



Australian Government
Department of Immigration
and Citizenship

Simpler visas

Implementing a simpler framework for temporary residence work visas
Discussion Paper—December 2010



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Overview

The Australian Government has initiated a range of reforms aimed at improving productivity and international competitiveness. An ambitious regulatory reform agenda is an integral part of these reforms.

As part of this agenda, the Australian Government has agreed to rationalise Australia's visa framework to make it simpler and more efficient whilst ensuring the integrity of the visa program as a key capability supporting national interests.

Specifically, the Australian Government has committed to reduce by 50 per cent the number of temporary residence work visa subclasses by 2012 and to target a 50 per cent reduction in the total number of visa subclasses by 2015. This reform is being taken forward as part of a Better Regulation Ministerial Partnership announced on 4 June 2010 by the former Minister for Immigration and Citizenship, Senator the Hon Chris Evans, and the former Minister for Finance and Deregulation, the Hon Lindsay Tanner MP.

The first phase of the Visa Simplification and Deregulation (VSD) project will focus on the deregulation and simplification of the temporary residence work visa group, and is scheduled for completion by 2012.

The temporary residence work visa group allows for people to enter Australia for up to four years for economic, social or cultural purposes. Visa holders are permitted to work in their area of expertise. There are currently 18 visas under review and these visas are listed in Appendix A.

On 4 June 2010, the Australian Government released a discussion paper, *Simpler Visas – Creating a simpler framework for temporary and permanent entry to Australia*, which sought submissions from the public on the proposed deregulation and simplification of the temporary residence work visa group and the overall visa simplification and deregulation project.

This discussion paper suggested three temporary residence work visa models that drew together similarities between existing subclasses, including:

- the general purpose of entry and length of stay
- the entitlements and requirements that are attached to the visas.

Fifty-eight public submissions were received and views expressed on the development of a simplified structure for temporary residence work visas were generally supportive. The submissions were then considered as part of a comprehensive comparative analysis of the current temporary residence work visa group. This analysis has identified and mapped requirements that are:

- identical across visa subclasses
- similar but which can be standardised
- unique and which cannot be simplified, and must therefore continue to stand alone in the new visa framework.

The proposed temporary residence work visa framework that has emerged from this process creates fewer visas by combining areas of greatest regulatory duplication within the current group of temporary residence work visas.

As well as the removal of duplicated requirements, simplification will also be achieved by standardising similar requirements where possible, and by removing or modifying requirements that have become less relevant or redundant over time.

Public Consultation

This discussion paper seeks views on the proposed simplified visa framework (the proposed framework) for the temporary residence work visa group.

The discussion paper:

- briefly examines the current temporary residence work visa framework
- outlines a proposed framework for the temporary residence work visa group
- examines some transitional and implementation issues relating to the proposed framework.

Comments on this paper will inform both the development and implementation of the new temporary residence work visa framework. Comments should seek to identify:

- whether there may be issues related to merging and transferring current visa requirements into the proposed framework
- if the proposed framework will reduce complexity and confusion of choice for clients.

Following consideration of responses, the Australian Government will decide on a finalised visa framework for temporary residence work visas. Further consultations and discussion may be held with stakeholders as required.

Please submit your suggestions or comments by 4 February 2011 to:

Director, Deregulation Strategy Section

PO Box 25

BELCONNEN ACT 2616

or

Email deregulation@immi.gov.au

The current visa framework

Diagram 1 — Simplification of temporary residence work visas — subclasses under review

Business (Short Stay)(subclass 456)
Exchange (subclass 411)
Sport (subclass 421)
Religious Worker (subclass 428)
Occupational Trainee (subclass 442)
Professional Development (subclass 470)
Visiting Academic (subclass 419)
Government Agreement (subclass 406)
Foreign Government Agency (subclass 415)
Domestic Worker - Diplomatic or Consular (subclass 426)
Medical Practitioner (subclass 422)
Domestic Worker - Executive (subclass 427)
Business (Long Stay) (subclass 457)
Entertainment (subclass 420)
Media and Film Staff (subclass 423)
Special Program (subclass 416)
Working Holiday (subclass 417)
Work and Holiday (subclass 462)

Note: The Investor Retirement (subclass 405) and Superyacht Crew (subclass 488) visas were included in the first discussion paper. However, it is considered that these visas are more appropriately considered for simplification within later visa groups. The Diplomatic (Temporary) (subclass 995) visa is considered out of scope for simplification due to the international conventions related to its operation.

The visa subclasses listed in Diagram 1 have all been considered as part of the temporary residence work visa framework simplification process.

As indicated in the first discussion paper, the highly specialised nature of these visa subclasses has created unnecessary complexity and a confusion of choice for clients when they are attempting to select the most appropriate visa. It has been identified that many of these visa subclasses have similar purposes, obligations and entitlements that could be collapsed and combined to create a more simplified structure. There are many similar (but not identical) legal requirements across these visas that can also be streamlined.

The need to reduce these current complexities is a major factor that has driven the development of the proposed simplification of the temporary residence work visa framework as indicated in Diagram 2 overleaf.

Proposed Temporary Residence Work visa framework

Diagram 2 – Proposed temporary residence work visa framework

Existing visa		Proposed visa
Business (Short Stay) (exc. Business Visitors) <i>Sports Event participants</i> <i>Documentary & Commercial for overseas use</i>	→	Short Stay Activity
Exchange Sport Religious Worker	→	Sponsored Long Stay Activity
Occupational Trainee Professional Development Visiting Academic <i>Sport Trainees</i>	→	Training and Research
Government Agreement Foreign Government Agency Domestic Worker—Diplomatic Consular <i>Immunities and Privileges</i> <i>Service Sellers</i>	→	International Relations
Medical Practitioner Domestic Worker—Executive Business (Long Stay) Journalists	→	Business (Long Stay)
Entertainment Media and Film Staff	→	Entertainment
Special Program	→	Special Programs
Working Holiday	→	Working Holiday
Work and Holiday	→	Work and Holiday

Short Stay Activity visa

The proposed Short Stay Activity visa (SSAV) would facilitate the entry of persons for short term work and specialised activities where there is a genuine requirement for their expertise, while not undermining the employment opportunities and conditions of Australian workers. Key requirements of this visa would include:

- the activity must be non-ongoing
- the activity cannot reasonably be performed by an Australian citizen or permanent resident
- the applicant must have the relevant skills and experience to undertake the activity
- the entry of the person must not adversely impact on employment or training opportunities, or conditions of employment, for Australian citizens or permanent residents.

Due to the non-ongoing nature of the activities and the short period of stay, formal sponsorship will not be required.

There are three streams of entry proposed under the SSAV:

Cultural and Social—Persons currently entering Australia to perform short term social and cultural activities often use a sponsored temporary residence visa or a visitor visa. The non-ongoing nature of their activities does not generally warrant the protection of the full sponsorship framework. However, many of these activities have work elements and do not sit comfortably within the visitor visa program.

The proposed SSAV will allow for most persons to enter for social and cultural activities at the invitation of an Australian organisation or individual on a short term and non-ongoing basis. This will allow them to perform the full range of activities within their area of expertise. This could include persons who are:

- conducting workshops (which may include a practical component) or providing training on a specific occasion
- amateur and professional sports people including competitors, judges or adjudicators participating in specific events
- entertainers attending specific promotional events (but not performing)
- persons giving lectures or public speeches
- journalists covering specific events
- professional photographers under contract from overseas
- persons making a documentary or commercial intended for an overseas audience
- artists holding exhibition of their works in Australia
- authors contracted to write a book or article while travelling in Australia.

Emergency and National Interest—It is proposed that the SSAV will allow for persons or groups of persons to enter Australia to engage in activities that the Minister for Immigration and Citizenship considers to be in the national interest. It will also allow for the entry of emergency workers in times of need, for example firefighters assisting in a bushfire emergency.

Proprietary—It is proposed that the SSAV will allow for persons with skills and expertise not accessible in Australia to enter for a short period for approved work purposes. This could include:

- installation, after-sales service, or emergency repair personnel for specialised imported machinery
- accountants auditing Australian operations of a multi-national company against foreign accounting standards
- other highly specialised workers who have skills or expertise not accessible in Australia.

Entry under these limited circumstances is currently being managed on a case-by-case basis in the Business (Short Stay) (subclass 456) visa in the visitor program.

Sponsored Long Stay Activity visa

It is proposed to create a Sponsored Long Stay Activity visa (SLSAV) which supports Australian business and community groups by facilitating the longer term entry of applicants who undertake ongoing sporting, religious and exchange activities. The nomination criteria for this visa will be similar to requirements under the current visa subclasses.

The SLSAV will have three streams:

Exchange—This stream would replace the Exchange (subclass 411) visa and would continue to manage the entry of skilled persons under exchange arrangements that give Australian residents reciprocal opportunities to work with overseas organisations.

Sport—This stream would replace the Sport (subclass 421) visa and is intended to permit the temporary entry of high calibre sports people from other countries who wish to engage in competition with Australian residents and so improve the quality of sport in Australia. This visa covers a range of ongoing stay requirements including:

- competitors in sporting events in Australia, either individually or as a member of a team (and persons assisting a competitor)
- judges or adjudicators at shows or competitions in Australia
- players or coaches for an Australian organisation where they have an established reputation in their sport.

Religious work—This stream would replace the Religious Worker (subclass 428) visa and is intended for persons providing spiritual leadership in their religious community, for example, ministers of religion, priests, deacons, imams, nuns, rabbis and monks. It also allows for other missionary, evangelical and proselytising activities. It does not provide for persons who are members of a religious organisation doing some work for the organisation that is not of a religious nature or does not require any religious training. The activity must be full-time, primarily non-profit in nature and directly serve the religious objectives of the sponsoring religious organisation.

Training and Research visa

It is proposed to create a Training and Research visa (TRV) which consolidates temporary visa arrangements that relate to the provision of research or training opportunities.

This proposal would create a single new visa with three distinct streams:

Professional development—This stream would replace the Professional Development visa (subclass 470) and would cater for groups of professionals, managers and government officials from overseas who wish to come to Australia to enhance their professional or managerial skills by undertaking professional development training that is classroom-based rather than workplace-based.

Occupational Trainee (including sports trainees)—This stream would replace the Occupational Trainee visa (subclass 442) and allows entry for overseas persons coming to Australia for training or development purposes.

The Occupational Trainee stream is intended to provide for a supervised training program that is primarily work-place based. It is designed specifically to increase or upgrade a person's skill level in their occupation or existing area of expertise in their home country. Fundamentally, the training provider must have a structured training program in place.

In addition the Occupational Trainee stream can also provide for the entry of sports trainees. This caters for sportspeople who have entered into a formal arrangement with an organisation in Australia (usually an Australian sporting organisation that is also the sponsor) to participate in a sports training program. The applicant must be coming to Australia for the purpose of participating in a training program that provides a structured framework with clear outcomes that will add to or enhance their skill level in the relevant sport.

Research—This stream would replace the Visiting Academic (subclass 419) visa and the research stream of the Occupational Trainee visa (subclass 442) and allows for participation by overseas academics in high-level research projects with Australian residents, for example, during their sabbatical leave from their normal employment overseas. As with current arrangements they would not be allowed to receive remuneration from the inviting institution other than an allowance towards living expenses and travel costs.

International Relations visa

The creation of a an International Relations visa (IRV) would consolidate existing temporary visa arrangements into a single visa with four streams that serve Australia's international relations interests. There are no sponsorship requirements for this proposed visa.

Persons accorded privileges and immunities—Persons accorded privileges and immunities currently enter Australia under the Business (Short Stay) (subclass 456) or Business (Long Stay) (subclass 457) visas. The key criterion for the grant of both visas is the written recommendation of the Foreign Minister. The International Relations visa will continue to provide for this arrangement.

International representatives not accorded privileges and immunities—International representatives not accorded privileges and immunities include those entering Australia under the terms of government to government agreements.

The Government Agreement (subclass 406) visa currently allows for entry to Australia of foreign officials under government to government agreements. The IRV will provide for this arrangement as well as allowing for the entry of unofficial representatives of a foreign government agency currently managed under the Foreign Government Agency (subclass 415) visa.

Persons in the service of persons accorded privileges and immunities—Domestic Worker (Diplomatic and Consular)—The International Relations visa would allow for the entry of private domestic workers of diplomats who currently enter Australia under the Domestic Worker—Diplomatic or Consular (subclass 426) visa. Entry will continue to be subject to Department of Foreign Affairs and Trade approval.

Service sellers—The International Relations visa would accommodate Australia's international trade commitments by allowing for the entry and temporary stay of representatives of overseas suppliers of services who enter Australia for the purpose of selling or negotiating the sale of services. These service sellers currently enter Australia under either the Business (Short Stay) (subclass 456) or Business (Long Stay) (subclass 457) visas.

Business Long Stay visa

The Business (Long Stay) (subclass 457) visa would be streamlined by removing or relocating four of the six existing streams. These are:

- Service Sellers (to the International Relations visa)
- Persons accorded certain Privileges and Immunities (to the International Relations visa)
- Invest Australia Supported Skills (IASS) Agreements (to be repealed)
- Independent Executives (to be repealed).

The provisions that currently allow for standard business sponsorship by Australian and overseas companies would remain, as will the provisions allowing for labour agreements. It is proposed that labour agreements will facilitate arrangements for people currently utilising the Domestic Worker - Executive (subclass 427) visa.

Journalists—It is proposed to amend this visa to enable a person who is lawfully operating a news media related business outside Australia and who is not operating in Australia, to sponsor an accredited foreign correspondent or journalist to work in Australia for the purpose of collecting and reporting on news for that overseas organisation.

Medical Practitioner—Medical practitioners will be fully accommodated in the Business (Long Stay) visa as part of this simplification project.

Entertainment Visa

The Entertainment visa would allow for a single visa which covers both the entertainment and media industries, and will operate in a similar manner to the current Entertainment (subclass 420) visa. This will allow for repeal of the Media and Film Staff (subclass 423) visa.

Journalists sponsored by overseas organisations will be accommodated in the Business (Long Stay) (subclass 457) visa. Documentary and commercial makers who intend to enter Australia for a short period to make a documentary or commercial intended for overseas audiences will use the proposed Short Stay Activity visa.

Special Program visa

It is proposed that the Special Program (subclass 416) visa be retained in its current form. The visa currently provides flexibility and control in making special arrangements for people coming to Australia to participate in approved social and cultural programs.

Working Holiday and Work and Holiday Maker visas

The working holiday and work and holiday programs encourage cultural exchange and closer ties between arrangement countries by allowing young people to have an extended holiday supplemented by short-term employment.

It is not considered desirable to consolidate the Working Holiday (subclass 417) and Work and Holiday (subclass 462) visa programs at this time, as such consolidation may run counter to Australia's bilateral interests, and may limit the flexibility of the Government in current and future negotiations.

Transitional Arrangements

It is proposed that visas which are being replaced by new visas under the temporary residence simplification framework will be closed to primary applicants when the new visa framework is implemented. It is expected that unfinalised visa applications which have been lodged before implementation would be assessed according to the pre-existing visa requirements rather than being assessed against the new requirements.

All visas that are granted before implementation of the new visa framework will continue to be in effect for entry to and stay in Australia until that visa ceases.

The department will ensure that stakeholders, clients and the public are fully supported prior to and during implementation of a final framework through the provision of information about the new visa structure and associated application requirements.

Appendix A

Temporary Residence visas

406	Government Agreement	This visa is intended to facilitate the entry of people under the terms of bilateral agreements between Australia and other countries.
411	Exchange	This visa is intended to facilitate the entry of skilled people under exchange arrangements giving Australian residents reciprocal opportunities to work with overseas organisations
415	Foreign Government Agency	This visa is intended to facilitate the entry of: <ul style="list-style-type: none"> representatives of foreign governments and foreign government agencies (as described below) who do not have Department of Foreign Affairs and Trade accreditation and certain foreign language teachers who are to be employed in Australia by their government or a government agency.
416	Special Program	This visa aims to enhance international relations and cultural exchange by allowing people to share cultural and social experiences and knowledge in the Australian community by taking part in programs that provide opportunities for youth exchange, cultural enrichment and community benefit.
417	Working Holiday	This visa is to encourage cultural exchange and closer ties between arrangement countries by allowing young people to have an extended holiday supplemented by short term employment, with special focus on regional Australia.
419	Visiting Academic	This visa is intended for people: <ul style="list-style-type: none"> who are, or have been, employed as academics in tertiary or research institutions overseas whose primary purpose is to observe or participate in an established research project in collaboration with other academics at an Australian tertiary or research institution and who will not receive any form of payment from the inviting institution, other than an allowance towards living expenses.
420	Entertainment	This visa is for certain people involved in the entertainment industry, including: <ul style="list-style-type: none"> performers for film, television, opera, ballet, circuses etc and entertainers whether intending to perform commercially or non-commercially, as well as support personnel to the above and non-performing production/technical personnel for productions to be shown in, or concerts or recordings to be performed in Australia.
421	Sport	This visa provides for the temporary entry of sports people to engage in competition with Australian residents. The Sport visa is to improve the quality of a sport in Australia through participation in high-level competition and training with Australian residents.

Temporary Residence visas continued

422	Medical Practitioner	This visa is intended to provide for the entry of temporary resident doctors to help overcome the difficulties experienced in attracting and retaining doctors who can maintain the standard of health care in Australia. Temporary resident doctors must be sponsored by Australian employers to fill positions that cannot be filled by suitably qualified Australian citizens or permanent residents.
423	Media and Film Staff	This visa is intended for persons seeking temporary stay as: <ul style="list-style-type: none"> professional media staff members of overseas news organisations (print, radio, TV or film media) assigned to Australia as accredited representatives of that organisation for example, as their foreign correspondent) and television or film crew, including actors, production and support staff and still-photographers (for all advertisements, including travel or food photography), involved in the production of documentary programs (or commercials) exclusively for use outside Australia.
426	Domestic Worker- Diplomatic or Consular	This visa provides for the entry of domestic workers or domestic staff to Australia for strictly defined circumstances only. It is intended for adult domestic workers employed in a private capacity by diplomatic or consular representatives or certain representatives of international organisations posted to Australia who have been officially accredited by Department of Foreign Affairs and Trade.
427	Domestic Worker (Temporary)- Executive	This visa provides for the temporary entry of people to be employed as domestic workers by certain holders of Temporary Business Entry visa.
428	Religious Worker	This is an occupational visa intended for people who will be full-time religious workers in Australia. Religious work is work of a religious nature for which the client has had relevant religious training. The visa is intended for people seeking to undertake work directly serving the religious objectives of a religious institution in Australia. It recognises circumstances where a religious institution may need to access specific religious skills not readily available within the Australian community.
442	Occupational Trainee	This visa aims to promote international goodwill through Australian employers providing workplace-based training opportunities in Australia.
456	Business (Short Stay)	This visa is intended for genuine business visitors seeking a short-term entry (up to three months at a time) to Australia for business purposes.
457	Business (Long Stay)	This visa is for employers to sponsor approved skilled workers to work in Australia on a temporary visa. Employers can nominate a number of positions for different occupations under the same sponsorship application.
462	Work and Holiday	This visa enables young people to holiday and work in Australia and to improve cultural understanding. The visa is only available to citizens of countries that Australia has a work and holiday arrangement with.
470	Professional Development	This visa caters for groups of professionals, managers and government officials from overseas who wish to come to Australia to enhance their professional or managerial skills by undertaking professional development training.

Number of Subclass 400 visa holders in Australia at 30 June 2017 by citizenship country - Top 5 citizenship countries

Source: Department of Immigration and Border Protection, 2017 (BE11142.01)

Citizenship Country	Total
India	762
United States of America	360
China, Peoples Republic of (excl SARs)	232
United Kingdom	231
Philippines	179
Other Countries	1344
Total	3,108

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