

CHAPTER 6 – ECONOMIC STREAM: ARRANGEMENTS FOR SHORT VISITS FOR BUSINESS PURPOSES

BACKGROUND

Policy Objective

- 6.1 It is in Australia's interests to ensure that genuine business people who contribute either directly or indirectly to Australia's economic development can obtain visas with the minimum of inconvenience and expense. This is in line with Australia's commitments under the Asia Pacific Economic Co-operation (APEC) forum, and with the increasing globalisation of the Australian economy.

Current Arrangements

- 6.2 The Short Stay Business visa (which was introduced in November 1995) meets this objective by providing a relatively quick and inexpensive visa option for persons who have a need to be in Australia for a short period for business purposes. This visa is intended for persons undertaking, perhaps in conjunction with general tourist activities, a range of short-term business activities, for example:
- exploring business opportunities in Australia;
 - conducting negotiations, site visits or equipment inspections;
 - signing contracts; or
 - attending a conference or meeting in relation to their field of employment.
- 6.3 A maximum period of three months is allowed. The visa is not extendable in Australia, reflecting the expectation that most business dealings would be completed within the three month period of stay provided for by the visa. The Business (Long Stay) visa (subclass 457) is available for people who need to stay in Australia for longer periods (see Chapter 5).

The Electronic Travel Authority (ETA)

- 6.4 In addition to the Short Stay Business visa (subclass 456), the need for a visa for short business visits is met for the nationals of thirty-three nationalities and locations through the Electronic Travel Authority System (ETAS). The ETAS was introduced in September 1996 in response to pressure for visa arrangements that were faster, simpler and more convenient for both tourist and business travellers.
- 6.5 ETA applicants are not assessed by an immigration office. Instead, prospective travellers can apply for their ETA through travel agents, airlines or directly over the Internet. The ETA is granted via electronic links between the travel agent or airline and DIMIA systems. No visa label is placed in the passport and there is no application form. In the case of an ETA applied for over the Internet, while there is no Government visa application fee, applicants are required to pay a small Internet-service fee.
- 6.6 While processing of ETAs is highly streamlined, integrity is retained through a number of means:
- ETAs are only available to passport holders from thirty-three countries and locations where the risks of this streamlined processing are statistically low, ie ETAs are not available to all travellers seeking to visit Australia;
 - the link to DIMIA's database before the ETA is granted ensures instantaneous checking of the passport holder against DIMIA 'alert lists'. If a 'match' occurs, the applicant is referred to an overseas mission for further processing;
 - all persons holding a 'non-ETA' passport are required to apply for a visa in the

usual way by lodging a “paper” application form at an Australian diplomatic mission overseas.

- 6.7 The ETAs for business purposes (subclasses 956 and 977) are not part of this review. However, the business ETAs allow the same period of stay for the same business purposes as the Short Stay Business visitor (subclass 456) visa and are intended to be the “electronic equivalent” visa for ETA nationals. Therefore any changes to business visitor visa arrangements have implications for the business ETAs.
- 6.8 In 2000-01 a total 124,526 Short Stay Business visas (subclass 456) were granted world-wide, an increase of 8 per cent on the number granted in 1999-2000. During the same period, 139,154 electronic visas for business purposes were also granted, an increase of 14 per cent on the previous year

Is a Separate Visa Needed?

- 6.9 The Short Stay Business visa provides a relatively quick and inexpensive temporary visa for genuine short term, business purposes. The visa criteria are streamlined to permit fast processing and these streamlined arrangements balance the need for fast processing for business people who genuinely intend a short stay with the need for visa integrity.
- 6.10 However, in instances where a temporary resident is seeking to enter Australia for longer periods of stay (where the impact on the labour market may be more significant), there is a clear need to ensure that visa applicants meet stricter criteria. In this respect it is important that visa holders are both highly skilled and their impact on the Australian labour market does not result in the displacement of Australian workers. This also applies to applicants intending to work in semiskilled or

unskilled work and in work that may be of an “ongoing” nature rather than just “one-off”. For this reason, there will continue to be a need for a longer stay temporary business visa that is separate from the Short Stay business visa.

Major Issues Raised

- 6.11 The following issues were raised in submissions in relation to this visa:
- whether to retain the restriction in relation to applying for this visa offshore;
 - greater use of this visa following broader interpretation of its intended purpose;
 - greater use of this visa as a result of the abolition of certain other temporary residence visas;
 - the use of this visa by persons who intend to stay in Australia longer term; and
 - the need for policy clarification in a number of areas.
- 6.12 These issues are discussed throughout this chapter in the context of the five policy parameters and the need to maximise client service and administrative efficiency.

EMPLOYMENT OPPORTUNITIES FOR AUSTRALIANS

- 6.13 It has been long-standing policy that persons seeking to engage in paid employment in Australia should apply for the temporary business visa that allows for both paid employment and a longer stay instead of the three-month stay provided for by the Short Stay Business visa. This is consistent with the expectation that persons who would be engaging in paid employment would usually need to stay in Australia for longer than three months at a time. In such cases, the temporary business (long stay) (457) visa is usually the most appropriate visa. For those undertaking short term projects or contracts, payment would usually be made

from overseas, although there may be instances where the employer is an Australian-based company.

6.14 The streamlined processing of the Short Stay Business visa also reflects the need for temporary residence visas to take into account labour market implications for persons who intend to take up a position in the Australian labour market. In this respect, it is long-standing policy that:

- the Short Stay Business visa is to be used by persons who will visit Australia for a short period (only up to three months in total) and therefore are not expected to have an adverse impact on the local labour market by carrying out work that could be performed by an Australian resident;
- other temporary residence visas have more extensive processing requirements involving a mechanism (for example skill level threshold, information about training, or consultation within the industry) to protect opportunities for Australian workers, before allowing overseas workers to take positions in the Australian labour market.

6.15 A criterion for grant of the Short Stay Business visa is that:

“the applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities or conditions of employment for Australia citizens or Australian permanent residents.”

6.16 If the DIMIA decision-maker considers that the proposed business activities (including any proposed employment) would not meet this requirement, the visa must be refused. In the case of the business ETAs, because of the streamlined processing arrangements, the visa criteria are simpler and only require that:

“The applicant states an intention only to visit Australia temporarily for business purposes.”

The issue of proposed activities is addressed instead through a comparable visa condition.

6.17 All Short Stay Business visas (both subclass 456 and business ETAs) have the following condition attached to them, so that the visa may be cancelled if the visa holder breaches this condition:

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

No Extensions in Australia

6.18 Data held by DIMIA indicate that the majority of visitors holding Short Stay Business visas do not stay in Australia for extended periods with most business visitors completing their business activities well before the end of the three-month maximum period of stay provided for by the visa. Persons who intend to stay for longer periods are expected to obtain a Long Stay Business visa, which provides decision-makers with the capacity to undertake a higher level of scrutiny as well as health and character processing. Most employed workers would have an expectation that their stay in Australia will be for greater than three months, and the Short Stay business visa would not meet their needs. However, it is possible to undertake restricted work on a Short Stay business visa as long as the visa holder is highly skilled and working on a one-off, short-term project.

6.19 The holders of Short Stay business visas are regarded as having met the Health criteria by completing a health declaration on the visa application form (unless they

fall within the 'special significance' profile (see Appendix H). This arrangement reflects both the expectation that the users of this visa will only be in Australia for relatively short periods and the long-standing requirement that processing of this visa needs to be as streamlined as practicable. Again, if an applicant's intention is to remain in Australia for a longer period, the Short Stay business visa is not the appropriate visa.

6.20 Where it is necessary to conduct business in Australia over an extended period of time, it is possible for a person to use the multiple entry facility of the Short Stay Business visa which enables the holder to enter Australia several times (but never for more than 3 months) during the validity of the visa. The visa holder must demonstrate that there is a genuine business need for this. It should be noted however, that the multiple entry component of the visa is not to be used by the visa holder to undertake long-term work. If this is intended, then the applicant should apply for the appropriate long-stay temporary residence visa.

6.21 Reflecting these expectations and processing arrangements, the Short Stay Business visa cannot currently be extended onshore. This means that if a person needs to stay longer than three months they are required to apply for and be considered against the criteria for a longer stay visa onshore, rather than simply obtain a succession of short stay visas.

6.22 These Short Stay Business visa validity arrangements:

- reflect the expectation that persons who apply for a Short Stay business visa would generally have completed their business activities within a short period of time;
- reflect the streamlined processing arrangements in place for the Short Stay

business visa, which are designed to minimise the processing delay where a person needs to travel to Australia soon and for a relatively short period of time; and

- are designed to ensure that the visa is not used as a substitute for a longer validity visa that has more substantial processing and screening and is appropriate for such persons who have other than very short term needs to be in Australia for their business or work purposes.

6.23 This Review supports the retention of the requirement that this visa must be applied for offshore as a means of ensuring its use is limited to persons with short stay business needs.

Professional Licensing and Registration Requirements

6.24 There are many occupations where registration and/or licensing in Australia are required, for example engineers, accountants, electricians, dentists and many more. Persons intending work in Australia in occupations with registration and/or licensing requirements must be registered or licensed, even if it is proposed that the period of work is short. This ensures that the Australian community is not put at risk through unlicensed or untrained operators. The same registration requirements apply to overseas residents who wish to work in Australia regardless of period of stay in Australia. Short Stay Business visa applicants still need to meet any licensing or registration requirements that apply in Australia in relation to their occupation if they intend to practise their occupation during their visit to Australia. It is the *intention to practise*, rather than the *length of stay*, which governs the need to fulfil these requirements.

TRAINING OPPORTUNITIES FOR AUSTRALIANS

- 6.25 As the Short Stay Business visa is for stays no longer than three months it is long-standing policy that the visa does not present any adverse risk or impact on training opportunities for Australians.
- 6.26 Where it becomes apparent that the visa is being repeatedly used for the purposes of longer-term employment, then the impact of the 'visit' on the Australian labour market should be assessed and it may well be that the Short Stay Business visa is not appropriate. This policy ensures that the streamlined arrangements in place for Short Stay Business visa (providing fast and easy processing for genuine business people) are not leading to a situation that might impact adversely on employment opportunities for Australians.

PAY AND CONDITIONS FOR AUSTRALIANS WORKERS

- 6.27 The Short Stay Business visa is frequently used by business people who are either self-employed or employed by an overseas company. Most business visits are for short periods and the expectation is that the existing remuneration arrangements (ie those that exist for the visa holder in their home country) would continue and be unaffected by the short visit to Australia. However, there is an expectation that the remuneration is comparable to Australian Award conditions.
- 6.28 Only people who are highly skilled and undertaking a one-off, short-term project can work in Australia on the Short Stay Business visa. It is anticipated that there would be relatively few instances where visa holders are employed and paid by an Australian employer. In these circumstances the visa should not impact on pay and conditions for Australian workers. Again, if it is assessed that the short term work being undertaken by the visa holder has

an adverse impact on the Australian labour market, through the displacement of Australian workers, then there is the capacity in law for the visa to be cancelled.

NO NET COST TO THE AUSTRALIAN COMMUNITY

- 6.29 There is no sponsorship requirement for the Short Stay Business visa, consistent with the expectation that persons using this visa would only be in Australia for a relatively short period of time and the costs of their stay would usually be provided for by the visitor or the overseas employer. The potential for there to be financial costs to the Australian community are considered to be relatively low because of the short period of stay involved. Holders of this visa have no entitlements to Medicare or any other benefit. Like other short stay visa holders (for example, tourists), visa holders are advised to take out private health insurance.

IMMIGRATION INTEGRITY

- 6.30 While the introduction of the Short Stay Business visa regime and the Business ETA was welcomed by business at the time of introduction, there are some visa integrity issues that warrant consideration.

Persons with Longer Term Intentions from the Outset

- 6.31 There is strong anecdotal evidence that the streamlined processes of the Short Stay Business visa regime sometimes leads some visa applicants whose intention is to stay in Australia for longer than three months to misrepresent their true intentions to DIMIA overseas in order to obtain a "quick business visa". There is anecdotal evidence that this is particularly prevalent in the Business ETA stream because ETA arrangements do not provide visa applicants the opportunity to explain the nature of their intentions in Australia.

- 6.32 Around 57 per cent of the long stay temporary business visas granted in 2000/01 were applied for onshore, that is almost 23,000 visas. A significant proportion of these applicants are likely to have been holders of Short Stay Business visas, although others would have been holders of expiring long stay business visas, ETAs and visitor visas. The large proportion of long stay visas that are applied for onshore suggest that many applicants had intended to stay in Australia for more than three months at the time of their arrival, although some applications would have been the result of a genuine change in circumstances since the applicant arrived in Australia.
- 6.33 There are a number of possible reasons why people travel to Australia on a Short Stay business visa even though they may intend to apply onshore for a longer stay visa:
- they may need to take up their employment urgently and processing delays associated with the longer stay visas may be costly for the employer – anecdotal evidence suggests that this is a common reason for applying for the Short Stay business visa in the first place;
 - an employer may wish to take on an employee on a ‘provisional’ basis before committing to the sponsorship obligations associated with the longer stay visas;
 - the Business ETA can be obtained through a travel agent or over the Internet without the need for the traveller to approach a DIMIA office overseas;
 - there may be a perception that it is ‘easier’ to obtain the longer stay visa once in Australia; and
 - if the application for the longer stay visa is unsuccessful in Australia, the visa applicant has a review right and they may decide to extend their stay in Australia by pursuing their case through the appropriate review channels.
- 6.34 Under current legislation there is a tension created between the requirement that the applicant only intends to stay in Australia for three months and the practice of many applicants using this visa where their intentions are for a longer period of stay. The current legislation does not anticipate people using this visa for purposes other than a short stay in Australia. Yet the large number of applications for the Long Stay visa being lodged onshore indicates that many people are applying for, and being granted the Short Stay business visas, in the full expectation that they will then apply for a Long Stay visa after arrival in Australia.
- 6.35 There are a number of options that could be considered:
- remove the option for persons on these visas to obtain a further visa while in Australia;
 - allow for persons on these visas to apply for only a limited range of other visas onshore; or
 - legitimise the use of this visa as a means to obtain streamlined entry to Australia, regardless of intended period of stay.
- 6.36 There will continue to be legitimate reasons for persons who have short stay intentions, but whose intentions change after their arrival so that they need to transfer to a longer validity visa. Of the large number of people applying for long stay business visas onshore, there will be some who did not intend to stay longer initially. It is the view of this Review that this option needs to remain for genuine circumstances.
- 6.37 If it remains an option to transfer onshore from this visa to a longer validity temporary residence visa, it will be difficult to distinguish where this is considered appropriate and where this is not appropriate. Some policy guidelines on this matter would be required to assist clients and staff in clarifying appropriate use of this visa. Apart from people whose circumstances change after their arrival, or who wish to ‘test the waters’ for a short time, there will continue to be people who

wish to use this visa because they know that this visa can be processed more quickly than a long stay business visa and therefore the visa allows them to travel to Australia quickly. In this respect policy guidelines should continue to recognise that business and other circumstances change:

...the practice of applying for a subclass 456 before a decision was made on an application for a subclass 457 needs to be examined further. However I feel that this practice reflects the fact that some business make decisions, which they wish to put into effect at short notice. This practice should be discouraged but a "faster" alternative should be found. (Submission from The Australian Lebanese Christian Federation Inc.)

- 6.38 The External Reference Group for the Review are supportive of this use for the visa and consider that Government policy should legitimise the use of this visa by people who have longer term intentions, but who use this visa to enter Australia and then transfer to a long stay business visa. This issue was commented on in Submissions to the Review, for example:

...the differences in processing time may make it necessary to utilise the 456 visa category until the 457 is processed. We would strongly urge that this flexibility be continued and if necessary, where the intent is for the stay to exceed 3 months, the sponsorship obligations be extended to cover this period while the 457 is being assessed. (Submission from Siemens)

- 6.39 Proposals in this Review which seek to streamline processing for the temporary business entry visas will reduce pressure to use the Short Stay business visa as a

means of travelling to Australia quickly. The Review supports improved processing of the temporary residence visas, so as to promote and maintain the integrity of the Short Stay business visas. Submissions to the Review were supportive of measures to improve processing times, without reducing processing integrity.

The provision of more detailed guidelines for employers on processing times and information to be included in support of business (long-stay) temporary sponsorships and nominations would help to address processing delays. (Submission from the former DEWRBSB)

- 6.40 This visa is currently being used by people who have longer term intentions – it would assist clients and staff to have policy guidelines that spell out circumstances in which it is appropriate for persons with longer term intentions to use this visa.

Persons with Longer Term Intentions Demonstrated Through Use of the Multiple Entry Facility

- 6.41 There is some anecdotal evidence from DIMIA officers who work at Australian airports that the multiple entry facility of the Short Stay business visa is being used by some visitors to overcome the three-month maximum stay period by departing Australia briefly and the returning to Australia, thereby obtaining a further three month stay. This is not the policy intention of the multiple entry facility. Rather, the intention of the multiple entry facility is that business people who need to visit Australia on a number of occasions only need to apply for a visa once. People who depart Australia after three months for a short break outside of Australia and then immediately return to Australia, perhaps within days, for another three months stay, would appear not to be able to satisfy the

“genuine visit” criteria of the Short Stay Business visa. In such instances, visitors should be encouraged to apply for a visa that permits a longer period of stay and has the appropriate processing and checks.

- 6.42 Arrangements should be in place to prevent persons from using this visa for longer-term periods of stay. While it is not always possible to identify a person’s intentions ahead of time, it is possible to follow a person’s pattern of visiting and residing in Australia. Further work needs to be undertaken on this issue to identify an appropriate response that balances the need for migration and temporary entry program integrity and the needs of Australian businesses.
- 6.43 Persons who make it clear in their application that they intend to be in Australia for more than three months are not granted this visa. The current visa application form does not make it as clear as it could that the visa cannot be used for stays of more than three months on any one visit. This information could be made clearer to applicants.

Other Integrity Issues

- 6.44 Based on available departmental statistics, there are no other integrity concerns with this visa:
- Nearly three thousand persons applied for other short stay or temporary residence visas while in Australia in 2000-01. This represents only about 2 per cent of annual visa grants. Almost three quarters of these applications were for long stay business visas (see above discussion) and the bulk of the remainder were for visitor visas.
 - Around 400 of these visa holders applied for permanent residence while in Australia – a relatively small percentage. More than half of these applications were for Spouse visas and about a quarter applied for Employer

Nomination Scheme visas.

- The number of visas cancelled is low relative to other temporary resident visas.
- Around 1000 holders of this visa applied for protection visas after arrival in Australia. This is not an insignificant number, although it is a small proportion of total of these visas granted (ie less than one per cent), given the large number of visa grants of this visa each year, and recognising the relatively streamlined processing arrangements in place for this visa.
- Statistics regarding overstayers indicate that only a very small proportion of short stay business visa holders remain in Australia beyond the validity of their visa, for example less than half a per cent in 2000-01.

CLIENT SERVICE AND ADMINISTRATIVE EFFICIENCY

Expanded Use of Short Stay Business Visas

- 6.45 It is acknowledged that the Short Stay Business visa is currently being used for a wide range of business and short employment purposes. There are a number of ways in which the legitimate use of the visa could be made clearer, especially in respect of when such use of the visa is legitimate and when it is not.

Greater Policy Clarification

- 6.46 Feedback during the course of consultations for this Review indicated lack of policy clarity in a number of areas, for example ‘benefit to Australia’, ‘business purposes’ and ‘genuine intention to remain temporarily’. Anecdotal evidence suggested this can lead to inconsistency in policy interpretation between overseas missions. Submissions also called for clearer policy guidelines:

Some clear guidelines on subclass 456 visas to overseas posts would be helpful. Clients have experienced decisions made by overseas posts regarding applications for subclass 456 visas that do not reflect policy. (Submission from Arthur Anderson) and

We think it is very important to use this review to clarify and better define what work or business activity may be conducted on the 456 Short Stay visa and its 956 ETA equivalent. For too long this has been a grey area, particularly in relation to the short-term employment issue. This is not to say there should be a tightening of criteria, however there should be clarification as to the types of work that may be undertaken. Emphasis should be on visits for specific work commitments as stated by the Australian or Overseas employer. The work to be undertaken should be skilled or specialist in nature. (Submission from the Migration Institute of Australia)

Regulation 456.212 in a convoluted way tries to give guidelines as to whether a Subclass 456 visa holder can work in Australia. As it requires subjective judgements on matters which are probably not accessible by the employer, it is often abused. ...the only way for the system to work is to permit work on the visa or not permit work. This matter also will link with the Government's stated intention of placing a responsibility on employers not to employ illegal workers. So there is a requirement to be precise about whether the holder can or cannot work in Australia to be fair to all parties. (Submission from Gilton Business Consultants)

- 6.47 On the basis of these views expressed in submissions, it would appear that there may be scope for clarification of the policy intention for this visa. This would assist applicants to better understand whether this visa is appropriate for their purposes and would also provide clearer guidelines for decision-makers. While there would be some subjectivity remaining in decisions about such terms as 'benefit to Australia' or 'business purposes', there is scope to improve the current policy guidelines and to revise the relevant regulation.
- 6.48 The policy and the legislation need to be clarified so it supports the genuine business visitor and retains the integrity of the temporary entry business program. DIMIA Compliance reports show that some Short Stay Business visa holders are entering Australia for the purpose of engaging in employment that is contrary to the purpose of the visa and are, in some cases remaining illegally in Australia. Clarifying the policy would ensure program integrity in this regard, and strengthen public confidence that the business visitor program has integrity and does not in any way disadvantage Australians by impacting on local employment and/or training opportunities.

Policy Clarification of 'Business Purposes'

- 6.49 The Government has already provided some policy advice in respect of the use of the Short Stay Business visa however some confusion continues to exist which may be resulting in inconsistency of approach across DIMIA offices. DIMIA is moving to formalise this policy through regulation amendment so as to provide a firmer basis for the policy and to enhance transparency and client awareness of the policy.
- 6.50 Under a policy change announced by the Minister in late 1999, the term 'business purposes' can be understood to include activities where the visa applicant is highly

skilled and intends to enter Australia for a one-off, short-term project. Under these circumstances, the 'work' to be undertaken is unlikely to prejudice the chances of employment for Australians. The one exception to this general rule is in respect of persons who are entertainers. This is discussed in greater detail later in this chapter.

- 6.51 The facility whereby highly skilled people can enter Australia with a Short Stay Business visa and work on a specialised, highly skilled, one-off project ensures that Australian businesses are able to meet their very immediate short-term skill needs. In this respect therefore, work over the life of a multiple entry visa is not supported. People intending to undertake highly skilled short-term one-off work and who then depart and seek to re-enter Australia to continue work on the project are required to apply for another temporary residence visa.
- 6.52 Provided people meet the skill level requirements and their intended purpose in Australia meets both the criteria in the Migration Regulations and current policy, they will be eligible for the Short Stay business visa and there will be no need for them to obtain one of the occupation-specific visas. In most cases this will also mean that they do not need to obtain sponsorship from an Australian person or organisation. However, they may be required to provide declarations and appropriate documentation to support their claim of having a genuine business need to enter Australia. This is in line with long-standing expectation that processing costs and delays should be kept to an absolute minimum when a period of intended stay in Australia is relatively short.
- 6.53 Persons who are not highly skilled or who do not meet these policy requirements for this visa will need to apply for, and be assessed against the criteria for another

temporary residence visa, which will involve greater scrutiny of their application. If the holder of a Short Stay Business visa is found in Australia undertaking low or semi-skilled work or doing longer term work, or are assessed on arrival as intending to undertake work that could be done by an Australian there is provision in law for the visa to be cancelled.

- 6.54 By clarifying the interpretation of 'work for business purposes' it will become apparent for some people that they will be eligible for both the Short Stay Business visa and an occupation-specific temporary residence visa. Depending on the circumstances, the Short Stay Business visa may be the preferable alternative from a client perspective as processing times are usually significantly shorter. The visa application charge for this visa is also lower.

Exception for the Entertainment Industry

- 6.55 There is one exception to this interpretation of 'business purposes' and it relates to persons who intend to undertake work in the Australian entertainment industry. The entertainment industry is characterised by unusual labour market conditions that involve limited employment opportunities and a majority of work being undertaken under short-term contracts.
- 6.56 This exception is in accordance with the Government's cultural objectives to support and promote excellence and creativity in Australia's cultural life. In the context of the visa arrangements for overseas residents working in the entertainment industry, the cultural policy seeks to support the development of our film industries, to ensure that audiences have access to Australian content in cinemas and on television, to promote Australian culture and to maximise opportunities for the cultural sector from national and international relationships and events.

6.57 This cultural policy seeks to respond to the relatively limited employment opportunities in the Australian entertainment industry. In this context, the Government (through the Department of Communications, Information Technology and the Arts and DIMIA) has given a commitment that persons who intend to undertake work in the entertainment industry will not be granted the Short Stay business visa but instead should generally obtain an entertainment visa (subclass 420). The entertainment visa (discussed in more detail in Chapter 10) has greater scrutiny than the Short Stay business visa, including consideration of the impact on the local industry, and requires sponsorship by an Australian person or organisation for all visa applicants. Under this exception, persons cannot use any of the Short Stay business visas if they intend to work in the entertainment industry in a variety of capacities, including work both in front of and behind the camera. Persons who obtain an ETA even though they intend to work in the entertainment industry (either by misrepresenting their intentions or by obtaining it through a travel agent) will be undertaking such work illegally and face their visa being cancelled if they are detected working in contravention of this restriction.

6.58 Persons who work in the entertainment industry but who intend to enter Australia for some other business purpose than work, for example, to attend a workshop or to promote a film about to be released, could use this business visitor visa for that purpose. The proper use of this visa in such situations is well recognised within the entertainment industry. For example, in its submission the Media Entertainment and Arts Alliance stated:

...the Department has recognised the peculiar circumstances of the entertainment industry and has excluded the industry from the

operating arrangements for subclass 456 visas at present. ...the Alliance recognises that there will remain certain circumstances wherein a 456 visa can appropriately be issued – for instance, producers travelling to Australia to investigate the viability of mounting a production in Australia, visiting locations and having meetings with relevant authorities and so on. Equally, film and television program distributors will have need to travel to Australia on business to view material and have meetings with producers whose productions they may be interested in acquiring. These instances are examples of travelling for business and are appropriately considered within this subclass.

Abolition of Alternative Visas and Visa Provisions

- 6.59 This report recommends the abolition of a number of the occupation-specific visas and instead promotes the use of alternate visas such as the business short and long stay visas. Chapter 5 discussed the use of the temporary business visas instead of a number of existing occupation specific visas. Where the applicant's intended stay is less than three months for a genuine business visit or a one-off short-term project using the short stay business visa would be appropriate for the following people:
- persons on staff exchanges who currently use the Exchange visa (subclass 411) – these are discussed in Chapter 13;
 - persons who will be working in a school, technical college, tertiary institution or research institution as an academic, librarian, technical or laboratory demonstrator who currently use the Educational visa (subclass 418) – these are discussed in Chapter 5;

- persons who intend to participate in a sporting event and who will be receiving some form of payment or appearance fee who currently use the Sports visa (subclass 421) – these are discussed in Chapter 12;
 - representatives of overseas news organisations who currently use the Media and Film Staff visa (subclass 423) – see Chapter 10; and
 - public lecturers who currently use the Public Lecturer visa (subclass 424) – these are discussed in Chapter 8.
- 6.60 If it is anticipated that the applicant will stay longer than three months then the applicant would need to apply for an alternative visa, such as the long stay business visa and undertake the appropriate checks and sponsorship requirements. This also applies to applicants intending to undertake highly skilled work that is ongoing or work which involves a number of short-term projects over a period of time.

Fee Exemptions for Certain Visa Applicants

- 6.61 Under current arrangements, there is no visa application charge for applicants for this visa who are:
- representatives of foreign governments;
 - to be accorded status under Privileges and Immunities Acts (and members of their family); or
 - Asia-Pacific Economic Co-operation (APEC) Business Travel Card holders.
- **Representatives of foreign governments**
- 6.62 Chapter 13 discusses proposed new arrangements for representatives of foreign governments. Under the proposed arrangements, persons working for foreign governments and agencies would be eligible for a new visa in the international relations stream.
- 6.63 It should be unnecessary for any of these applicants to continue to apply for the short stay business visa (subclass 456). However, there may still be some persons who prefer the relative convenience of this visa, and where available, the electronic equivalents. It is the view of Department of Foreign Affairs that it would be appropriate to retain a fee exemption for persons acting as a representative for a foreign government. It is proposed that foreign government representatives be able to continue to use the short stay business visa (and its electronic equivalents) if preferred, but that a fee exemption would be available only where they apply for the new specific visa in the international relations stream.
- **Persons to be accorded privileges and immunities**
- 6.64 Chapter 13 discusses proposed new arrangements for persons accorded status under *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*. Under the proposed arrangements, these persons would be eligible for a new visa that would retain the streamlined processing arrangements for these visa applicants. There would continue to be no visa charge.
- 6.65 Under those proposals it should be unnecessary for any of these applicants to continue to apply for the short stay business visa (subclass 456). However there may still be some persons who prefer the relative convenience of this visa, especially the electronic equivalents. It is proposed that these people be able to continue to use this visa if preferred, but that the fee exemptions would only be available in the specific visa for these people in the international relations stream. That visa will have streamlined arrangements for these persons and should be able to be processed as quickly as a short stay business visa

application once a letter indicating the support of the Foreign Minister is received.

- ***APEC Card holders***

6.66 The current application charge exemptions for APEC Card holders will need to be retained in recognition of the special international relations aspects of the APEC arrangements.

Standardised Requirements and Processes

6.68 The Short Stay Business visa is an exception to the general rule that there be a sponsorship requirement for all temporary residents. This is consistent with its purpose to provide a quick and easy mechanism for genuine business people to enter Australia for short business visits.

6.69 As this chapter highlights, greater policy clarification and perhaps consideration of amendments to the Migration Regulations will make the appropriate use of this visa clearer for clients and result in more consistent decision-making on these visas across DIMIA offices.

