultural enrichment as well as strengthening Australia's bilateral relations. Some of these visitor visa holders are currently permitted to work for a short period in limited circumstances.

There are 10 visitor visas under review, which are listed in Appendix A.

Public consultation

This discussion paper seeks views on the proposed simplified visa framework (the proposed framework) for the visitor visa group.

The discussion paper:

- briefly examines the current visitor visa framework
- outlines a proposed framework for the visitor visa group
- examines some transitional and implementation issues relating to the proposed framework.

Comments on this paper will inform both the development and implementation of the proposed new visitor visa framework. We encourage suggestions or comments from the public and would appreciate comments focusing on:

- whether there may be issues related to the movement of current visa requirements into the proposed simplified framework
- if the proposed framework will reduce complexity and confusion of choice for clients
- whether the proposed restructure achieves a simplified visitor visa framework.

Following the consideration of responses a finalised visa framework for visitor visas will be decided. Further consultations and discussion may be held with stakeholders as required.

Please submit your suggestions or comments by 13 May 2011 to:

Director, Deregulation Strategy Section
PO Box 25
BELCONNEN ACT 2616

Or

Email: deregulation@immi.gov.au

The Current Visa Framework

Diagram 1: Current visitor visa subclasses

Tourist (subclass 676)
Sponsored Family Visitor (subclass 679)
Business (Short Stay) (subclass 456)
Sponsored Business Visitor (Short Stay) (subclass 459)
Electronic Travel Authority (Visitor) (subclass 976)
Electronic Travel Authority (Business Entrant—Short Validity) (subclass 977)
Electronic Travel Authority (Business Entrant—Long Validity) (subclass 956)
eVisitor (subclass 651) ¹
Medical Treatment (Short Stay) (subclass 675)
Medical Treatment (Long Stay) (subclass 685)

1. Note that the eVisitor (subclass 651) visa has separate business and tourist streams.

The visa subclasses listed in Diagram 1 have all been considered as part of the visitor visa framework simplification process.

People come to Australia on a visitor visa for a variety of reasons including tourism, visiting family, medical treatment, and to conduct business with limited work-related activities. Some clients have reported difficulties in selecting the most appropriate visitor visa for their intended stay in Australia. This proposed framework is intended to simplify the choices clients have when considering visitor visas while removing any perceived ambiguities from the current visitor visa structure.

Proposed Visitor Visa Framework

The initial Simpler visas discussion paper released in June 2010, proposed a number of principles that would guide the visa simplification process (including visitor visas), including:

- ensuring border security and program integrity are maintained in the immigration program
- ensuring clients maintain current levels of visa eligibility
- making it easier for clients to determine which visa option is most appropriate.

The discussion paper also indicated that simplification could be achieved by drawing together similarities between existing subclasses which would allow them to be combined into single visa products, including:

- the general purpose of entry and length of stay
- the entitlements and requirements that are attached to the visas.

A detailed comparative analysis has been undertaken of all visa requirements in the current visitor visa program. This analysis has identified and mapped requirements that:

- are identical across visa subclasses
- are similar and can be standardised
- are unique, which cannot be simplified, and must therefore continue to stand alone in the proposed new visa framework.

The proposed visitor visa framework in Diagram 2 represents this process. Areas of regulatory duplication will be removed resulting in fewer visitor visas.

As well as the removal of duplicate requirements, simplification is also proposed to be achieved by standardising similar requirements where possible, and by removing or modifying visitor visa subclasses or requirements that have become less relevant or redundant over time.

Rationalising work rights

The visitor program currently allows for business visitor visa holders (including the 456, 459, 956, 977 subclasses and the Business stream of the eVisitor visa) to work, in limited circumstances, subject to Condition 8112 which states:

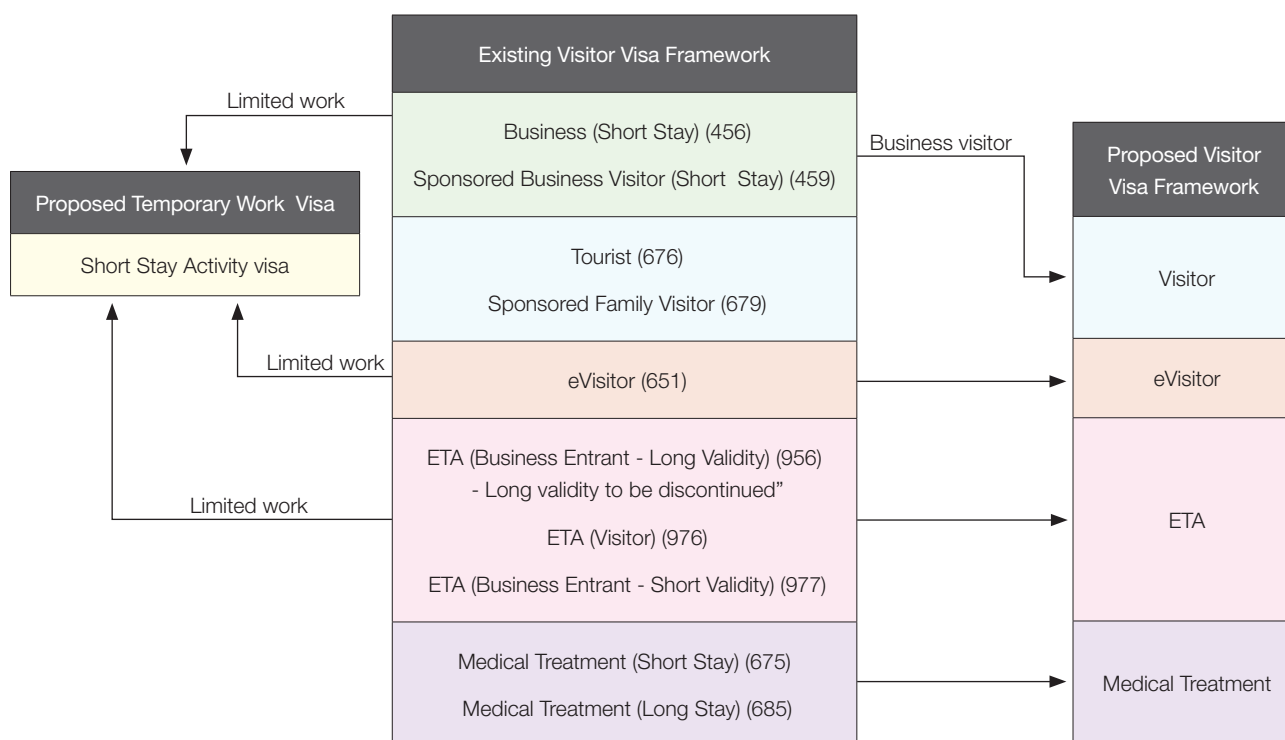
The holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident.

It is proposed that people who seek to enter Australia for short term work will need to apply for the new Short Stay Activity visa (SSAV) which is part of the new temporary work visa framework. See *Implementing a simpler framework for temporary residence work visas* discussion paper released in December 2010. The SSAV is proposed to be an unsponsored visa. Details about this proposed visa are contained in Appendix B.

This would remove ambiguities around appropriate visa options for short term work and allow the Department of Immigration and Citizenship to scrutinise all work visa applications to ensure there is no negative impact on the Australian labour market prior to a visa application being finalised.

It is further proposed that under the new visitor visa framework business visitors be restricted to business activities such as the investigation of business opportunities, attending meetings, conferences or trade fairs. This would better align the purpose and entitlement for business visitors with the visa product. It is also proposed that tourist and business visitors are combined into a single visa product, however different restrictions would apply depending on the purpose of a person's stay in Australia.

Diagram 2: Proposed Visitor visa framework



Visitor visa

The proposed visitor visa would facilitate the short term entry to Australia of genuine tourist, business and family visitors and would replace the following visas:

- Tourist (subclass 676)
- Sponsored Family Visitor (subclass 679)
- Business (Short Stay) (subclass 456)—business visitor element
- Sponsored Business Visitor (Short Stay) (subclass 459)—business visitor element

The proposed new visitor visa is divided into four streams. It is proposed each stream would have conditions which limit the activities that can be undertaken while the person is in Australia and would be related to the applicant's primary purpose of visiting Australia. The proposed new visitor visa is intended to function as follows:

Tourist Stream—arrangements for people who currently enter Australia primarily for tourism purposes as Tourist (subclass 676) visa holders, will continue under this proposed stream.

Business Visitor Stream— this proposed stream would replace the business visitor elements of the Business (Short Stay) (subclass 456) visa and Sponsored Business Visitor (subclass 459) visa.

It is proposed that business visitors would have a condition which limits the activities that can be undertaken while the person is in Australia. It is proposed that a business visitor would be allowed to engage in activities in Australia such as investigating or contracting into business or investment arrangements, attending meetings, conferences or trade fairs.

As previously indicated, people who seek to enter for short term work purposes (such as some current applicants for a subclass 456 or subclass 459) would need to apply for the proposed SSAV.

The subclass 459 visa has been identified as a low-usage visa, with only 146 visas being granted in 2009–10. The subclass 459 visa duplicates the entitlements of the subclass 456 visa but requires additional processing associated with sponsorship, and is processed onshore. This proposal intends to discontinue the subclass 459 visa while still retaining eligibility for genuine business visitors under the business visitor stream of the new visitor visa.

The entitlements for APEC Business Travel Card (ABTC) holders will continue under this stream. The ABTC is intended to facilitate streamlined entry for business people conducting trade and investment activities in the APEC region, rather than short term work. As such, ABTC activities fall within the scope of the proposed business visitor stream.

Sponsored Family Visitor Stream—this proposed stream would replace the existing Sponsored Family Visitor (subclass 679), with no substantial changes to current requirements.

Approved Destination Status (ADS) scheme—this proposed stream would move the existing ADS scheme arrangements for certain People’s Republic of China nationals from the Tourist (subclass 676) visa into its own discrete stream in the proposed new visitor visa. This recognises that there are specific criteria and mandatory visa conditions that relate only to ADS that can be better managed and measured as a separate stream. The separate stream also reflects the importance of the ADS scheme to Australian tourism; over 80 000 visitors enter Australia through the ADS scheme every year.

It should be noted, however, that the primary purpose of a person’s stay will determine which proposed visitor visa stream they should use. If, for example, a business person wishes to take a brief holiday in addition to their business travel then a visitor visa granted within the business visitor stream would be the appropriate visa for the purposes of their stay in Australia. As previously indicated, all streams in the proposed new visitor visa would have conditions which limit the activities that can be undertaken while the person is in Australia. The conditions would vary depending on the person’s intended purpose of visit.

Electronic Travel Authority (ETA) visitor

It is proposed that the ETA (Visitor) (subclass 976) and ETA (Business Entrant—Short Validity) (subclass 977) be combined into a single ETA product. It is further proposed that the ETA visa would be subject to conditions which limit the activities that can be undertaken while the person is in Australia.

This proposal intends to discontinue the ETA Business (Business Entrant—Long Validity) (subclass 956) as the validity period of the visa is for the life of the ETA holder’s passport (up to 10 years in many cases). Currently, this product does not allow the department to respond in a timely manner to emerging integrity issues. Eligibility for genuine business travel for this cohort will be retained under the proposed new ETA product.

As previously indicated, those people who currently apply for the subclasses 956 or 977 for short stay work purposes will be required to apply for the proposed SSAV.

eVisitor

It is intended that the eVisitor visa requirements will remain unchanged as they support specific entry agreements with the European Union. However, as previously indicated, the proposed new visitor visa framework would have conditions which limit the activities that could be undertaken by a person while they are in Australia. It is proposed that people who seek to enter Australia for short term work purposes, would need to apply for the new SSAV.

Medical Treatment visa

It is proposed that the Medical Treatment (Long Stay) (subclass 685) and Medical Treatment (Short Stay) (subclass 675) visas be combined into a single Medical Treatment visa (MTV). This visa would allow applicants to enter, and/or stay in, Australia for the purpose of undertaking medical and related treatments, for the purposes of organ donation or to accompany an MTV holder.

It is proposed to limit a Medical Treatment visa applied for overseas to a maximum entry and stay period of three months, depending on the treatment plan provided by the treating doctor. The Medical Treatment visa will also cater for Medivac and emergency medical treatment. It is proposed that applicants requiring a longer stay will be able to apply for further Medical Treatment visa onshore.

In addition to providing a pathway for clients who require longer than three months of continuous treatment, it is proposed that an onshore application for a Medical Treatment visa may be made by clients holding a valid substantive visa who require a further stay for medical reasons that have arisen since last arriving in Australia on a valid substantive visa.

Transitional Arrangements

It is proposed that the visa subclasses that are being replaced by new visas under the proposed visitor visa simplification framework will be closed to primary applicants when the new visa framework is implemented. Where appropriate it is also proposed that arrangements may be made for secondary applicants to apply for a visa that has been closed to new primary applicants.

It is expected that unfinalised visa applications which have been lodged before implementation would be assessed according to the pre existing visa requirements rather than being assessed against the new requirements.

All visas that are granted before implementation of the proposed new visa framework will continue to be in effect for entry to, and stay in, Australia until that visa ceases.

The department will ensure that stakeholders and the public are fully supported prior to, and during, implementation of a final framework through the provision of information about the proposed new visa structure and associated application requirements.

Appendix A

Visitor visas

676	Tourist	This visa is intended for persons who wish to visit or stay in Australia for up to 12 months ¹ for non-work purposes. This visa may be granted with a single or multiple entry facility to a person who is in or outside Australia.
679	Sponsored Family Visitor	This visa is intended for persons who wish to visit or stay in Australia with the aim of visiting a close relative for up to 12 months for non-work purposes. This single entry visa can only be granted to a person who is outside Australia.
456	Business (Short Stay)	This visa is intended for genuine business visitors seeking a short-term entry (up to three months at a time) to Australia for business purposes (including short term work in limited circumstances). This visa may be granted with a single or multiple entry facility, only to a person who is outside Australia.
459	Sponsored Business Visitor (Short Stay)	This visa is intended for genuine sponsored business visitors seeking a short-term entry (up to three months at a time) to Australia for business purposes (including short term work in limited circumstances). This visa may be granted with a single or multiple entry facility, only to a person who is outside Australia.
956	ETA (Business Entrant - Long Validity)	This visa enables the holder to travel to Australia on multiple occasions, for business purposes, with a maximum of 3 months stay on each visit, for the life of their passport. ETA Business holders may work for a short period in limited circumstances. This visa may be granted with a single or multiple entry facility, only to a person who is outside Australia and who holds an ETA eligible passport.
976	ETA (Visitor)	This visa enables the holder to travel to Australia on multiple occasions, for tourism purposes, with a maximum of 3 months stay on each visit, for a period of up to 12 months from the date of grant. This visa may only be granted to a person who is outside Australia and who holds an ETA eligible passport.
977	ETA (Business Entrant - Short Validity)	This visa enables the holder to travel to Australia on single or multiple occasions, for business purposes, with a maximum of 3 months stay on each visit, for a period of up to 12 months from the date of grant. ETA Business holders may undertake short term work in limited circumstances. This visa may only be granted to a person who is outside Australia and who holds an ETA eligible passport.
651	eVisitor	This visa enables the holder to travel to Australia on single or multiple occasions, for business or tourism purposes, with a maximum of 3 months stay on each visit, for a period of up to 12 months from the date of grant. eVisitor holders under the business stream may undertake short term work in limited circumstances. This visa may only be granted to a person who is outside Australia and who holds an eVisitor eligible passport.
675	Medical Treatment (Short Stay)	This visa is intended for persons seeking to enter Australia for the purpose of undertaking medical and related treatments, for the purposes of organ donation or to accompany a Medical Treatment Visa (MTV) holder.
685	Medical Treatment (Long Stay)	This visa is intended for persons seeking to remain in Australia for the purpose of undertaking medical and related treatments, for the purposes of organ donation or to accompany a Medical Treatment Visa (MTV) holder.

1. In exceptional circumstances a subclass 676 visa may be granted for more than twelve months.

Appendix B

Short Stay Activity Visa

As proposed in the Implementing a simpler framework for temporary residence work visas discussion paper released in December 2010, the proposed Short Stay Activity Visa (SSAV) would facilitate the entry of persons for short term work and specialised activities where there is a genuine requirement for their expertise, while not undermining the employment opportunities and conditions of Australian workers. Key requirements of this visa would include:

- the activity must be non-ongoing
- the activity cannot reasonably be performed by an Australian citizen or Australian permanent resident
- the applicant must have the relevant skills and experience to undertake the activity
- the entry of the person must not adversely impact on employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents
- the visa holder will only work in their specified field.

Due to the non-ongoing nature of the activities and the short period of stay, it is proposed that formal sponsorship will not be required.

There are three streams of entry proposed under the SSAV:

Proprietary—it is proposed that the SSAV will allow for persons with skills and expertise not accessible in Australia to enter for a short period for approved work purposes. This could include:

- installation, after-sales service, or emergency repair personnel for specialised imported machinery
- other highly specialised workers who have skills or expertise not accessible in Australia.

Entry under these limited circumstances is currently being managed on a case-by-case basis in the Business (Short Stay) (subclass 456) visa in the visitor visa program. The department anticipates that the vast majority of people currently undertaking short term work under the current visitor visa framework will be captured under this proprietary stream.

Cultural and social—persons currently entering Australia to perform short term social and cultural activities often use a sponsored temporary residence visa or a visitor visa. The non-ongoing nature of their activities does not generally warrant the protection of the full sponsorship framework. However, many of these activities have work elements and do not sit comfortably within the visitor visa program.

The proposed SSAV will cater for most applicants who want to enter for social and cultural activities at the invitation of an Australian organisation or individual on a short term and non-ongoing basis. This will allow them to perform the full range of activities within their area of expertise. This could include persons who are:

- conducting workshops (which may include a practical component) or providing training on a specific occasion
- amateur and professional sports people including competitors, judges or adjudicators participating in a specific event
- entertainers attending a specific promotional event (but not performing)
- persons giving lectures or public speeches
- journalists covering a specific event
- professional photographers under contract from overseas covering a specific event
- persons making a documentary or commercial intended for an overseas audience
- artists holding an exhibition of their works in Australia
- authors contracted to write a book or article while travelling in Australia.

Australia's interest—it is proposed that the SSAV will allow for persons or groups of persons to enter Australia to engage in activities that are considered to be in the national interest. It will also allow for the entry of emergency workers in times of need, for example, fire-fighters or other emergency crew assisting during a crisis including natural disaster.