

Commentary on the bills

Introduction

- 3.1 The Committee's review secured responses to thirteen questions from the Department of Immigration and Citizenship (DIAC) covering the scope, operation and cost models associated with imposition of the charge for visa evidence.
- 3.2 Information was also requested on the Department's Visa Entitlement Verification Online service, VEVO, and the transition to label free visa travel. These developments are cited in the explanatory memoranda to the bills as a primary motivation for the charge, in addition to cost recovery.

Rationale for the charge

- 3.3 The Visa Evidence Charge Bills are being introduced to discourage non-citizens' requests for hard copy visa validation and, instead, to utilise DIAC's online visa entitlement verification service VEVO.
- 3.4 The Committee held concerns about the impact of this charge on visa holders, and sought information about the circumstances in which a visa holder might request hard copy visa evidence and the current access of VEVO for visa verification.

- 3.5 The Committee also sought advice on consultation undertaken by the Department to assess negative impacts on particular sectors, within the context of the transition to visa label free travel.

Visa evidence request rates

- 3.6 As discussed in the previous chapter, section 70 of the Migration currently provides that a visa holder may request evidence of their visa and that a migration officer will honour that request.
- 3.7 This hard copy visa evidence is mostly provided in the form of a visa label affixed to the visa holder's passport or travel document.¹
- 3.8 DIAC advised that electronic visa applicants do not usually request hard copy evidence of their visa, but 90 per cent of all clients issued a visa over the counter in Australia do so. In 2011 this accounted for 455 000 onshore visa evidence requests. Overseas, 910 000 requests for visa evidence were made at immigration counters.²
- 3.9 In addition to the requests made at the time of issuing a visa, visa labels may also be requested at a later time.³ Resident non-citizens may make these requests for a range reasons such as the perceived need for evidence for work entitlements, Medicare or Centrelink benefits, for proof to third parties or foreign embassies of the right to return to Australia, or simply as a souvenir.⁴
- 3.10 Additionally, offshore visa applicants may require hardcopy visa evidence to comply with local laws to exit or transit to another country. In these circumstances a migration officer may make the request on their behalf or if there are special requirements, such as for processing humanitarian visas.⁵
- 3.11 The Department noted that while the number of visa requests seems high, requests for hard copy evidence account for only one third of the total visa caseload. The remaining two thirds of the visa caseload are processed without a hardcopy visa label electronically.⁶

1 Department of Immigration and Citizenship (DIAC), Answers to Questions on Notice, Question 1 (d).

2 DIAC, Answers to Questions on Notice, Questions 4 and 5.

3 DIAC, Answers to Questions on Notice, Question 1 (d).

4 DIAC, Answers to Questions on Notice, Question 4.

5 DIAC, Answers to Questions on Notice, Question 1 (d).

6 DIAC, Answers to Questions on Notice, Question 7.

Visa validation using VEVO

- 3.12 The VEVO service was introduced in 2004 for the electronic verification of the visa status and entitlements of a visa holder. In 2005 Australia ceased issuing or requiring visa labels for nearly all visa subclasses.⁷
- 3.13 The Department advised that VEVO is a 24 hour free online service providing complete visa records to all visa holders and registered Australian organisations with a legitimate need for information on visa status.⁸
- 3.14 As at 30 April 2012, there were 33 445 organisations registered with VEVO, including employers, labour suppliers, education institutions, licensing authorities, Medicare Australia and Centrelink staff, financial institutions, peak bodies and other government agencies.⁹
- 3.15 The following table provides checking rates for individuals and registered organisations over the last two years.

Table 1 Checks undertaken using VEVO, 2010-2011 and 2011-12 (to end April)¹⁰

VEVO access	2010-11	2011-12 (to end April)
Visa holders	1.52m	1.48m
Registered organisations	1.47m	1.40m

- 3.16 Over 2012 to 2013, the Department plans to promote the uptake of VEVO by:
- providing registered migration agents with more complete details of a visa holder's current visa status
 - enabling all visa holders to access VEVO using their visa grant number or visa evidence number without having to contact the department to get a password
 - self-service account management and password reset processes for organisations
 - [providing] a PDF print option for visa holders required to provide evidence of their visa status to third parties (for example, real-estate agents, mobile phone providers, etc)

7 DIAC, Answers to Questions on Notice, Question 1 (d).

8 DIAC, Answers to Questions on Notice, Question 2.

9 DIAC, Answers to Questions on Notice, Question 2.

10 From DIAC, Answers to Questions on Notice, Question 2.

- enable[ing] organisations and visa holders to access VEVO using mobile devices such as smart phones, tablets, and other portable devices.¹¹

3.17 The Department further advised that while overseas organisations do not have access to VEVO, DIAC is working with other countries to clarify Australia's visa requirements and to improve the uptake of the label free caseload.¹²

Visa Pricing Transformation

3.18 The visa evidence charge is one component of DIAC's shift to a user pays model under the Visa Pricing Transformation program.

3.19 Evidence from DIAC clarified the relationship between the charge as a cost recovery mechanism and its role in promoting the Department's broader transformation objectives, including the shift to label free visas:

The department's broader transformation agenda is designed to improve efficiency, integrity and client service. This includes driving efficiencies in the service delivery costs by moving paper application lodgement, non-electronic payments and general enquiries to the online environment and extending the role of Service Delivery Partners both onshore and offshore.¹³

3.20 As previously noted, overseas organisations do not have access to VEVO. However, the Service Delivery Partners, referred to directly above, have been established overseas to assist in the visa application process and to collect charges.

3.21 The Department states that the pricing model introduced under Visa Pricing Transformation is consistent with international benchmarks for visa and associated services, and will promote the shift to label free travel.¹⁴

3.22 While other mechanisms, such as limiting counter hours for issuing visa evidence, have not been effective in motivating a shift online,¹⁵ DIAC considers the pricing mechanism may be expected to:

11 DIAC, Answers to Questions on Notice, Question 2.

12 DIAC, Answers to Questions on Notice, Questions 5 and 7.

13 DIAC, Answers to Questions on Notice, Question 3.

14 DIAC, Answers to Questions on Notice, Question 3.

15 Limiting counter hours for visa evidencing between 9am and 11am, and ceasing hard copy services to migration agents. DIAC, Answers to Questions on Notice, Question 6.

- support the shift to the free online service;
- deliver a more streamlined processing for low risk clients, while maintaining effective border security for high risk clients;
- reduce the number of clients at counters and staff involved in evidencing services; and
- reduce costs for label printing, distribution and storage.¹⁶

Impact on specific visa subclasses and sectors

- 3.23 The Committee sought to establish whether any particular sectors or classes of visa holders might be disproportionately affected by the introduction of the visa charge.
- 3.24 Of particular concern to the Committee were potential impacts on visa holders requiring visa evidence to attend educational institutions, or for example, to support a child's entry to a school once in Australia.
- 3.25 The Department advised that overseas applicants in the education sector usually apply for their visas electronically and travel to Australia label free.¹⁷ In Australia, visa holders and Australian registered institutions can gain complete visa evidence immediately by logging into VEVO.¹⁸
- 3.26 According to DIAC, consultations with stakeholders in the education, tourism and employment sectors yielded no major concerns about the introduction of the charge. The impact of the charge was considered to be minimal and would not act as a disincentive to visa demand in these sectors.¹⁹
- 3.27 As previously mentioned, offshore requests for hard copy evidence are often made to meet the exit and transit requirements of foreign governments or for validation of identity for certain visas, such as humanitarian visas.
- 3.28 The Committee notes that the Statement of Compatibility with Human Rights for the Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 acknowledges that the charge:

16 DIAC, Answers to Questions on Notice, Question 3.

17 DIAC, Answers to Questions on Notice, Question 7.

18 DIAC, Answers to Questions on Notice, Question 5.

19 DIAC, Answers to Questions on Notice, Question 8.

...may have some differential impact on citizens of certain countries who are required to show evidence of a visa to meet their own country's exit or transit requirements.²⁰

- 3.29 In evidence, the Department gave reassurances that a growing number of countries are now allowing nationals to exit or transit their country without a visa label. DIAC is also actively promoting the message that Australia does not require a person to have a visa label in their passport to travel to, enter or remain in Australia.²¹
- 3.30 As discussed in the section on fee differentiation below, it is proposed that the charge be waived for humanitarian entrants, among other specified groups.²²

Costs and revenue

- 3.31 The Committee had concerns about the lack of detailed information in the bills and their explanatory memoranda on the actual charges imposed by the legislation and the revenue projections arising from them.
- 3.32 In particular:
- The Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 and memorandum indicated that different charges would be applied to different classes of visa or requests, without indication of range of charges, nor which visas would be exempt;²³
 - the Migration (Visa Evidence) Charge Bill 2012 provides for a maximum charge limit of \$250 to be imposed for a visa label, which the Selection Committee had considered unfeasibly high;²⁴ and
 - the Financial Impact Statements for the bills cite projected revenue of \$90 million to be generated over three years by the charge, which required explanation.²⁵

20 Attachment A. The Statement concludes that under Article 26 of the International Covenant of Human Rights (ICCPR) Australia cannot be held to be discriminatory because of the effect of another country's laws regarding migration.

21 DIAC, Answers to Questions on Notice, Question 1 (d).

22 DIAC, Answers to Questions on Notice, Question 13.

23 The Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012, Section 71; Explanatory Memoranda, p. 1.

24 House of Representatives, *Selection Committee Report No. 51*, Private Member's Business and Referral of Bills to Committee, 10 May 2012, p. 3.

Different charges for different visas

- 3.33 The proposed new section 71(1)(3) of the Migration Act, contained in the Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012, provides for regulations to be made enabling different charges for different visas and circumstances, for nil charges and for calculation of these charges.
- 3.34 The Migration (Visa Evidence) Charge Bill 2012, meanwhile, imposes a maximum charge limit of \$250 for the provision of hard copy visa evidence.²⁶
- 3.35 The Department's advice to the Committee revealed that the \$250 limit and the highly differentiated fee structure are in place as a framework for the upward adjustment of a \$70 charge, proposed as the flat fee for visa evidence:

It is proposed that the Migration Regulations will be amended to initially set the VEC at \$70 for the provision of evidence in the form of labels. The Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 provides that the Migration Regulations will be able to set different charges for different circumstances and classes of visa, and for a method of calculation to be developed to allow this. This has been included to give flexibility to increase the \$70 in some circumstances if it does not succeed in reducing reliance on visa labels. These provisions also enable the charge to be set at a higher rate, if required, to process a label quickly outside of normal processing times.²⁷

- 3.36 The Department also advised of proposals for a nil charge for humanitarian entrants and those in emergency, diplomatic and bilateral interest or compelling circumstances.²⁸ Further, any exemption from the label fee would only apply for one visa request, and the flat fee of \$70 would not be reduced or increased, although the legislation provides for this.²⁹

25 Explanatory Memoranda, Migration (Visa Evidence) Charge Bill 2012 and The Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 (Migration Visa Evidence Charge Bills), pp. 1 and 2 respectively.

26 At Subclause 7(1).

27 DIAC, Answers to Questions on Notice, Questions 11 and 12.

28 DIAC, Answers to Questions on Notice, Question 13.

29 DIAC, Answers to Questions on Notice, Question 13.

- 3.37 This information was provided to the Committee with the caveat that the actual charges will not be finalised until the regulations are made by the Governor-General at the Federal Executive Council.

Maximum cost limit

- 3.38 Hardcopy visa evidence is usually provided as a label or imprint in a visa holder's passport. The Committee agreed with the Selection Committee that the maximum charge limit for visa evidence seems high, and asked how the \$250 charge limit had been determined.

- 3.39 The Department responded:

The current Visa Application Charge cap is around four times the price of the average migration fee, and this was used as a guide when setting the limit for the VEC, with \$250 being just over four times the then proposed VEC of \$60. It was not proposed to the Government that the VEC cap be charged – it is a cap on price to prevent arbitrary taxation, not a price itself.³⁰

- 3.40 As cited in the section above, the Department now proposes that the actual visa evidence charge should be \$70. Further to that, the Department advised that the upper charge limit provides flexibility to increase the \$70 flat charge if it does not succeed in reducing reliance on visa labels.

- 3.41 The upper limit also enables the charge to be set at a higher rate, if required, to process a label quickly outside of normal processing times.

Revenue projections

- 3.42 The Financial Impact Statements for these bills state that their financial impact will be high, with revenue in the order of \$90 million to be generated over three years.³¹ The Committee asked for an explanation of the economic modelling used to arrive at this forecast.

- 3.43 The Department explained how, by taking historical and future demand forecasts into account, the upper label demand limit for the revenue projections was established at 900 000 over 2012–13, dropping to 450 000

30 DIAC, Answers to Questions on Notice, Question 10.

31 Explanatory Memoranda, Migration (Visa Evidence) Charge Bill 2012 and The Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 (Migration Visa Evidence Charge Bills) pp. 1 and 2 respectively.

in 2015–16. Label usage in 2011 was 1.365 million labels, reflecting a declining trend.³²

- 3.44 Accordingly, DIAC predicted that the demand will further decline if governments continue to embrace label-free travel and individuals increasingly use e-lodgement and electronic evidence. To reflect this anticipated decline in visa requests in revenue forecasting:

... an initial decline of 40 per cent was modelled, increasing to a 55 per cent drop over four years. This would see revenue from around 530 000 applicants in 2012-13, dropping to just over 400 000 in 2015-16. Modelling did not change the demand curve when the price for visa evidence was increased in the Budget from \$60 to \$70.³³

- 3.45 The Committee accepts the Department's view that, should the visa evidence charge fail to reduce the number of requests for visa labels and foreign governments not accept label free travel, revenue gains would be sustained, with demand trending towards the upper limits. Other factors including budgeted fluctuations in student and visitor numbers would also determine the actual revenue flow.³⁴

Conclusion

- 3.46 The Committee was satisfied overall with the Department's advice on the rationale and costings supporting the introduction of a visa evidence charge.
- 3.47 However, the Committee agrees with the Selection Committee that the explanatory memoranda accompanying the Visa Evidence Charge Bills do not provide adequate information for the assessment of the content and policy impact of these bills.
- 3.48 While the final implementation measures will be dependent on the regulations made at Executive Council, the Committee considers that a working explanation of the charge structures and the role of the maximum charge to allow for adjustments, including to ensure the shift to online visa validation, may have assisted the Selection Committee in its deliberations on the bills.

32 DIAC, Answers to Questions on Notice, Question 13.

33 DIAC, Answers to Questions on Notice, Question 13.

34 DIAC, Answers to Questions on Notice, Question 13.

- 3.49 The Committee considers that explanatory memoranda should provide adequate detail for scrutiny, especially when the measures proposed may significantly affect visa holders in Australia and overseas.
- 3.50 The Committee therefore recommends that the explanatory material accompanying the Visa Evidence Charge Bills be amended.

Recommendation 1

That the Department of Immigration and Citizenship amend the explanatory memoranda for the Migration (Visa Evidence) Charge Bill 2012 and the Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 to more clearly explain the policy rationale and costing methodology underpinning the measures contained in those bills.

- 3.51 While not the focus of this advisory report, the Committee wishes to express its support for the transition to label free travel. The shift to electronic visa processing, for applications and visa evidence, will potentially benefit all migration clients, onshore and offshore.
- 3.52 The onus on the Department, however, is to remain responsive to the needs of those client groups who are vulnerable under the transition, such as refugees and students, and those visa holders in countries that require visa evidence for exit and transit.
- 3.53 In this regard, the Committee encourages DIAC to provide information in its annual reports on the progress to label free visas in countries currently requiring visa labels for exit and transit, and any impacts on students, onshore and offshore, and refugees.

Recommendation 2

That the Migration (Visa Evidence) Charge Bill 2012 and the Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 be passed without amendment.

**Ms Maria Vamvakinou MP
Committee Chair**