



Australian Government
**Department of Immigration
and Border Protection**

Productivity Commission Inquiry: Migrant Intake into Australia

**Department of Immigration and Border Protection
Submission, Responding to Draft Report — February 2016**

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Introduction

The Department of Immigration and Border Protection (the Department) welcomes the opportunity to respond to the Productivity Commission's Inquiry on the Migrant Intake into Australia.

Australia is a nation that is built on migration; over the last 70 years Australia's planned migration programmes have been a major force in shaping Australian society. However, Australia is entering a new era of migration, one where we will have to deal with the combined effects of increased mobility, greater international competition and population ageing.

The successful management of migration in this more challenging environment is therefore crucial in ensuring that its benefits are fully realised, and that it continues to contribute to the future prosperity of this nation. Reports such as this, which provide new insights and evidence on important and emerging issues as well as fresh policy ideas, are welcome.

In providing our response we have:

- **provided additional information**—throughout the report there have been requests for additional data and information. While we could not provide complete information, there are numerous areas of inquiry where we have been able to assist.
- **responded to draft recommendations**—for each of the draft recommendations that relate to the work of the Department, the Department has provided a considered response.

The intent of all our comments is to be constructive, and to provide advice, information and data that will assist the Productivity Commission in finalising its report.

Approach taken

As indicated in the Introduction there were two areas of activity involved in compiling our response:

- provision of additional information
- responding to draft recommendations.

Responses relating to these areas of activity are presented in Section 1 and Section 2 of this document.

Section 1 – Provision of additional information

Request 5.2

The Commission is interested in information on policies that are likely to be more effective in attracting highly skilled immigrants to live and work in Australia.

Response

Australia's skilled migration policies are informed by research and analysis and through collaboration with partners—including industry stakeholders, State and Territory Governments and the public through a range of consultative forums.

As part of current work in this area, the Department is undertaking significant reform of the Skilled Migration and Temporary Activity (SMTA) visa programmes that will deliver benefits for clients and business and are expected to improve Australia's competitiveness and ability to attract highly skilled migrants. These reforms are centred on a new simplified SMTA visa framework that:

- reduces overlapping visa pathways
- deregulates visa requirements
- cuts red tape for businesses and clients
- improves the visa application process
- incorporates new policy that is designed to meet Australia's future labour market needs
- is supported by clear public information that will improve an applicant's ability to self-identify visa pathways and pre-determine eligibility.

By having a focus on simplicity and flexibility the new framework will incorporate policies that serve Australia's future migration agenda. This includes policy that will improve access for entrepreneurs, improve pathways for graduates in fields of identified future need, improve outcomes for regional Australia and significantly simplify processes for SMTA sponsors. Collectively, these reforms will increase the attractiveness of each visa within the framework, which will in turn enhance Australia's ability to attract highly skilled migrants.

The SMTA reforms have close linkages with broader national priorities and will be implemented in three stages beginning 1 July 2016. The Department will share further information on these new policies with the Productivity Commission as the supporting details are finalised.

Request 9.1

How widespread and valid are the concerns raised by ISLPR[®] Language Services regarding the current acceptable English tests for immigrants to Australia? What are the likely benefits and costs of introducing ISLPR[®] or other validated English language tests as an accepted test for assessing the English language proficiency of those seeking a temporary visa?

Response

This request seeks information on two distinct matters which have been answered separately below.

1. How widespread and valid are the concerns raised by ISLPR[®] Language Services regarding the current acceptable English tests for immigrants to Australia?

In its submission to the Productivity Committee Migrant Intake Enquiry ISLPR[®] raised concerns about the suitability of the IELTS exam for migration purposes and allege that some applicants are required to take the IELTS exam between 10 and 50 times before achieving the requisite pass mark.

The IELTS exam is used for migration purposes internationally and is one of the five English language exams accepted by the Department as evidence of a migrant's English speaking ability. The level of English that applicants must demonstrate is set independently for each subclass within the Skilled stream of the Migration Programme. The Department does not have visibility of the total number of attempts each migrant takes in order to demonstrate the level of English applicable to their individual circumstances.

The Department considers the IELTS exam to be an appropriate test of a migrant's English speaking ability.

2. What are the likely benefits and costs of introducing ISLPR[®] or other validated English language tests as an accepted test for assessing the English language proficiency of those seeking a temporary visa?

In November 2014 the former Assistant Minister for Immigration and Border Protection finalised a review which identified the following three exams as alternative English language tests for the Skill stream of the Migration Programme.

- Test of English as a Foreign Language Internet Based Test
- Cambridge English: Advanced
- Pearson Test of English Academic.

The addition of these alternative tests has increased the number of testing places available throughout the year and increased competition in the English language testing market. The Minister for Immigration and Border Protection is satisfied with the outcomes of this review and does not intend on conducting any further reviews at this point in time.

Request 9.2

The Commission seeks feedback on the merit of caps on temporary 457 visa numbers for specific occupations. It is particularly interested in participants' views on whether the recommendations from the Independent Review into Integrity in the Subclass 457 Programme (the Azarias Review)—and which have been supported by the Australian Government—are likely to lead to the more accurate identification of genuine labour market shortages for occupations on the Consolidated Sponsored Occupations List (CSOL).

Response

The Government supported the Azarias Review's recommendations to retain the CSOL and to put in place mechanisms to make the list more transparent, responsive and better aligned to labour market needs.

MACSM has been tasked to review the effectiveness of the CSOL to ensure that the composition of the list is better aligned to industry needs. MACSM is currently acting on this recommendation and will report back over the coming months.

Request 10.1

The Commission seeks information on the potential impacts of tightening the points test for the onshore independent visa subclass of the Skill stream of the Migration Programme, including granting more points for:

- superior English language proficiency
- better academic results, qualification in under supplied fields.

Response

As part of the reform of the Skilled Migration and Temporary Activity visa programmes identified in Request 5.2, the Department is examining the skilled migration points test, to ensure the Skill stream of the Migration Programme continues to be effective in meeting the needs of the Australian economy.

In its current form, English language settings in the points test are informed by research that demonstrates strong links between better English and an ability to integrate within the Australian community and participate in the Australian labour market. The awarding of points for English proficiency accounts for the strength of this relationship and makes the distinction between competent, proficient and superior levels of English.

Points for differing levels of educational attainment are awarded to encourage the migration of highly skilled applicants. It also contributes towards making Australia an attractive destination for international students.

It has been demonstrated through the Department's experiences with the now defunct Migration Occupations in Demand List that targeting subsets of occupations causes the Skill stream of the Migration Programme to be dominated by a small number of occupations. The Department has introduced tools to mitigate this risk; these include occupational ceilings and the SkillSelect application management system.

Request 11.1

The Commission seeks feedback on the use of the CSOL in the immigration pathway from temporary to permanent employer sponsored skilled immigration. Is the list sufficient to allow both temporary skilled (subclass 457) visas and employer nominated permanent visas to meet their stated objectives?

Response

The CSOL currently underpins the Temporary Work (Skilled) visa (subclass 457), the permanent sponsored Employer Nomination Scheme (subclass 186), the Permanent State and Territory Skilled Nominated visa (subclass 190) programme, the Skilled Regional programme and the Training and Research visa Occupational Trainee stream.

In response to recommendations from the Azarias Review of the 457 programme, the Department is supporting MACSM in a review of the composition of the CSOL. The aim of this review is to consider the effectiveness of the CSOL in identifying eligible occupations for skilled migration to Australia.

Request 11.2

The Commission is seeking information on the English language requirements for the Temporary Residence Transition (TRT) stream of the Employer Nominated (subclass 186) visa, including:

- the benefits and costs of having a lower English language requirement than other skilled immigration streams ('vocational' rather than 'competent')
- the benefits and costs of the exemption from English language testing for immigrants who have undertaken five years education with all tuition in English.

Response

The English language requirement for the Employer Nomination Scheme (ENS) TRT stream is currently set at the 'vocational' level. This is to allow a smoother transition from a subclass 457 visa (for which the English language requirement is an average score of five, and no less than 4.5 for each component) to the ENS. In addition there are a number of English language exemptions in the ENS TRT stream, including for immigrants who have undertaken five years education with all tuition in English.

Request 13.1

The Commission seeks participants' views on the potential impacts of the following alternative visa charging models in conjunction with retaining the qualitative criteria under the current system.

- Option 1: a market-based price for each visa subclass
- Option 2: a fiscally-reflective charge by visa subclass
- Option 3: an additional charge in exchange for relaxing specific selection criteria

- Option 4: a uniform levy across visa classes
- Option 5: a new visa subclass with a limited number of places and a very high charge, with only health, character and security checks.

Response to options

General Remarks

In considering this response, the Productivity Commission should note that pricing structures currently used in the Migration Programme have been subject to discussions over the years, and have included considerations of the purpose or intent of different visa products and the pricing of these products. Charging structures that introduce administrative complexity and depart from the primary intent of the Migration Programme are not favoured by the Department.

With any review of pricing, it is imperative that Australia remains competitive in its price point, and attractive to potential overseas migrants.

Option 1 –

While in principle, market-based pricing may be appropriate, in practice there is a range of factors that come into play when setting the price of a visa. These are (and will continue to be) fiscal considerations, the policy intent of different categories of migration, industry/sector sensitivities, and international agreements amongst others. Currently pricing decisions are informed by a market-based approach (that is, analysis of visa demand, international benchmarking, the market's propensity to pay, sector sensitivities, and other macro-economic factors). However, final price settings often consider broader Government and migration policy objectives.

A pure market-based approach would at times run contrary to these objectives and would be complex to administer.

Option 2 –

This approach is already used with the Contributory Parent Visa, and is also used to an extent as a consideration in setting charges for a Partner visa. This process has not been more broadly adopted as price has not always been the primary driver to manage demand.

The complexity in adopting this option more widely comes with the variability and predictability of the potential cost of an individual, their partner and their dependants, offset against the range of benefits that they provide through the taxation system. To measure this, a sophisticated pricing approach would be required to account for how differences in age, income and health contribute to net cost. Long-term Government costs, the structure of labour markets, and other complex assumptions would also need to be factored in for the life of an applicant. Changes to Government health, social, tax and other policies would need to flow through and could result in significant price fluctuations. All this additional complexity is arguably not an efficient use of departmental resources which are needed to prioritise timely visa processing. Slower visa processing, plus the significant costs imposed on applicants may then have an unintended impact on the Migration Programme.

Option 3 –

This approach has been previously used in the area of skilled migration. To reintroduce this would require a significant deviation from the current policy directive and may lead to undesirable policy outcomes. While some criteria currently used in the Significant and Premium Investor Visa streams are less onerous than in other streams, these visas require capital investments within Australia, as opposed to large payments to the Government.

Option 4 –

The approach of a uniform levy for all migrants has some similarities to Option 2, and would align our visa pricing with some other countries while providing a measure to offset the cost of government services used post-arrival. However, as with Option 2, it may be difficult to determine an appropriate amount that actually relates to service provision. Unlike the other options proposed, the introduction of this approach is in line with the intent of the Migration Programme.

Option 5 –

This approach is similar to the Significant and Premium Investor Visa Programmes; the difference being that it would generate significant revenue for the Government through charges rather than broader economic benefits through investments. This change would, however, require a significant deviation from the current policy directive and is not consistent with the purpose and primary intent of the Migration Programme, or arguably, in the national interest. Under such an arrangement, migration opportunities may for example, be limited to older and wealthier migrants, without commensurate consideration of the actual benefit they bring to Australia.

Section 2 – Responses to Recommendations

Recommendation 9.1

The Australian Government should commission a public inquiry into the labour market and broader economy-wide effects of work rights for international students, temporary graduate visa holders and working holiday makers.

Response

The Department notes the current Senate inquiry into ‘the impact of Australia’s temporary work visa programs on the Australian labour market and on the temporary work visa holders’ is due to report on 25 February 2016. The issue of foreign worker exploitation is one of its central considerations.

Recommendation 9.2

The Australian Government should assess the effectiveness of changes implemented as a result of the recommendations made by the Independent Review into Integrity in the subclass 457 Programme (the Azarias Review) after sufficient time for those changes to take effect.

Response

The Government supported 49 of the 51 sub-recommendations of the Azarias Review, which are being implemented throughout 2015 and 2016. Given the scope and scale of reforms, and the staggered implementation, it would not be feasible to review their impact before 2017. The Government has already committed to report on the impact of the new offences for charging for a migration outcome by mid-2017, and is also reviewing the occupation list which underpins the subclass 457 Programme. We expect that it will be challenging to assess the impact of some reforms due to difficulties in distinguishing between the impact of economic factors and the reforms themselves, as well as a lack of underpinning data. This reflects the Department’s experience with the current Post Implementation Review of July 2013 changes to the subclass 457 visa programme.

Recommendation 9.4

The Australian Government should implement recommendation 4.24 of the 2012 joint study by the Australian Productivity Commission and the New Zealand Productivity Commission on Strengthening Trans-Tasman economic relations.

Response

The Australian Government regularly reviews all visa settings for all holders including non-Protected Special Category Visa holders living long-term in Australia.

Recommendation 10.1

Following the implementation of the current simplification of skilled visa subclasses the Australian Government should continue to collect information on the labour market outcomes of permanent skilled immigrants through the independent points-tested and employer-nominated visa subclasses, including onshore and offshore applicants.

The Australian Government should use this information to assess the effectiveness of the various skilled immigration visa subclasses and should adjust the selection criteria to choose the immigrants who make the largest economic contributions. This could include tightening the criteria for certain visa subclasses in relation to: English-language proficiency, academic results, qualifications in occupations that are in a state of labour shortage.

Response

Through its Continuous Survey of Australia's Migrants (CSAM) the Department is fully committed to continue collecting information on the labour market outcomes of permanent skilled migrants, as a way of informing future policy and evaluating policy change. A tender process to appoint a contractor for the CSAM, which will ensure its continued funding through to 2018, is currently being conducted.

Data from the CSAM, is currently used to evaluate the labour market performance of different skilled migration categories and subclasses, both through regular reports and ad-hoc requests, and there is sufficient detail in the data collected to establish which migrant characteristics are associated with greater economic contributions.

Complementing the labour market outcome data from the CSAM, the Department conducts surveys on temporary migrant cohorts and utilises data from the following Australian Bureau of Statistics data collections:

- The Australian Census and Migrants Integrated Dataset
- The Australian Census and Temporary Migrants Integrated Dataset (forthcoming)
- The Characteristics of Recent Migrants Survey
- The Australian Census Longitudinal Dataset
- The Personal Income Tax and Migrants Integrated Dataset

Recommendation 10.2

The Australian Government should review the Business Innovation and Investment Programme to assess whether it is meeting its objectives. To complete this review, the Australian Government will require more detailed information on the characteristics and impacts of immigrants through this programme. The Australian Government should collect and publish information on indicators including: turnover, employment, wages paid to employees, location, innovation, and links with international markets.

Response

The visa framework for the Business Innovation and Investment Programme (BIIP) will be considered in the third stage of the skilled migration and temporary activity visa programme review, currently being undertaken by the Department.

Any recommendations to changes to the BIIP will guide further reviews into the objectives of the BIIP and the evaluation of the efficacy, effectiveness and appropriateness of the amendments to the programme that came into effect on 1 July 2015.

The Department is working with Federal and State and Territory agencies to find ways to implement better information sharing and programme performance reporting for the BIIP. This will be the subject of further discussions with the relevant agencies.

Recommendation 10.3

The Australian Government should abolish the Significant Investor Visa and Premium Investor Visa streams.

Response

There is currently insufficient evidence to evaluate the effectiveness of the Significant Investment and Premium Investor visas (SIV and PIV), and to support the conclusions of the Productivity Commission.

The purpose of the SIV and PIV is to boost the Australian economy through an increased inflow of investment. Since the commencement of the programme on 24 November 2012, AUD 5.375 billion has been invested in complying investments.

The policy settings of the SIV were recently reviewed to identify measures for further improvement in the programme. The Australian Trade Commission has policy responsibility for the complying investment framework, to ensure this aligns with Australia's key investment priorities. On 1 July 2015, the Government implemented a new complying investment framework for SIV and introduced the PIV stream, to improve the effectiveness and competitiveness of the programme.

Under the previous SIV settings, investments were mostly going into passive investments like government bonds and into residential real estate schemes—areas that already attract large capital flows. The new complying investment framework aims to deliver better results in terms of investment into the commercialisation of Australian ideas, research and development. The new arrangements are designed to leverage and better direct additional foreign investment while maintaining safeguards to ensure the Migration Programme is not misused.

As noted, it is too soon to evaluate the effectiveness of the SIV. The SIV was only introduced in November 2012, and has a provisional visa period of four years. One purpose of the SIV is for the families of high net worth individuals to anchor themselves in Australia, and to pass on generational wealth and expertise. Given the relatively short period of time since the SIV's inception, there has not yet been an opportunity for SIV holders to transition to the permanent Business Innovation and Investment visa. The Department has committed to undertaking an evaluation of the SIV in July 2016.

The Premium Investor Visa was introduced to attract a small number of highly talented and entrepreneurial individuals who can translate those skills and talents into areas which deliver a long-term economic benefit to Australia.

There have been no applications or grants of the PIV to date. Therefore the Department considers it premature to conclude that the PIV has been unsuccessful in meeting its policy objectives. It was a condition of the introduction of the PIV that it would be evaluated a year after its inception in July 2016. This will provide an appropriate mechanism to consider whether the settings remain appropriate.

Recommendation 12.1

The Australian Government should not use price as the principal mechanism for allocating permanent visas.

Response

This recommendation is an endorsement of the methods of selection currently used by the Department.

The Department agrees with the Productivity Commission analysis showing that a system, where price was the principal method of selection, could attract migrants without the characteristics that underpin successful integration, and crowd out skilled applicants who have the capacity to make a greater economic contribution to Australia.

The Department also agrees that while such a system would provide a short-term fiscal benefit, over the longer term, recipients of these visas would, on average, be more dependent on government services than migrants coming to Australia under present arrangements.

The Department's own modelling indicates that a Migration Programme with a strong emphasis on skills, oriented towards applicants of prime working age, provides substantial fiscal benefits to Australia that extend well beyond the initial period of settlement.

Recommendation 13.1

The Australian Government should articulate the objective of its visa charging system and publish information in the form of a retrospective report covering the past 10 years of visa charges, the number of applications and the characteristics of immigrants by visa subclass plus biennial reports on changes in visa charges and the underlying visa charging methodology, changes in other visa terms and conditions, the number of applications and the characteristics of immigrants by visa subclass.

Response

The Department welcomes a discussion with the Productivity Commission to get an understanding of the background of this recommendation, as much of this information is already reported through this Department, and through other Commonwealth agencies such as Tourism Australia, the Department of Education, and the Department of Employment.

While visa prices change from time to time, the policies associated with individual visas are constantly being adjusted, with the conditions, eligibility and design of many visa subclasses changing significantly for a variety of economic and social reasons. It has been previously shown that these policy changes have had a clear impact on lodgement volumes and the characteristics of applicants. Moderate price changes, when applied separately to policy changes, have been shown to have a negligible impact on the trend in lodgement volumes. Given this, it is very difficult to conclude what, if any, impact price has played in the characteristics of applicants over time.

Previous changes to Visa Application Charges (VACs) have been informed by analysis of visa demand, international benchmarking, the market's propensity to pay, sector sensitivities, and other macro-economic factors, but ultimately have been informed by a mix of economic and policy factors. Revenue collected through the visa charging system is considered general taxation and all revenue is returned to the Consolidated Revenue Fund (CRF), and may be used by Government to improve services and strengthen national security; however the initiatives are not limited to improving services that facilitate cross border movements. VACs are in no way linked to cost recovery.

The Department has and continues to publish key performance related information within its Annual Report, including details on both the number of visas issued and the revenue earned in the financial section of the report. The Department also provides regular reports on its website which provide statistics and research on those who visit, study, work and live in Australia. When visa charges or conditions are changed the Department takes significant measures to inform prospective applicants through its website and through its global network.