

CHAPTER 13 – INTERNATIONAL RELATIONS STREAM

BACKGROUND

Policy Objectives

13.1 The International Relations Stream aims to promote Australia's relations with other countries and foster goodwill, for example, by allowing for the entry of persons working for foreign governments, organisations funded by foreign governments and international organisations, as well as persons entering under exchange or bilateral agreements.

Current Arrangements

13.2 Currently the International Relations stream includes the following visas (the first five of which are discussed in this chapter):

- Foreign Government Agency (subclass 415) visa;
- Domestic Worker (executive) (subclass 427) visa;
- Supported Dependant (subclass 430) visa;
- Expatriate (subclass 432) visa;
- Exchange (subclass 411) visa;
- Special Program (subclass 416) visa – this visa is discussed in Chapter 9;
- Occupational Trainee (subclass 442) visa – this visa is discussed in Chapter 14;
- Working Holiday (subclass 417) visa – this visa is not part of this review. Working Holiday arrangements are the subject of bilateral government agreements and were reviewed by the Joint Standing Committee on Migration in 1996-97; and
- Diplomatic (subclass 995) visa – this visa is not part of this review. DIMIA acts on the recommendation of the Department of Foreign Affairs and Trade (DFAT) in relation to the issue of these visas. This visa is subject to ongoing consultations with the DFAT on opportunities for enhancement.

- Domestic Worker (diplomatic) (subclass 426) visa – this visa also depends on DFAT endorsement. It is more appropriately considered within the context of the review of Diplomatic visas currently under way.

13.3 In addition, this chapter discusses provisions for country-to-country agreements, which currently occur in seven separate visas, some of which are not considered part of the international relations stream.

FOREIGN GOVERNMENT AGENCY VISA (SUBCLASS 415)

Current Arrangements

13.4 The Foreign Government Agency visa (subclass 415) is intended for persons who seek to enter Australia:

- to be employed as a representative of a foreign government agency and who will not be accorded official status in Australia (and therefore are not eligible for a diplomatic visa); or
- are to be paid by a foreign government, working as a language teacher in an Australian school; or
- under an agreement between Australia and another country (these country-to-country agreements were discussed below).

13.5 The current requirements for this visa are the following:

- where the applicant is a foreign government agency representative or a foreign language teacher employed by a foreign government, the applicant must provide evidence of sponsorship by a foreign government agency;
- where the applicant seeks to enter Australia to direct the operations of the British Council, the Alliance Francaise,

the Goethe Institute or the Italian Cultural Institute they must produce a statement of support from their Foreign Ministry;

- where the applicant seeks to stay for less than three months they do not require sponsorship but instead require a statement of support from their Foreign Ministry.

13.6 The visa arrangements were originally designed to cater primarily for organisations with cultural objectives. Over time, this original purpose has been broadened to cover a large range of government agencies with other than cultural objectives. Increasingly the visa has been used to cater for organisations that engage in educational, trading and/or commercial activities, as well as others working with international agencies.

13.7 Almost 400 Foreign Government Agency visas were granted in 2000-01. Almost half of these visa holders stay in Australia for less than three months and a further 40 percent tend to depart within twelve months.

Is a Separate Visa Needed?

13.8 As all aspects of this visa contribute to good international relations rather than economic activity, it is appropriate that these provisions continue to be viewed as part of the International Relations Stream. However the continuation of this visa in its current form does require consideration given the small number of visas granted each year. Some questions were raised during the consultations regarding the coverage of this visa and these are discussed in more detail later in this chapter under 'Client Service and Administrative Efficiency'.

13.9 It is proposed to broaden the specific 'Foreign Government Agency' visa with its limited range of provisions into a new and broader international relations visa or visas,

which would explicitly cover persons working for a wider range of foreign government agencies than is currently specified in legislation as well as international organisations.

DOMESTIC WORKER (EXECUTIVE) VISA (SUBCLASS 427)

Current Arrangements

13.10 The Domestic Worker (executive) visa (subclass 427) provides for the temporary entry of persons to be employed as domestic workers by certain holders of Temporary Business Entry visas (subclass 457). Australian Government policy does not, in general, allow domestic workers temporary entry to Australia, as such entry is not compatible with the temporary residence objective encouraging the entry of persons who can make a contribution to Australia by transferring skills to the local workforce, while protecting employment opportunities for Australians. However, this visa exists to allow the entry of domestic workers for certain executives who hold a business (long stay) visa (subclass 457), to assist them with their representational and entertainment responsibilities.

13.11 In 2000-01 there were 40 Domestic Worker (executive) visas granted. The majority of the users of this visa (about two thirds) tend to leave Australia within 12 months. Few stay Australia less than 3 months.

Is a Separate Visa Needed?

13.12 Because it does not provide for skilled work it would be very difficult to amalgamate this visa with any of the other skilled occupational or business visas. In light of the very specific nature of this visa, separate provision should be retained for these temporary residents.

13.13 This visa is currently regarded as part of the International Relations Stream of the

Temporary Residence program. These applicants are granted visas on the basis of performing domestic duties in the home of an executive who is in charge of an Australian office of an overseas organisation where the duties are required as part of their representational function. In this capacity they provide support to a temporary business visa holder who is contributing to Australian economic activity. This Review therefore considers that this visa is more appropriately viewed as part of the Economic Stream of the Temporary Residence Program.

SUPPORTED DEPENDANT VISA (SUBCLASS 430)

Current Arrangements

- 13.14 The Supported Dependant visa (subclass 430) is intended for persons who wish to accompany a family member who is an Australian citizen, permanent visa holder or New Zealand citizen who usually resides outside Australia but is intending to reside in Australia temporarily. This allows the relative of the Australian to remain in Australia for up to two years, without having to apply for a permanent visa. Currently the Australian citizen or permanent resident must support the applicant and the applicant must also intend to remain in Australia temporarily.
- 13.15 In 2000-01 there were 233 Supported Dependant visas granted. More than half of these visa holders stay less than three months with the majority of the remainder staying less than twelve months.
- Is a Separate Visa Needed?**
- 13.16 Given the relatively small number of persons who use this visa, consideration needs to be given to whether there is a need for a specific visa for these people or whether they could be accommodated under other visas. The introduction of the New Zealand Citizen Family Relationship (Temporary) (subclass 461) visa in February 2001 may further reduce these numbers over coming years.
- 13.17 More than half of the persons who use this visa stay in Australia for less than 3 months. It is unlikely that they would be undertaking work in these circumstances and they could therefore use a visitor visa (or an ETA) for this purpose. Some other users of this visa might be intending to undertake study in Australia and could therefore obtain a student visa to cover their period of intended stay.
- 13.18 Some family members might want to work during their period of stay – over 40 per cent of users of this visa stay in Australia more than 6 months. Some of these would want to work during their stay in Australia and a visitor visa would not permit them to work. They might be eligible for a temporary business visa if they are skilled and could find an employer to sponsor them but they would not be able to access that visa if they are unskilled.
- 13.19 Where none of these alternatives are appropriate, applicants could obtain a permanent visa, although this is more expensive, involves more substantial processing and takes longer to process than a temporary visa. One possibility would be to give high processing priority for these applicants.
- 13.20 Before a decision is made on whether this visa should be abolished more information about the circumstances of current users should be obtained and further consideration given to alternative visas available for these persons. However, if there are other visas that appropriately provide for these persons, this visa should be abolished.

EXPATRIATE (TEMPORARY) VISA (SUBCLASS 432)

Current Arrangements

13.21 The Expatriate (temporary) visa (subclass 432) provides for the temporary stay in Australia of spouses and dependants of persons employed in remote localities, near but outside Australia, by reputable international companies that depend on Australia for supplies or have business associations with Australia.

13.22 Only fifty-four Expatriate (temporary) visas were granted in 2000-01. In general the majority, usually more than 80 per cent, remain for less than three months.

Is a Separate Visa Needed?

13.23 This visa serves only a small number of applicants each year so there is a need to consider the continued justification for a separate visa for this very specific purpose. Under current arrangements these persons can be granted a visa for up to twelve months stay and are not permitted to work. Equivalent provisions are available under the long stay visitor visa, which has identical visa conditions in terms of work restrictions etc. This Review, therefore, proposes that this visa be abolished and that specific provision be made in visitor visa policy for this group.

13.24 This proposal will have no impact on current users of this visa, as they would all be eligible for a visitor visa with identical visa conditions. Transferring these provisions to the long stay visitor visa will have the effect of removing the current requirement for the company to cover the departure costs of the visa applicant. There is however, no evidence that there would be any impact on public costs if this requirement were removed, particularly taking into account the small numbers of persons involved.

13.25 *RECOMMENDATION:*
That the Expatriate (temporary) visa be removed and the provisions for these persons be transferred to the long stay visitor visa.

EXCHANGE VISA (SUBCLASS 411)

Current Arrangements

13.26 The Exchange visa (subclass 411) is intended to facilitate the entry of skilled persons under exchange arrangements giving Australian residents with reciprocal opportunities to work with overseas organisations.

13.27 Some flexibility is encouraged in order to maximise the benefits to Australia resulting from such exchanges. For example, exchange arrangements need not be exactly reciprocal in terms of the employees' skills and/or experience or the period of exchange; and the relevant positions need not have identical duties, commence on the same date or be available for the same period of time.

13.28 Over 2000 Exchange visas were granted in 2000-01. Around half of Exchange visa holders depart within three months and with only about 10 per cent remaining more than 12 months.

Is a Separate Visa Needed?

13.29 Given that the exchange position in Australia to which the application relates is to be a skilled position consideration should be given to whether there is a need to provide for such exchanges under a separate visa or whether they could be incorporated into the generic arrangements for sponsored employees.

13.30 In the course of consultations on this review, the possibility of incorporating the Exchange visa provisions into the long stay business visa received support. In addition some issues were raised about current arrangements, in particular, the lack of clear guidelines for the visa, which could be resolved as part of such an amalgamation. There was uncertainty about the necessary skill level, the nature of the exchange required, obligations of all parties and the degree of 'benefit' required to be demonstrated. Incorporation into the Business visa should eliminate concerns regarding the required skill level because applicants would be subject to the skill thresholds clearly specified for that visa. Other areas of client uncertainty (for example, the degree of exchange required) should be remedied by development of further policy guidelines, within the broader requirements of the temporary business visa policy for there to be benefit to Australia.

13.31 Extension of the temporary business visa model to people who currently use the Exchange visa will result in the introduction of a sponsorship requirement which does not currently exist. This is consistent with the recommendations in Chapter 4 that sponsorship undertakings should be standardised across the temporary resident visas

13.32 Provisions relating to exchanges which are the result of an agreement between a government in Australia and the government of another country are discussed later in this Chapter under Client Service and Administrative Efficiency. It is proposed that all country to country agreement provisions be amalgamated into one visa.

13.33 As a result it would appear that all applicants currently being processed under the Exchange visa arrangements could be

accommodated by transferring provisions to the temporary business visas and the proposed new visa for country-to-country agreements.

MAJOR ISSUES RAISED

13.34 Examination of the International Stream raised a number of issues related to the structure and presentation of the stream:

- how to ensure the visa system caters for today's international environment;
- how best to deal with country to country agreements, currently split across seven different visas;
- how to handle the issue of privileges and immunities.

13.35 These issues are addressed in the context of the five policy parameters and client service and administrative efficiency.

CLIENT SERVICE AND ADMINISTRATIVE EFFICIENCY

13.36 Repackaging of the provisions within the International Relations stream will permit a clearer visa structure. This, and clarification of requirements, will make the provisions easier for clients to use and simpler for staff to administer.

Persons Accorded Privileges and Immunities

13.37 There are currently three visas which have provisions for persons who will be accorded privileges and immunities status in Australia:

- the Diplomatic visa (subclass 995) – this visa is not part of this Review and the following discussion does not relate to those persons who are eligible for this visa;
- the Long Stay Business visa (subclass 457); and
- the Short Stay Business visa (subclass 456).

13.38 Most persons coming to Australia on an official posting will use the Diplomatic visa, but there are some who are not entitled to the Diplomatic visa yet will be accorded privileges and immunities under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*. These would include personnel working for the Taiwan Economic and Cultural Office and the Hong Kong Trade and Economic Office.

13.39 These groups of people currently use the 457 visa and possibly the 456 visa if they do not intend to stay in Australia for more than three months. Currently both of these visas are in the Economic Stream of the Temporary Residence Program.

13.40 It would be simpler for clients and for administrative efficiency if these provisions were to be consolidated into a single visa separate from business visa arrangements. The Department of Foreign Affairs and Trade would support this approach:

The process was recently streamlined and seems to work smoothly... DFAT would not object to the proposal that persons granted certain P&I be taken out of [the subclass 457] visa and combined in a general category relating to foreign government representatives ... as long as:

- *DFAT remained the referral point for the recommendation of these visas;*
- and*
- *Courtesies eg waiver of fee and requirement for medical clearance, continue to be extended.* (Submission from DFAT)

13.41 The Attorney General's Department has indicated a preference to provide for persons accorded privileges and immunities in a separate visa. In their

opinion, this will reduce the possibility of adverse legal implications that may result from other persons being included in the same visa. As the key policy requirement is for DFAT to support such applications, such a separation would lend itself to simpler administrative arrangements and minimise confusion about which persons are to be accorded privileges.

13.42 *RECOMMENDATION:*

That provision for persons accorded privileges and immunities currently covered in the temporary business visas be consolidated together and moved into one visa in the International Relations stream of the Temporary Residence Program.

13.43 In some cases persons who will be accorded privileges and immunities may only need a visa that provides for a stay in Australia of a relatively short period, for example, those who will be granted a Diplomatic (995) visa but have not yet commenced their posting. If they need a visa for less than three months they may be eligible for a short stay business (subclass 456) visa or its electronic equivalents (where available), depending on their intended activities. Visa arrangements for persons who wish to stay in Australia for a short period, up to three months, are discussed in Chapter 6. These visas have no sponsorship requirement and have streamlined processing, however, where an applicant chooses to apply for these visas they would need to pay the appropriate application charge. The proposed new visa for persons who will be accorded privileges and immunities will have procedures specifically for these persons and will be able to be processed relatively quickly once the letter of support from Foreign Affairs is received. In line with current arrangements there will be no application fee for the new visa.

13.44 Currently some persons working for the United Nations can also use the 'privileges and immunities' provisions in the 456 and 457 visa. There has, however, been some confusion in this regard as the people concerned are not representatives of a foreign government. It is the view of the Attorney General's Department that those persons to whom the *International Organisations – Privileges and Immunities Act 1963* apply are covered by the privileges and immunities provisions of the 456 and 457 visas, that is:

... the organs of the UN, such as UNHCR, UNESCO, and UNTAET, are covered by the IO(PI) Act. These organisations and certain persons connected therewith fall under the current subclass 457 (persons accorded certain privileges and immunities). (Submission from Attorney General's Department)

13.45 Further, it is the view of the Attorney General's Department that

...it is not necessary or desirable to refer specifically to particular agencies or organisations as the list of organisations enjoying privileges and immunities under the IO(PI) [International Organisations (Privileges and Immunities)] Act will change from time to time. It would be better to link the visa class to international/overseas organisations declared to be ones to which the IO(PI) Act applies.

13.46 The policy intention is that these persons must meet the same requirements regardless of whether they apply for a 456 or a 457 visa – they are required to have the support in writing of the Australian Minister for Foreign Affairs and they must be a person who will be accorded privileges and immunities once in Australia. These

requirements will need to be retained in the new visa arrangements. Exemption from a sponsorship requirement for these visa applicants would also continue.

13.47 Once these provisions are consolidated into a separate visa it would be appropriate to move the new visa into the International Relations Stream, reflecting the policy objectives of these provisions, as opposed to the Economic stream where the temporary business (subclasses 456 and 457) visas are located.

Persons Working for International Organisations

13.48 As outlined earlier in this Chapter, the Foreign Government Agency visa currently provides for people who are to be employed as a representative of a foreign government agency but will not be accorded official status in Australia (and therefore are not eligible for a Diplomatic visa). There is also provision made for certain people entering under an agreement between Australia and another country (these country-to-country agreements are discussed below).

13.49 During the Review some concerns were raised that not all representatives of international organisations such as the United Nations or its agencies are specifically provided for under existing visa arrangements. As mentioned above the Attorney General's Department has indicated that they believe many UN representatives for example, are currently covered by the privileges and immunities provisions of the 456 and 457 visas. They have, however, indicated that there appears to be no specific provision for certain persons working for such organisations, for example, contractors and peacekeepers. DFAT has also raised concerns that the current provisions do not adequately provide for all necessary situations, for example, a UN representative deployed in

East Timor, who wishes to base their family in Darwin.

13.50 Feedback during the Review also indicated that there is some confusion over whether there is provision for representatives of particular international organisations, for example the South Pacific Forum Fisheries Agency, the Asian Development Bank or the Commonwealth Secretariat. Clarification of the policy intention with regard to these and other international organisations is, therefore, required. As stated in the submission from DFAT, "when proposing changes to visa regimes, consideration will need to be given to the potential impact on Australia's treaty obligations, particularly those that relate to bilateral visa arrangements. DIMIA will need to consult with DFAT to ensure that any changes do not cut across these commitments".

13.51 It therefore appears that the current arrangements are creating some confusion and, in addition, may require some clarification or broadening to better meet international relations objectives. Rather than retaining provisions (where they do exist) scattered across a number of visas (and some in different streams), it is proposed that certain provisions be repackaged. This would involve consolidating the relevant provisions in a number of new visas within the International Relations stream including for example, those relating to persons who will be accorded privileges and immunities into one visa (as discussed above). Both the DFAT and Attorney General's Department have indicated support for such a move.

13.52 The provisions of the existing Foreign Government Agency visa (subclass 415) may be readily absorbed into one or more of the proposed new visas. Those wishing to enter Australia within the terms of an agreement between Australia and another country are discussed in more detail below.

13.53 *RECOMMENDATION:*

That the visa provisions for international relations purposes be rationalised and a specific visa (or visas) be introduced with provisions that more clearly provide for representatives of international organisations and better reflect the objectives of the International Relations Stream. The provisions of the foreign government agency visa should be folded into one or more of these new and broader international relations visa(s).

13.54 Consistent with the recommendations in Chapter 4 that, as a general rule, all temporary residents should be sponsored, all applicants for this visa would be required to be sponsored, including persons intending a short stay. Visa arrangements for persons who wish to stay in Australia for a short period, up to three months are discussed in Chapter 6. Under the proposed arrangements, persons who need to stay less than three months would generally be eligible for a short stay business visa and may find it more convenient to use that visa (or its electronic equivalent where available). There would be no sponsorship requirement for them. Persons who cannot meet the requirements for a short stay visa or who wish to stay longer than three months for these purposes would need to apply for the new international relations visa, which would have a sponsorship requirement.

Country-to-Country Agreements

13.55 There are currently seven visas that provide for persons to enter Australia temporarily within the terms of an agreement between Australia and another country. The Foreign Government Agency (subclass 415) and Exchange (subclass 411) visa are currently

- in the International Stream. The other visas, which are in the Cultural and Social Stream, are:
- Visiting Academic (subclass 419) visa;
 - Entertainment (subclass 420) visa;
 - Sport (subclass 421) visa;
 - Media and Film Staff (subclass 423) visa; and
 - Public Lecturer (subclass 424) visa.)
- 13.56 Country-to-country agreements are entered into for a variety of purposes not related to entry arrangements. Typically the signatories are an Australian Government Department or Statutory body and its foreign counterpart. In some cases they may involve Australia and a number of such foreign counterparts. DIMIA is not a party to such agreements, although these agreements will usually mention in passing a need for smooth entry to Australia. The visa provisions seek to facilitate such entry. As DIMIA is not generally a signatory to these agreements it may not be aware of all the relevant agreements.
- 13.57 The principle requirement for persons using these provisions is that they produce evidence that:
- their entry meets the requirements of a country-to-country agreement; and
 - they have the agreement of the relevant competent authorities in Australia and the other country, that is, their proposed activities are consistent with the nature of the agreement.
- 13.58 From DIMIA's point of view, the purpose of the agreement is not an issue. Rather, the existence of an agreement and some confirmation that the visa applicant's intentions meet the requirements of the agreement are the issues. The policy intention is identical for all of these provisions, in that DIMIA accepts the evidence of the relevant third parties that the visa applicant meets the requirements of the agreement – DIMIA does not assess this itself.
- 13.59 Currently sponsorship is not required for these applicants. However consistent with the recommendations in Chapter 4 that, as a general rule, all temporary residents should be sponsored, a sponsorship requirement should be introduced. This would ensure that the organisation seeking entry of a person under a country-to-country agreement accepts standard sponsor responsibilities. Introduction of a sponsorship requirement would not run counter to any streamlined immigration commitments forming part of the agreement. Provided evidence of agreement coverage is furnished at time of lodgement of the sponsorship, such applications would be expeditiously handled. Sponsorship would be required regardless of period of intended stay. Most persons who intend to stay less than three months could obtain a short stay business visa (subclass 456) which is not subject to a sponsorship requirement (see Chapter 6). Standard health and character requirements would continue to apply.
- 13.60 In addition the applicant should submit a letter of support from the relevant Australian government agency and relevant overseas agency identifying the name of the agreement and confirming that the applicant meets the terms of the agreement. This is a requirement under current arrangements but feedback suggests that it could be made clearer to clients that they must have a letter from each agency and the letter must confirm that their intended activities are consistent with the terms of the agreement.
- 13.61 As the visa requirements and processes are so similar for all such cases, it is proposed that the country-to-country agreement provisions from each of these visas be consolidated into a single visa. This will provide a simpler approach for clients who will know exactly which visa to apply for once they have the support of the relevant 'competent authorities'. This would

contrast with current arrangements whereby clients need to discuss their intended activities with DIMIA so that an officer of the Department can identify the appropriate visa for them to apply for.

- 13.62 Consolidation of provisions for country-to-country agreements into a single visa would allow for removal of current inconsistencies in terminology and for a standardised approach in relation to issues such as level of government involvement and supporting evidence required.
- 13.63 The nature and purpose of country-to-country agreements lend themselves to inclusion of this new visa in the International Relations stream. However, it should be in a separate visa from the other provisions for foreign government officials or persons working in international organisations:

...it is not appropriate to consolidate the persons [who will be accorded privileges and immunities] with other country to country agreements... These visa classes do not accord such persons the same privileges and immunities as are accorded foreign government representatives, persons representing or working for international organisations, or domestic workers (diplomatic or consular). (Submission from Attorney General's Department)

13.64 **RECOMMENDATION:**

That existing country-to-country agreement provisions be consolidated into a single visa, to be included in the International Relations stream.

- 13.65 Amalgamation of all of the country-to-country agreement provisions will permit smoother administration of the visa processes for these persons. It will allow for better monitoring, a better appreciation

of the use being made of such agreements and allow for the removal of minor inconsistencies in phraseology concerning the agreements. Such a move will also lend itself to the introduction of additional accountability provisions in that, where an applicant breaches his or her visa requirements, the Department could notify the relevant Australian competent authority. This would assist such authorities to monitor the incidence of breaches by applicants brought in by particular organisations and allow them to take action they consider appropriate when support for further applicants is sought.

- 13.66 Consolidating all the country-to-country agreements together in one visa, with no other provisions, would allow for certain requirements for these visa applicants to be front-end loaded, that is, required to be provided at time of application. This includes evidence that the relevant competent authorities have agreed to the applicant's stay under a country-to-country agreement. This would allow for faster processing of the applications once received by DIMIA.

New International Relations Visas

- 13.67 These could therefore include:
- a visa for those with Privileges and Immunities;
 - a visa for those covered by country-to-country agreements; and
 - a visa for those working for foreign government and international agencies.

NO NET COST TO THE AUSTRALIAN COMMUNITY

- 13.68 Costs to the Australian community associated with the entry of overseas workers are minimised through the operation of sponsorship undertakings. This review recommends that temporary residents generally be required to be sponsored (see Chapter 4 for discussion).

13.69 Under the recommendations in this report, sponsorship would not be required for some visas in the international relations stream. This would include visas where the arrangements in place are designed to foster good international relations by providing streamlined entry arrangements for certain people. In particular, arrangements for people whose entry is governed by international diplomatic conventions (including those accorded privileges and immunities) will continue to be exempt from a sponsorship requirement. Chapter 4 discusses arrangements for limiting costs to the Australian community in cases where there is no sponsorship requirement.

Special Circumstances of Domestic Worker – Executive (subclass 427) Visa

13.70 As no concerns have been raised in relation to the policy requirements for this visa, it is proposed that they remain unchanged except for the standardisation of sponsorship requirement for all visa applicants. Currently, sponsorship is only required where the executive was sponsored. Where the executive was not sponsored, they must take on responsibilities in relation to the domestic worker that broadly reflect sponsorship obligations. This is effectively a sponsorship, but the undertakings are not identical. It is proposed that the formal sponsorship requirement apply to all domestic worker visa applicants. It would be simpler for clients if the sponsorship requirements for these visa applicants were standardised within the visa. This is consistent with the recommendations in Chapter 4, that sponsorship undertakings should be standardised across the temporary resident visas.

13.71 In the case of domestic workers it is especially important to ensure that arrangements are in place to prevent their exploitation. The current visa arrangements

require that the employer pay the domestic worker in accordance with Australian salary levels for such work and employ them under Australia conditions of work. The employer is also required to meet all the applicant's travel expenses to Australia to take up the position and from Australia on the expiry of the contract of employment and is not permitted to seek to recover any expenditure in relation to the applicant's travel to or from Australia or financial support of the applicant in Australia. Applicants must be over 18 years of age which ensures that children cannot be used for this work.

13.72 Given that these workers are employed by temporary business visa holders (subclass 457) the monitoring arrangements for that visa could be extended to the Domestic Worker – Executive visa. This would ensure that the remuneration and other matters in relation to these workers are subject to regular monitoring.

EMPLOYMENT OPPORTUNITIES FOR AUSTRALIANS

13.73 Those applying to enter Australia on visas in the International Relations stream are not entering Australia to meet labour shortages. The primary purpose of their visit is the enhancement of good international relations through engagement in educational, cultural, trading and/or commercial activities. As the 'benefit to Australia' of such arrangements is in terms of improved international relations and goodwill, labour market testing would be inappropriate.

Work Rights for Family Members of Domestic Worker – Executive Visa Holders

13.74 Under current arrangements, family members of 'main' applicants are given full permission to work under this visa. The activities of the 'main' applicant are not skilled work and therefore the 'main'

applicant will not be receiving a high salary. Accompanying family member may need to seek work, possibly unskilled work, to help meet family expenses. Any access of overseas workers to the unskilled segment of the labour market is of concern.

13.75 Chapter 3 discussed a new approach for work rights for family members accompanying temporary residents to Australia. Under the proposed approach, family members of domestic workers will retain access to work rights where the 'main' visa holder is approved for a period of stay longer than 12 months. This policy balances the potential impact on the unskilled labour market of providing unrestricted work rights to family members against the legitimate aspirations of long-term temporary residents and the benefit these visa holders bring to Australia. Given the small number of users of this visa it is unlikely to affect many persons. Those who would also be undertaking domestic work in the same household could apply for a visa in their own right. Opportunities for dependants to undertake study, as long as it is not at tax-payers' expense, are not affected.

TRAINING OPPORTUNITIES FOR AUSTRALIANS

13.76 Because applicants for visas in the International Relations stream are generally not entering Australia to fill labour shortages there is little scope for them to impact negatively on training opportunities. The very nature of the positions many International Relations stream visa holders enter Australia to fill, often representational, are generally not those for which an Australian would be suitable.

PAY AND CONDITIONS FOR AUSTRALIAN WORKERS

13.77 Where a temporary resident is required to be sponsored, it is a requirement that the employer complies with relevant Australian awards including those relating to remuneration and conditions of employment. However, for the cases where there is no sponsorship requirement, this is not necessarily the case.

13.78 Current arrangements for the visas discussed in this chapter which are to remain in the international relations stream require that:

- foreign government agency visa holders are required to be sponsored (unless they are staying less than 3 months or entering under a country-to-country agreement)
- persons accorded privileges and immunities do not have to be sponsored; and
- persons entering under country-to-country agreements do not have to be sponsored.

13.79 Many users of these visas remain the employee or representative of an overseas organisation. Given the policy objective of this stream it would not be appropriate for Australian visa requirements to dictate the salary levels of these overseas residents, just as it would be inappropriate to determine pay and employment conditions of diplomats. Current practice for persons who use the foreign government agency visa is consistent with this approach. Under policy, the requirement that where a person is sponsored the sponsor must pay them in accordance with Australian wages is not enforced because they are being paid by an overseas employer (ie a foreign government).

- 13.80 Were they to be paid by an Australian person or organisation it would be appropriate to have a requirement that they be paid in accordance with Australian awards and conditions. This requirement would ensure that such overseas workers are not used as a cheap alternative to Australian workers.
- 13.81 It is proposed that the current practice in relation to persons working for foreign governments be retained. Therefore, people paid by a foreign government will not be required to be paid in accordance with Australian wages, but where they are paid by an Australian person or organisation, this requirement would be enforced.
- 13.82 In relation to persons to be accorded privileges and immunities, there is currently no sponsorship requirement for these persons and it is not proposed to introduce one. These persons are paid by their foreign government and it would not be appropriate to have a requirement that they be employed in accordance with Australian wages and working conditions.
- 13.83 Where a person enters Australia under a country-to-country agreement there is currently no sponsorship requirement but it is proposed to introduce one. The sponsorship would require them to be paid in accordance with Australian wages. It is proposed that the same distinction between payment by a foreign government or organisation and payment by an Australian person or organisation should apply, in determining whether the requirement to pay Australian levels of wages is enforced.

IMMIGRATION INTEGRITY

- 13.84 A discussion of generic immigration integrity issues can be found in Chapter 2.

No integrity issues were raised in relation to the visas in the International Relations stream in the course of the Review. Available departmental statistics do not suggest any issues of concern with the visas discussed in this Chapter:

- With the exception of the Supported Dependant visa, only a small proportion of visa holders in this stream apply for permanent visas while in Australia; most do so on spouse grounds.
- A proportion of the visa holders in this stream apply for temporary entry visas while in Australia. While higher than the rates for other temporary residents, the rates are still very low and involve few people. The majority applied for the same visa as already held and most of the remainder applied for tourist visas. (The issue of people extending their stay on another temporary resident visa of the same kind was discussed in Chapter 2 at paragraphs 2.88–2.96). These patterns do not raise any issues of concern.
- In 2000-01 a significant portion of Supported Dependant visa holders applied to remain permanently. The majority of these applications were for spouse visas. Given the strong links that these people already have with Australia and their eligibility for permanent visas, this pattern is not surprising and raises no issues of concern.
- Cancellation of visas in this stream tend to be extremely low – only ten of the visas discussed in this Chapter were cancelled in 2000-01.
- The overstay rates for these visas tend to be very low and indeed, over the past two years there have been no Domestic Worker or Expatriate visa holders who remained beyond the validity of their visa. The Supported Dependant visa has the highest rate of overstay of this group of visa applicants, but it was still very

low (around 2 per cent in 2000-01). This translates to only a small number of people, and is not surprising given the nature of the visa.

CONCLUSION

13.85 The proposed restructuring of the International Relations Stream should:

- make the policy intention of the stream clearer;
- better reflect today's international environment;
- enable better monitoring of the uses being made of currently dispersed international relations provisions;
- rationalise sponsorship requirements; and
- maintain flexibility and specific provisions where necessary.