

## CHAPTER 9 – CULTURAL AND SOCIAL STREAM: THE SPECIAL PROGRAM VISA

### BACKGROUND

#### Policy Objective

9.1 The Special Program visa is designed to promote opportunities for persons to experience other cultures, to enhance international relations and to broaden the experience and knowledge of participants. It provides for persons to participate in youth exchange schemes, approved community-based non-commercial programs or to visit Australia as the holder of a Churchill Fellowship.

#### Current Arrangements

9.2 This visa is made up of a range of programs that are approved by the Secretary of DIMIA as programs that provide opportunities for cultural enrichment and community benefit. Once a program is approved, the Special Program allows for very flexible visa arrangements.

9.3 The name of the visa suggests that it caters for 'special' situations. However, its focus is intended to be limited to programs that offer cultural enrichment opportunities for young people or community programs. The focus on young people reflects a policy expectation that young people who have an experience of life in Australia can return to their home country with a broadened cultural perspective – and a positive experience of Australia – for the rest of their life. A change of name that better reflects these objectives may serve to better communicate the intended role of this visa.

9.4 The name of the Special Program Visa does not convey the intended role of the visa well and consideration could be given to an alternative name that would better convey its youth focus.

9.5 The visa makes the nature of the programs eligible for approval explicit in the following visa criteria, which require that an applicant:

- (a) is the holder of a Churchill Fellowship; or
- (b) is applying for the visa for the purpose of taking part in a youth exchange program approved in writing by the Secretary; or
- (c) has been nominated by a community-based non-commercial organisation in Australia to take part in a program of activity that has the object of cultural enrichment or community benefits and both that organisation and that program have been approved by the Secretary for the purposes of this paragraph.

9.6 In order to be approved as a Special Program, an organisation must seek permission of the Secretary of the Department of Immigration and Multicultural and Indigenous Affairs. In order to be nominated for a visa under the Special Program, the organisation must provide a letter. In neither case are these requirements onerous.

9.7 The following sample shows how the policy intention is given effect through the approval of specific Special Programs.

- ***Agricultural Communication Worldwide (Inc)***

9.8 This program operates the International Rural Exchange as a work experience/cultural exchange program to facilitate the exchange of young persons interested in a career in rural industries with reciprocal opportunities for young Australians to gain similar experience overseas.

- ***Frontier Youth Internship Program – Lutheran Church***

9.9 This program allows the Lutheran Church to nominate up to twenty young US persons nationally to participate in its Frontier Youth Internship program for up to twelve months. Participants are young single persons aged between eighteen and twenty-five. Young Australians are afforded similar opportunities to participate in a reciprocal program in the USA.

- ***General Activities Projects (The GAP Scheme)***

9.10 The GAP scheme originated in Britain and was designed to cater for persons who had completed secondary education and who wished to go overseas for some work experience before going on to tertiary education. The GAP organisation has agreements for placements at a number of private boarding schools in Australia and has reciprocal arrangements for Australians going to the United Kingdom. Applicants generally undertake duties such as assisting in boarding houses, private tuition of students and sports coaching in exchange for board, lodging and pocket money. They may often be placed in positions of trust at the school but cannot take classes by themselves or replace qualified teaching staff.

- ***International Association for the Exchange of Students for Technical Experience (IAESTE) Australia Inc.***

9.11 IAESTE operates in approximately seventy countries. The reciprocal exchange program facilitates the short-term placement of students from institutions of high learning in job placements relevant to their area of study where practical experience is an essential or recommended adjunct to their study course. Most of the students are from the engineering and

technology sectors. The program is reciprocal and works on a one-for-one basis providing opportunities for young Australian university students.

- ***L'Arche Australia Ltd***

9.12 L'Arche is an interdenominational religious organisation that establishes households in the Australian community for persons with intellectual disabilities. The support and training of the disabled are provided by persons who have chosen to share their lives with persons with disabilities and to build a community together in a spiritual setting. Under this program, certain applicants from overseas are invited to participate in the support and training of disabled persons in personal living skills, independence, community participation and personal spiritual development. Applicants generally have had previous experience in a L'Arche community outside Australia or a demonstrated interest in working with persons with disability in a spiritual community organisation.

- ***School Language Assistants Program (SLAP)***

9.13 This program allows young persons from overseas interested in a career in education to perform duties as a language assistant in a school in Australia. The features of the program are that it is a scheme facilitating the entry of applicants who:

- have been invited by an approved Australian school, to assist in teaching a foreign language and to contribute towards better cultural awareness both within the school and the wider community;
- are young and have a genuine desire to come to Australia to participate in the scheme;
- will benefit Australia by providing expertise in a language other than English and contemporary experience of

- the life, culture and language of their home country (that is, qualities that would not ordinarily be available to the school community concerned); and
- intend to pursue a career in education.

- ***Wandalgu Hostel (Tardun WA)***

9.14 Wandalgu Hostel is a residential facility for young Aboriginal persons. It is staffed by members of the Society of the Catholic Apostolate and voluntary personnel, with preference being given to Aborigines. The hostel places emphasis on the maintenance of Aboriginal art and culture. Under this program, young applicants from overseas are invited to participate in the activities of the hostel, including cross cultural awareness and Aboriginal studies.

- ***Youth from USA***

9.15 Under this Special Program there are five programs:

- Boston University Sydney Internship Program;
- Camp Counselors USA (CCUSA);
- Council on International Educational Exchange (CIEE);
- Global Education Designs (GED); and
- International Exchange Program (IEP)

9.16 The five programs under Youth from USA aim to promote international understanding and provide cultural, social and economic benefits to young American citizens wishing to experience working and living in Australia for up to four months, pending the establishment of a reciprocal working holiday agreement. The programs, which allow for the entry of up to 3,000 young Americans in each program year, are designed to provide a degree of reciprocity for an American visa program. In line with similar programs directed at young persons, an upper age limit of thirty years is considered appropriate for the purposes of these special programs.

9.17 Special Program visas are generally limited to twelve months' stay in Australia. In 2000-01 there were 165 visa grants in Australia and 2,884 overseas, a total of 3,049. This represented an increase of almost 60 per cent over 1999-2000. The amount of time that visa holders remain in Australia on this visa varies – about half stay less than six months and almost all leave within twelve months, consistent with policy.

**Is a Separate Visa Needed?**

9.18 The Special Program visa caters for a wide variety of situations and a wide variety of community-based non-commercial activities, which do not necessarily involve employment. Under this visa, visa applicants come in under a specific Special Program that has been agreed with DIMIA. This allows DIMIA to consider the proposed activities of each Special Program, thereby allowing flexibility for a large range of programs that would be difficult to provide for under specific visas. These arrangements provide a high degree of flexibility to cater for programs designed for emerging community needs. The visa is unique in these arrangements for agreements. It is not considered appropriate that this visa be incorporated into any other visa nor that any other visa arrangements could be combined with it.

9.19 The Special Program visa provides flexible arrangements for the special requirements of youth and community-based non-commercial programs and should be retained.

9.20 It is, however, suggested that the visa which is currently part of the International Relations Stream would more appropriately fit within the Cultural and Social Stream of the Temporary Residence Program. The visa predominantly provides opportunities for people to broaden their experience,

particularly of other cultures, and to participate in a wide range of activities that serve to enrich Australian cultural and social life.

### Major Issues Raised

- 9.21 The issues raised in relation to this visa are:
- the need for reinforcement of the youth focus in the policy intention of this visa;
  - the absence of any form of sponsorship;
  - use of this visa for activities that either do not benefit Australia or could have an adverse impact on training and employment opportunities for Australians; and
  - whether the reporting and monitoring arrangements are appropriate.
- 9.22 These issues are discussed in the context of the policy parameters of temporary residence and client service and administrative efficiency.

### EMPLOYMENT OPPORTUNITIES FOR AUSTRALIANS

- 9.23 The Special Program visa is intended to promote opportunities for persons to experience other cultures, to enhance international relations and to broaden the experience and knowledge of participants. The Special Program visa provides for a wide range of activities including youth exchange schemes and approved community-based non-commercial programs, which are approved on a case-by-case basis for this purpose. It differs from most of the other temporary resident visas, which are designed to provide temporary working opportunities for overseas residents, or to meet shortages of particular workers. Some stakeholders have suggested that consideration could be given to imposing more restricted work rights on these visa holders.
- 9.24 Labour market testing is generally not appropriate for the diverse range of

community programs, many of them voluntary, catered for by this visa. Voluntary work by people from overseas is a complex issue. The line between voluntary work, nominal pay and exploitation can be a fine one. It has been noted, for example, that there is potential for schools to use the School Language Assistants Program program to replace locally employed teachers with lower paid overseas "assistants".

- 9.25 Some of the programs involve full-time activities and work, rather than voluntary activity and deserve appropriate scrutiny and consideration of labour market impacts. The process whereby programs are approved for the purpose of this visa provides an appropriate mechanism to address concerns about proposed activities that may have impacts on the local labour market or where there are concerns about the benefit to Australia. Ensuring that this issue is properly explored with the sponsoring organisation in Australia during the preparation of a Special Program agreement is important. DIMIA needs to work with the organisation to ensure that work outside that work related to the Special Program does not occur; the organisation needs to keep DIMIA informed of any issues and queries they may have in this regard. Given these arrangements, it is not considered necessary to have additional checks about labour market impacts of individual visa applicants or to restrict the rights of Special Program visa holders to work full-time.
- 9.26 Special Program visa holders participate in a large range of youth and community programs, some of which involve work, and it is therefore appropriate that they continue to be granted permission to work.
- 9.27 Because users of this visa are not required to be skilled, it is important that there be appropriate safeguards in place to ensure that they do not undertake work other than

the activities in the Special Program that were the basis of the visa grant. The visa condition: "the holder must not change employer or occupation in Australia without the permission in writing of the Secretary" applies to the main visa holder. As discussed in Chapter 3, the wording of this visa condition is currently being clarified to ensure that visa holders cannot take on additional unskilled employment or employment unrelated to the primary purpose of entry without the approval of DIMIA.

- 9.28 This visa also provides for youth exchanges. These are intended to be reciprocal in nature and to provide Australians with overseas opportunities. Therefore, while these visa holders may take up some positions in Australia, some Australians will be given similar opportunities overseas. It is appropriate that the monitoring of the reciprocal nature of these arrangements should be enhanced (paragraph 9.41 refers).

### WORK RIGHTS FOR FAMILY MEMBERS

- 9.29 Under current arrangements, family members of 'main' applicants are given full permission to work under this visa. However the nature of this visa is such that the activities are not necessarily skilled work and they sometimes do not involve a salary. Comments from DIMIA processing offices raised concerns about the use of this visa, given:
- that it does not have the same skill or salary requirements as other temporary resident visas;
  - the absence of any labour market or comparable testing; and
  - the increasing number of visas granted (over 3,000 in 2000-01).
- 9.30 Some suggested that the visa should be retained for genuine volunteer work but there should be no permission to work for any holders of this visa, including 'main' applicants.

*This visa subclass is intended for applicants participating in youth and non-commercial programs. We are of the opinion that work rights for family members could lead to misuse of this visa subclass. ... (Submission from DIMIA Vienna)*

*secondary applicants at present have unrestricted work rights while primary applicants are unable to change occupation or employer without the permission of the Secretary. Secondary applicants should have no work rights, as such rights appear to be a draw card or incentive for the primary applicant's use of this visa subclass. (Submission from DIMIA Central Office)*

- 9.31 Many of the programs approved for the purposes of this visa involve work – either paid or unpaid – and this restriction would severely limit the flexibility of the program arrangements. Given that the 'main' applicant does not necessarily receive a salary, any 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 a concern.
- 9.32 Chapter 3 discussed a new approach for work rights for family members accompanying temporary residents to Australia. Under the proposed approach, family members of Special Program participants 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.

9.33 Consistent with policy nearly all Special Program visa holders remain in Australia for less than 12 months and therefore are unlikely to bring family members with them with the expectation of working in Australia. However, where the period of stay is less than 12 months and family members wish to participate in the same (or another) Special Program they will be able to do so if they meet the requirements for a Special Program 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

9.34 A specific training commitment for Australians is not appropriate for this visa, covering as it does a diverse range of community programs. However, at the stage of seeking approval for a specific Special Program, organisations should be asked to justify why they are seeking approval for the entry of overseas persons to participate in their program, whether Australians are given equal opportunities to participate where appropriate and whether Australians have reciprocal opportunities overseas.

### PAY AND CONDITIONS FOR AUSTRALIAN WORKERS

9.35 Many of these programs are conducted on a voluntary basis. However organisations seeking approval for a Special Program should be asked to make remuneration arrangements clear from the outset. This should form an integral part of an approval and renewal process. A better structured, more rigorous approval and renewal process would address issues related to employment opportunities, training and pay and conditions for Australian workers.

### CONSIDERATION OF ABOVE THREE POLICY PARAMETERS

9.36 The questions around these three policy parameters (employment opportunities for Australians, training opportunities for Australians and pay and conditions for Australian workers) are:

- are Australians being given employment and/or training opportunities similar to those provided under certain elements of the Special Program?
- does the Special Program provide adequate employment safeguards for its participants?

9.37 Approval and renewal procedures could address these questions to ensure that the Program is not being used to provide employment that should be offered to Australians at appropriate salary levels.

9.38 Currently a program is usually approved for an indefinite timeframe. It would be appropriate to introduce an arrangement whereby a Special Program is approved for a set time period (say two-three years). After this time continuation of approval would be sought, on the basis of information about the use of the program in the past. This arrangement would provide a better basis for ensuring appropriate compliance with reporting requirements than the current arrangements, as well as ensuring that better information is provided about the effect of each program on opportunities for Australians.

9.39 ***RECOMMENDATION:***  
*That approval of Special Programs be for a specific time period after which time re-approval must be sought.*

9.40 If Special Programs were to be approved for a limited time period, and subject to

re-approval after that time period, this would provide a framework for regular reporting on programs to DIMIA, at a minimum on the occasion of the request for re-approval. In the past there has been little information available on the use of this visa (in terms of how many people are granted visas under each individual program, how long they stay in Australia and what activities they undertake). Following a recent review of the operation of this visa, annual reporting has been introduced for all approved programs, under which organisations are required to provide the following information by end-July each year:

- the number of persons entering Australia under the Program in the previous financial year by State/Territory, occupation, gender and age profile;
- details of any persons who changed status during their stay in Australia (that is, obtained another type of visa while in Australia); and
- the number of Australians afforded similar opportunities overseas.

- 9.41 This Review endorses these arrangements and provides for more comprehensive arrangements for monitoring, approval and re-approval of Programs. An undertaking to participate in annual reporting could be introduced and compliance with reporting requirements could be built into the re-approval process. This would provide appropriate incentives for users of this visa to monitor their use of it and to comply with reporting requests. Genuine programs are unlikely to object to these proposals:

*L'Arche supports the concept of both periodic review of the use of the program, and the reporting concept...to help maintain the integrity of the program. (Submission from L'Arche Australia)*

- 9.42 In addition the ongoing reciprocal nature of the youth exchange programs approved as a youth exchange program (ie, category (b) in the visa) should also be monitored to the extent possible to ensure that Australians are benefiting from these programs.

9.43 ***RECOMMENDATION:***

*That approval as a Special Program be dependent on providing appropriate responses to a standard set of questions about:*

- *the purpose of the Special Program and its benefit to Australia;*
- *its employment, training and salary consequences for Australians;*
- *for programs seeking approval as a youth exchange program (ie category (b)), details of reciprocal opportunities offered and taken up by Australians overseas; and*
- *undertaking to participate in annual reporting.*

*For re-approval of existing programs, providing appropriate responses to questions about:*

- *all of the above; and*
- *appropriate participation in monitoring arrangements and reporting on the operation and use of the Program.*

## IMMIGRATION INTEGRITY

- 9.44 A discussion of generic immigration integrity issues can be found in Chapter 2. No other integrity issues were raised with regard to this visa in the course of the Review. Available departmental statistics support the view that there are no particular areas for concern in relation to the Special Program visa.

- A significant number of these visa holders (around one fifth) applied for

temporary entry visas while in Australia; the majority being for tourist visas. This does not indicate any issues of concern.

- A small number of Special Program visa holders applied to stay permanently, mostly on the basis of a spouse relationship. This is not surprising given the age profile of this group of visa holders.
- An insignificant number of these visas were cancelled in 2000-01.
- Statistics regarding overstayers indicate that only a small proportion of special program visa holders remain in Australia beyond the validity of their visa, for example just over one per cent in 2000-01.

### Bona Fides

- 9.45 While there is a clear emphasis on youth in the Special Program visa there is room for the entry of older people with relevant experience in certain cases. The overall youth focus of the program has not, however, been made explicit in regulation. This is in spite of the clear intention that Special Programs bring lifetime 'benefit to Australia' through the participation of young people in an Australian experience which will stay with them and enhance the relationship between Australia and the participant's home country throughout their lifetime. A clear focus for the program is required.
- 9.46 In terms of the three components of the Special Program visa, category (a) Churchill Fellowships has no age limit and category (b) specifies "youth exchange programs". The Australian Bureau of Statistics publication *Youth Australia: A Social Report* notes "Youth are defined as those aged fifteen to twenty-four years, in line with internationally accepted standards".
- 9.47 In September 1999 the Minister introduced an upper age limit of thirty years for the School Language Assistants Program (SLAP), a category (c) program. SLAP was specifically designed for young persons interested in a career in education to come to Australia temporarily to assist in teaching a foreign language. This upper age limit, broader than the international definition of youth, delivers additional flexibility to the program. It should also be noted that Australia's Working Holiday Maker Program has an upper age limit of thirty years.
- 9.48 Category (c) community-based non-commercial programs are more broadly defined. There are certain community programs and applicants who do not meet the internationally accepted definition of youth, but whose operation and entry to Australia is of benefit. An example of this is L'Arche Australia, described earlier. In order to be able to continue to provide for these community programs it is not considered desirable to introduce an upper age limit into regulation; instead it is considered preferable to maintain a certain flexibility while making the youth focus clear at the approval stage and the circumstances calling for a broader interpretation also clearly specified.
- 9.49 The focus on youth in the Special Program visa could be made more explicit in policy in order to provide clarity for clients and staff.
- 9.50 Because of its diverse nature the Special Program visa may not always be readily understood by those contemplating its use. There is sometimes pressure to approve a program so as to provide for persons who are not otherwise eligible for any visa because their activities do not 'fit' any other visa, or to provide more flexible visa arrangements than apply under other visas. Improvements to renewal processes and monitoring should assist in this area (see paragraphs 9.36 – 9.43).

**CLIENT SERVICE AND ADMINISTRATIVE EFFICIENCY****Standardised Requirements and Processes**

- 9.51 Chapter 4 discusses proposed arrangements for sponsorship, including a more standardised approach to who is required to be sponsored and a more standardised approach to sponsorship undertakings. Under current arrangements these visa applicants are not required to be sponsored. The visa applicants are often not paid a salary and the visa arrangements do not require the organisation to provide any information about the arrangements for the support of the visa applicants during their stay in Australia (although, in seeking approval as a Special Program, organisations are now required to provide information about the wages/salaries to be paid to the visa holders and the proposed maintenance arrangements for their board and lodging and any other expenses to be met by the organisation. There is no reason why sponsorship cannot be required across the board for activities under this visa, along with standard procedures for approval and renewal as a Special Program. The introduction of a sponsorship requirement will ensure that the person or organisation that is bringing in the overseas residents makes appropriate arrangements for their accommodation and support. This is especially important as many of the visa holders are not working and earning a salary during their stay.
- 9.52 This visa caters for a diverse range of programs. It is not possible to impose a standard set of requirements on every single one. It is more appropriate to reach agreements with individual organisations based on their programs, activities and numbers. However a standardised sponsorship requirement, plus standardised approval, renewal and monitoring procedures will provide an efficient framework for the operation of this visa.

**NO NET COST TO THE AUSTRALIAN COMMUNITY**

- 9.53 There is no access to Australian health or social security arrangements for holders of these visas. Other Government departments operate their own rules for the granting or otherwise of benefits, and any breaches that might occur. All temporary residents are advised to take out private health insurance.
- 9.54 Chapter 4 discusses sponsorship arrangements, including the extension of the sponsorship requirement to most temporary resident visas. A sponsorship requirement for this visa is discussed above (see paragraph 9.51).

