



IN AUSTRALIA'S INTERESTS

**A Review of the
Temporary Residence Program**



EXTERNAL REFERENCE GROUP REVIEW OF THE TEMPORARY RESIDENCE PROGRAM

Chair: Peter McLaughlin

Members: Venerable Thich Quang Ba JP, Anwar Harb, Dr Bruce Harris FRACGP, FACRRM, Kevin Jacobsen OAM

The Hon. Philip Ruddock MP
Minister for Immigration and Multicultural and Indigenous Affairs
Parliament House
CANBERRA ACT 2600

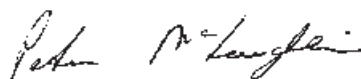
Dear Minister

I am pleased to present you with the report, *In Australia's Interests: A Review of the Temporary Residence Program*.

The External Reference Group (ERG) worked closely with the Department of Immigration and Multicultural and Indigenous Affairs in its review of the Temporary Residence program. In particular the Report draws on ERG members' areas of expertise in preparing Chapters 5, 6, 7, 10, 11 and 14.

I commend the Report to you.

Yours sincerely



Peter McLaughlin
Chair
External Reference Group Temporary Residence Review

25 June 2002

CONTENTS

MESSAGE FROM CHAIRMAN OF THE EXTERNAL REFERENCE GROUP

PREFACE - SCOPE OF THE REVIEW AND REVIEW PROCESSES	17
Terms of Reference	17
Office of Regulation Review	17
Consultation Process	18
Submissions	18
External Reference Group	18
Other Consultations	19
Structure of the Report	19
Implementation of Review Outcomes	19
EXECUTIVE SUMMARY	21
Temporary Residence Program	21
Economic and Budgetary Benefits	
Other Benefits	
Goals of Temporary Residence Program	
Protecting Employment Opportunities for Australians	
Pay and Conditions for Australian Workers	
Training Opportunities for Australians	
No Net Cost to the Australian Community	
Immigration Integrity	
Policy Clarification	
Structural Changes	
Greater Standardisation	
Improvements to Sponsorship Arrangements	
Streamlining Processing	
Other Matters for Consideration	

Recommendations by Chapter:	27
Chapter 2 – Temporary Residence Policy	
Chapter 3 – Giving effect to Temporary Residence Policy	
Chapter 4 – Sponsorship Requirements and Sponsorship Obligations	
Chapter 5 – Economic Stream – Temporary Business Entry (Long Stay) (Subclass 457 Visa)	
Chapter 6 – Economic Stream – Arrangements for Short Visits for Business and Work Purposes (Subclass 456 Visa)	
Chapter 7 – Economic Stream – Medical Practitioner (Subclass 422 Visa)	
Chapter 8 – Cultural and Social Stream (Subclass 419, 423, 424 and 425 Visas)	
Chapter 9 – Cultural and Social Stream – The Special Program Visa (Subclass 416 Visa)	
Chapter 10 – Cultural and Social Stream – The Entertainment Industry (Subclass 420 and 423 Visas)	
Chapter 11 – Cultural and Social Stream – Religious Worker Visa (Subclass 428 Visa)	
Chapter 12 – Cultural and Social Stream – Sport Visa (Subclass 421 Visa)	
Chapter 13 – International Relations Stream (Subclass 415, 427, 430, 432 and 411 Visas)	
Chapter 14 – International Relations Stream – The Occupational Trainee Visa (Subclass 442 Visa)	
CHAPTER 1– BACKGROUND	35
Key Objectives of Temporary Residence Policy	35
Temporary Residence Arrangements – The Three ‘Streams’	35
Review of Temporary Entry Arrangements for Business Persons and Skilled Specialists	40
International Developments	41
Australian Factors/Developments	41
Business Directions for Immigration	43

CHAPTER 2 – TEMPORARY RESIDENCE POLICY	45
Protection of Employment Opportunities of Australians	45
Labour Market Testing of Positions	
Use of Objective Thresholds and Expert Third Parties	
Training Opportunities for Australians	48
Assessing Commitment to Training Australians – Current Arrangements	
Assessing Employer’s Specific Training Plans – Current Arrangements	
Options for Assessment of Commitment to Training Australian Workers	
• Membership of an industry-based training organisation	
• Training levy	
• Assessment of employer’s specific training plans	
Offering employers a choice	
Pay and Conditions for Australian Workers	56
No Net Cost to the Australian Community	57
Immigration Integrity	58
Bona Fides of Visa Applicants	
Substantial Compliance with Conditions	
‘No Further Stay’ Condition	
Warnings on Forms	
The Temporary Residence Program is Genuinely Temporary	
• Initial period of stay allowed on temporary residence visas	
• Maximum periods of temporary stay – visa ‘extensions’	
• Processing of onshore extensions	
• Pathways to permanent residence	
Health and Character Issues	65
Risks to Public Health	
Risks to Public Safety	
Conclusion	68

CHAPTER 3 – GIVING EFFECT TO TEMPORARY RESIDENCE POLICY	69
Aiming for Efficient and Effective Processes	69
Client Service	70
Speed of Processing	
Clear Client Information	
Minimising Incomplete Applications	
Front-End Loading	
Use of Expert Parties for Specialist Assessments	
Persons Who Need to Travel to Australia Urgently	
Interdependent Partners of Temporary Resident Visa Applicants	
Use of Electronic Communication	
Who Can and Who Cannot Apply for Temporary Residence	
Visas After Arrival in Australia	
• Overseas students	
• Private subsidised students	
• AusAID students	
Additional Requirements for Persons Whose Visas Have Expired	
Location of Applicant at Time of Grant	
Efficient Handling of Applications	80
On-the-Spot or Immediate Processing and ‘Streaming’ Applications	
Concurrent Processing	
Single Point of Contact and Single Application Package	
Single Application Fee	
Accountability	83
Visa Conditions	
• Visa conditions for the ‘main’ visa applicant	
• Mandatory conditions for the ‘main’ visa applicant	
• Discretionary visa conditions for the ‘main’ visa applicant	
• Consistency of visa conditions	
• Visa conditions for family members	
Cost Recovery for DIMIA Processing Services	89
General Principles for Government User-charging	
Fee Exemptions	
Group Discounts	
Current Level of Charges	
Revenue Neutral Impact of Fee Restructuring	
Conclusion	93

CHAPTER 4 – SPONSORSHIP REQUIREMENTS AND SPONSORSHIP OBLIGATIONS	95
Background	95
Current Arrangements	
Major Issues Raised	
When Should Sponsorship Be Required?	98
Period of Stay Requiring Sponsorship	
Who Can Be a Sponsor?	102
Characteristics of a Sponsor	
Does the Sponsor Have to Be the Employer?	
Where There Is No Sponsor	
Sponsorship by Overseas Organisations	
Changing Sponsors	
Client Service and Administrative Efficiency	106
Standardisation	
What Should Sponsorship Undertakings Cover?	106
How to Ensure Compliance with Sponsorship Undertakings	108
Awareness of Sponsorship Undertakings	
Breach of Sponsorship Undertakings	
Monitoring of Sponsors and Sponsorships	
Monitoring by Other Government Agencies	
Sanctions Against Sponsors	
Enforcing Sponsorship Undertakings	
Cessation of Obligations	
Review Provisions	
Group Discounts for Sponsorship Fees	
CHAPTER 5 – ECONOMIC STREAM: TEMPORARY BUSINESS ENTRY (LONG STAY) (SUBCLASS 457 VISA)	117
Background	117
Introduction of the Current Temporary Business Entry Visas	
Review by the Business Advisory Panel	
Current Arrangements	
Growth in Temporary Residence for Business Purposes	
Major Issues Raised	
Employment Opportunities for Australians	121
The 'Key' and 'Non-Key' Distinction	
Labour Market Testing Mechanisms	
Introduction of a Minimum Skill Threshold	
Adjusted Skill Threshold	
Salary Threshold	

No Net Cost to the Australian Community	126
Sponsorship	
Sponsor Undertakings	
Sanctions Against Sponsors	
Monitoring of Sponsors and Sponsorships	
• Targeted monitoring of clients	
• Database of individuals/companies of concern	
• Links to other agencies	
• Statistical reporting	
Client Service and Administrative Efficiency	129
Incomplete Applications	
Encouraging Complete Applications and Requiring X-Rays to be Provided with Applications	
Consolidation of Applications into One Package (and Concurrent Processing)	
• Single application process and application package	
• Single point of contact	
• Retain three separate decisions	
Streamlined Arrangements for Certain Employers	
• Pre-qualified sponsor arrangements	
• Standard business sponsorship arrangements	
• Comparison of PQBS and SBS	
• Labour agreements	
• Regional Headquarters agreements	
Period of Stay	
Electronic Lodgement of Visa Applications	
Processing Times	
Inclusion of Other Temporary Residence Visas	
Fee Exemptions for Certain Visa Applicants	
Pay and Conditions for Australian Workers	141
Training Opportunities for Australians	141
Training Australians	
Immigration Integrity	141
'Self-Sponsorship'	
Other Integrity Issues	

CHAPTER 6 – ECONOMIC STREAM: ARRANGEMENTS FOR SHORT VISITS FOR BUSINESS PURPOSES	143
Background	143
Policy Objective	
Current Arrangements	
The Electronic Travel Authority (ETA)	
Is a Separate Visa Needed?	
Major Issues Raised	
Employment Opportunities for Australians	144
No Extensions in Australia	
Professional Licensing and Registration Requirements	
Training Opportunities for Australians	147
Pay and Conditions for Australian Workers	147
No Net Cost to the Australian Community	147
Immigration Integrity	147
Persons with Longer Term Intentions from the Outset	
Persons with Longer Term Intentions Demonstrated Through Use of the Multiple Entry Facility	
Other Integrity Issues	
Client Service and Administrative Efficiency	150
Expanded Use of Short Stay Business Visas	
Greater Policy Clarification	
Policy Clarification of ‘Business Purposes’	
Exception for the Entertainment Industry	
Abolition of Alternative Visas and Visa Provisions	
Fee Exemptions for Certain Visa Applicants	
• Representatives of foreign governments	
• Persons to be accorded privileges and immunities	
• APEC Card holders	
Standardised Requirements and Processes	
CHAPTER 7 – ECONOMIC STREAM: MEDICAL PRACTITIONER	157
Background	157
Policy Objective	
Current Arrangements	
Major Issues Raised	
Is a Separate Visa Needed?	
Employment Opportunities for Australians	160
Labour Market Testing Arrangements	
Retaining Specific Requirements for Medical Practitioners But Not Other Health Professionals	

Training Opportunities for Australians	162
Pay and Conditions for Australian Workers	162
Client Service and Administrative Efficiency	162
Longer Visa Validity and Health Processing Implications	
Provision of All Necessary Documents with Visa Application	
Who Can Sponsor a Medical Practitioner	
Other Purposes	
• Attending conferences	
• Training	
• Research	
No Net Cost to the Australian Community	166
Health Checking	
Character Checking	
Impact on Public Expenditure from Oversupply of Doctors	
Immigration Integrity	168
Conclusion	168
CHAPTER 8 – CULTURAL AND SOCIAL STREAM	169
Background	169
Policy Objective	
Current Arrangements	
Visiting Academic Visa (subclass 419)	169
Current Arrangements	
Is a Separate Visa Needed?	
Media and Film Staff Visa (subclass 423)	170
Current Arrangements	
Is a Separate Visa Needed?	
Public Lecturer Visa (subclass 424)	171
Current Arrangements	
Is a Separate Visa Needed?	
Family Relationship Visa (subclass 425)	172
Current Arrangements	
Is a Separate Visa Needed?	
Major Issues Raised	173
No Net Cost to the Australian Community	173
Introduction of Sponsorship	
Employment Opportunities for Australians	174
Work Rights for Family Members	
Training Opportunities for Australians	175
Pay and Conditions for Australian Workers	176
Immigration Integrity	177

CHAPTER 9 – CULTURAL AND SOCIAL STREAM: THE SPECIAL PROGRAM VISA	179
Background	179
Policy Objective	
Current Arrangements	
• Agricultural Communication Worldwide (Inc)	
• Frontier Youth Internship Program – Lutheran Church	
• General Activities Projects (The GAP Scheme)	
• International Association for the Exchange of Students for Technical Experience (IAESTE) Australia Inc.	
• L’Arche Australia Ltd	
• School Language Assistants Program (SLAP)	
• Wandalgu Hostel (Tardun WA)	
• Youth from USA	
Is a Separate Visa Needed?	
Major Issues Raised	
Employment Opportunities for Australians	182
Work Rights for Family Members	183
Training Opportunities for Australians	184
Pay and Conditions for Australian Workers	184
Consideration of Above Three Policy Parameters	184
Immigration Integrity	185
Bona Fides	
Client Service and Administrative Efficiency	187
Standardised Requirements and Processes	
No Net Cost to the Australian Community	187

CHAPTER 10 – CULTURAL AND SOCIAL STREAM: THE ENTERTAINMENT INDUSTRY	189
Background	189
Policy Objective	
Current Arrangements	
Major Issues Raised	
Is a Separate Visa Needed?	
Employment Opportunities for Australians	191
Net Employment Benefit to the Entertainment Industry	
Pay and Conditions for Australian Workers	193
Client Service and Administrative Efficiency	194
Definition of ‘Cultural/non-commercial’	
Faster Processing	
Fee Exemption for Certain Visa Applicants	
Group Discounts	
Models and Mannequins	
Documentaries or Commercials Exclusively for Overseas Use	
Country-to-Country Agreements	
Tourist Visas	
Short Stay Business Visas	
Immigration Integrity	201
Bona Fides	
Character	
Training Opportunities for Australians	201
No Net Cost to the Australian Community	202
Conclusion	202
CHAPTER 11 – CULTURAL AND SOCIAL STREAM: RELIGIOUS WORKER VISA	203
Background	203
Policy Objective	
Current Arrangements	
Is a Separate Visa Needed?	
Major Issues Raised	
Client Service and Administrative Efficiency	204
The Sponsoring Religious Organisation	
The Nature of the Work	
Immigration Integrity	207
Bona Fides of Visa Applicants – Monitoring	
Permanent Intentions	

Employment Opportunities for Australians	209
Work Rights for Family Members	
Training Opportunities for Australians	210
Pay and Conditions for Australian Workers	210
No Net Cost to the Australian Community	211
CHAPTER 12 – CULTURAL AND SOCIAL STREAM: SPORT VISA	213
Background	213
Policy Objective	
Current Arrangements	
Major Issues Raised	
Is a Separate Visa Needed?	
Employment Opportunities for Australians	215
Work Rights for Family Members	
Training Opportunities for Australians	217
Pay and Conditions for Australian Workers	217
Client Service and Administrative Efficiency	217
Simplifying the Sponsorship Requirement	
Fee Exemption for Certain Visa Applicants	
Group Discounts	
No Net Cost to the Australian Community	218
Immigration Integrity	219
CHAPTER 13 – INTERNATIONAL RELATIONS STREAM	221
Background	221
Policy Objectives	
Current Arrangements	
Foreign Government Agency Visa (subclass 415)	221
Current Arrangements	
Is a Separate Visa Needed?	
Domestic Worker (Executive) Visa (subclass 427)	222
Current Arrangements	
Is a Separate Visa Needed?	
Supported Dependant Visa (subclass 430)	223
Current Arrangements	
Is a Separate Visa Needed?	

Expatriate (Temporary) Visa (subclass 432)	224
Current Arrangements	
Is a Separate Visa Needed?	
Exchange Visa (subclass 411)	224
Current Arrangements	
Is a Separate Visa Needed?	
Major Issues Raised	225
Client Service and Administrative Efficiency	225
Persons Accorded Privileges and Immunities	
Persons Working for International Organisations	
Country-to-Country Agreements	
New International Relations Visas	
No Net Cost to the Australian Community	230
Special Circumstances of Domestic Worker – Executive (subclass 427) Visa	
Employment Opportunities for Australians	231
Work Rights for Family Members of Domestic Worker – Executive Visa Holders	
Training Opportunities for Australians	232
Pay and Conditions for Australian Workers	232
Immigration Integrity	233
Conclusion	234
CHAPTER 14 – INTERNATIONAL RELATIONS STREAM: THE OCCUPATIONAL TRAINEE VISA	235
Background	235
Policy Objective	
Current Arrangements	
Is a Separate Visa Needed?	
Major Issues Raised	
No Net Cost to the Australian Community	236
Employment Opportunities for Australians	237
Training Opportunities for Australians	238
Pay and Conditions for Australian Workers	238
Immigration Integrity	239
Client Service and Administrative Efficiency	239
Sponsorship	
Clearer Direction	
Arrangements for Medical Practitioners	
Internships	
Conclusion	242

CHAPTER 15 – FUTURE DIRECTIONS	243
Policy Parameters	243
Submissions	243
Client Service and Administrative Efficiency	243
Integrity	244
Recommendations	244
Implementation	244
The Future	245
APPENDICES	247
A Temporary Residence Visas included in the review	247
B Consultations timetable	249
C Respondents to discussion paper	250
D Membership of the External Reference Group	252
E Recommended structural changes and where they are discussed	253
F Visas granted 1999-2000 and 2000-01 by temporary resident subclass	255
G Stock estimates	256
H Health processing framework	257
I Visa conditions for temporary residents	258
J Proposed work rights for family members	260
K Fees and charges (as at 1 July 2001)	262
L Sponsorship requirements - summary	264
M Gazetted list of skilled occupations for the subclass 457 visa	265
N Current and proposed stream (or program) for visas included in this Review	273
O Glossary - Definition of terms and abbreviations	274