COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON MIGRATION

Reference: Skilled migration inquiry

FRIDAY, 13 FEBRUARY 2004

CANBERRA

BY AUTHORITY OF THE PARLIAMENT

INTERNET

The Proof and Official Hansard transcripts of Senate committee hearings, some House of Representatives committee hearings and some joint committee hearings are available on the Internet. Some House of Representatives committees and some joint committees make available only Official Hansard transcripts.

The Internet address is: **http://www.aph.gov.au/hansard**

To search the parliamentary database, go to:
http://parlinfoweb.aph.gov.au

JOINT COMMITTEE ON MIGRATION

Friday, 13 February 2004

Members: Ms Gambaro *(Chair)*, Mr Ripoll *(Deputy Chair)*, Senators Bartlett, Eggleston, Kirk and Tchen and Mr Laurie Ferguson, Mrs Gash, Mrs Irwin and Mr Randall

Senators and members in attendance: Senator Tchen and Mr Laurie Ferguson and Ms Gambaro

Terms of reference for the inquiry:

To inquire into and report on:

Australia's migration and temporary entry program for skilled labour with particular reference to:

- International competition for skilled labour
- The degree to which quality permanent skilled migrants are being attracted to Australia and settling well
- Whether there are lessons to be learnt by Australia from the entry and program management policies of competing nations, including Canada, New Zealand, USA, Ireland, UK, Germany and Japan
- The degree to which Australia's migration and temporary entry programs are competitive
- Whether there are policy and/or procedural mechanisms that might be developed to improve competitiveness
- Settlement patterns for new arrivals including the role played by State and local authorities

WITNESSES

BARNSLEY, Mr Noel, Acting Assistant Secretary, Migration Branch, Department of Immigration and Multicultural and Indigenous Affairs 201

CHRISTOPHER, Mr Michael, Director, Business Skills Section, Business Branch, Department of Immigration and Multicultural and Indigenous Affairs 201

GRANT, Mr Jeff, Acting Director, Skilled Migration Section, Migration Branch, Department of Immigration and Multicultural and Indigenous Affairs 201

HOFFMANN, Ms Elizabeth, Assistant Director, Business Employment Section, Business Branch, Department of Immigration and Multicultural and Indigenous Affairs..... 201

MEREDITH, Mr Steve, Director, Migration Program Section, Migration Branch, Department of Immigration and Multicultural and Indigenous Affairs 201

RIZVI, Mr Abul, First Assistant Secretary, Migration and Temporary Entry Division, Department of Immigration and Multicultural and Indigenous Affairs..... 201

WATERS, Mr Bernie, Assistant Secretary, Business Branch, Department of Immigration and Multicultural and Indigenous Affairs 201

Subcommittee met at 9.02 a.m.

BARNSLEY, Mr Noel, Acting Assistant Secretary, Migration Branch, Department of Immigration and Multicultural and Indigenous Affairs

CHRISTOPHER, Mr Michael, Director, Business Skills Section, Business Branch, Department of Immigration and Multicultural and Indigenous Affairs

GRANT, Mr Jeff, Acting Director, Skilled Migration Section, Migration Branch, Department of Immigration and Multicultural and Indigenous Affairs

HOFFMANN, Ms Elizabeth, Assistant Director, Business Employment Section, Business Branch, Department of Immigration and Multicultural and Indigenous Affairs

MEREDITH, Mr Steve, Director, Migration Program Section, Migration Branch, Department of Immigration and Multicultural and Indigenous Affairs

RIZVI, Mr Abul, First Assistant Secretary, Migration and Temporary Entry Division, Department of Immigration and Multicultural and Indigenous Affairs

WATERS, Mr Bernie, Assistant Secretary, Business Branch, Department of Immigration and Multicultural and Indigenous Affairs

CHAIR—I declare open this public hearing of the Joint Standing Committee on Migration review of skilled migration. The minister has asked the committee to inquire and report on Australia's migration and temporary entry program for skilled labour, with particular reference to international competition for skilled labour, the degree to which quality, permanent skilled migrants are being attracted to Australia and settling well, and whether there are lessons to be learned by Australia from the entry and program management policy of competing nations, including Canada, New Zealand, USA, Ireland, UK, Germany and Japan, and the degree to which Australia's migration and temporary entry programs are competitive; also, if there are policies or procedural mechanisms that might be developed to improve competitiveness and settlement patterns for new arrivals, including the role played by state and local authorities.

I welcome representatives of the Department of Immigration, Multicultural and Indigenous Affairs. We last heard from the department on 11 November 2002. Since then the committee has had a number of public meetings, a roundtable discussion and has inspected a number of facilities, including the Adelaide Skilled Processing Centre. In that time there have also been changes to the skilled migration arrangements and the department provided a supplementary submission to the committee yesterday. I thank you very much for that; it is quite comprehensive. Is it the wish of the committee that the submission from the department be accepted as evidence to the inquiry and authorised by publication? There being no objection, it is so ordered.

The committee prefers that evidence be taken in public, but if you wish to give confidential evidence to the committee you may request that hearings be held in camera and the committee will consider your particular request. Although the committee does not require witnesses to give evidence under oath, you should understand that these hearings are legal proceedings of the

parliament and warrant the same respect as proceedings of the parliament itself. Giving false or misleading evidence is a serious matter and may be regarded as a contempt of parliament.

Before I call on you, Mr Rizvi, to make an opening statement, I congratulate you most sincerely on your recent award, the Public Service Medal, in January this year. I know that you will continue to do fine work, you and your department. I call on you now to make an opening statement.

Mr Rizvi—Thank you. I do not have a particular opening statement to make other than a list of significant policy changes that have been announced by the minister over the last 12 months or so. If it would help the committee, I might quickly run through those.

CHAIR—That would be very useful.

Mr Rizvi—On 1 July 2003 the former minister announced a number of major enhancements to the general skilled migration categories. These included an extra five bonus points for overseas students who have lived and studied in regional Australia or in a low population growth metropolitan area for a minimum of two years. In conjunction with that, the minimum study qualifying period for overseas students was also increased from one to two years full-time study. That meant that overseas students studying in Australia on or before 31 March 2003 who apply for skilled migration before 1 April 2004 need satisfy only the pre-1 July 2003 one-year study requirement. Those who apply after 1 April 2004 will need to have studied for a minimum of two years. The main reason for that adjustment was to align it to the minimum study requirements for regional Australia. We could not have a situation where, having studied in regional Australia, you had to have studied for a longer period than you had to have studied in metropolitan Australia.

Further, to encourage more overseas students with higher-level Australian qualifications to apply for migration, the following adjustments were made to the Australian qualifications points in the general points test. The five points for an Australian qualification were retained. The number of points for an Australian masters or honours degree at upper second division level or above was increased from five points to 10 points. That is available only where the applicant completed their undergraduate degree in Australia. The number of points for having completed an Australian doctorate physically in Australia after at least two years consecutive study in Australia was increased from 10 points to 15 points. To increase occupational targeting, the points available for the Migration Occupations in Demand List was increased from five points to 10 points.

More recently, the government has also announced that medical practitioners will now be added to the skilled occupation list from April 2004. That announcement was part of the Medicare Plus package. The minister has also recently announced that from 1 July 2004 a new skilled independent regional visa—that is, a temporary entry visa—will be introduced to allow those who are prepared to live and work in regional Australia or a low population growth metropolitan centre to enter and remain in Australia for up to three years. Applicants who score 110 points on the general skilled migration points test will be able to apply for this temporary entry visa. After they have completed a minimum of two years residence and working in regional Australia, these provisional residents will be able to apply for permanent residence through the existing suite of regional permanent residence and other permanent residence visas.

As the committee is probably already aware, since 1 November 2001 all applications for general skilled migration have been lodged and processed at DIMIA's Adelaide office. These new skilled independent provisional visas will also be processed at DIMIA's Adelaide office. Those changes have had a very dramatic impact on our Adelaide office, which has gone from one where we had shrinking staffing levels and shrinking workloads to one where the office has grown to something like four or five times the size of what it used to be. The office is now, I think, in excess of 250 staff and is still growing. Many of the jobs that have been created in Adelaide previously existed in various parts of the world and have effectively been repatriated to Australia. We see benefit in that, not just in terms of the creation of Australian jobs but also we believe it has delivered actually better-quality decision making, greater consistency and better client service.

From 1 March 2003, the government also introduced the two-stage visa arrangement for business skills migrants. Under these arrangements, most business skills migrants now enter Australia initially on a four-year temporary visa. They can then apply for permanent residence once they have a specified level of business and investment activity that they can demonstrate.

The new arrangements are superior to the previous arrangements in three ways. Firstly, because of the increased emphasis on state and territory government sponsorship at both the initial and permanent residence stages, there is much greater ability for all states and territories to influence the settlement pattern of these migrants, including into regional Australia. The state and territory government sponsorship also enables better access for these migrants to advice from each state and territory government on local business rules and regulations.

From the information that we have gathered from migrants who were entering under these categories previously, one of the factors leading to a lower success rate than we would have hoped for for these migrants was their difficulty in comprehending Australian business rules and regulations, which naturally can be quite different from what they may have encountered in their home countries. Finally, because this visa is a temporary residence visa, there is reduced incentive or potential for abuse that had existed in this visa in the past. I think that the committee is probably aware that in other countries as well there has been evidence of abuse of these types of visas, which I think we need to be very careful of.

In the temporary business long stay visa—that is subclass 457—changes have been made to improve its value to regional Australia. Changes have also been made to provide a better vehicle for Invest Australia to attract skills and investment to valuable projects via this visa. We have taken steps to tighten certain arrangements to address abuse by unscrupulous employers, and we have also taken steps to streamline application and processing arrangements, including that Australia may be the only country in the world which allows such a visa to be lodged and, to a significant degree, processed electronically over the Internet. It provides Australian business, I think, a major competitive advantage over businesses in other countries.

The committee may well be aware of the range of working parties we have currently ongoing for the development of skilled migration programs. There is the ongoing working party between the Commonwealth and all state and territory governments that meets at least twice a year and sometimes more frequently, depending on issues that arise. In addition, there is also a Commonwealth-state working party that is currently under way with New South Wales, Victoria and South Australia. All of these working parties seek to enhance partnerships between ourselves

and the relevant state and territory governments so that each state and territory government can obtain the skilled migration benefits that they are seeking. We have also undertaken a very significant amount of additional migration research over the last couple of years, and we would be happy to provide the committee with copies of those research reports if that would be useful.

CHAIR—Thank you for updating us with the changes. There have been a considerable number of changes since we last spoke with you. To start with the skilled independent regional visa that you were speaking about: the points have gone up to 110, and people can apply after they have been here for two years for a permanent visa. Will you be able to have some sort of tracking system so that you can see where many of these regional settlers then go—if there is a movement to, say, capital cities—and be able to assess it at that point?

Mr Rizvi—Yes. We are looking at that specific issue. When the minister made the announcement in respect of this visa we had had extensive consultations with the state and territory governments on the broad framework of the visa. The minister also announced that the details needed to be worked through with the state and territory governments, and that is what we are doing at the moment.

One of the suggestions we are looking at—in fact, it was made by the South Australian government—is that the initial visa be subject to sponsorship by a specific state or territory government. In other words, before an applicant could apply to us for this particular visa they would need to contact the state or territory government in which they wished to reside, and that state or territory government would be able to decide things such as whether they wished to sponsor that person or not. Different states and territories may have different views on what occupations they wish to target or which areas of their particular states they wish to target. Secondly, they would be able to advise the applicant about settlement opportunities in that particular state and, if the particular state wishes, about what particular incentives they may be prepared to offer. Certainly the South Australian government has indicated that, in order to attract a greater share of these people, they are thinking about a range of incentives that they may offer to try to give them an advantage over other states.

CHAIR—Thank you for trying to provide a list of what attracts migrants to this country in terms of economic and quality of life issues. Can more be done? I know that many intending migrants, particularly on these types of visas, go to the DIMIA web site, but can more be done to ensure there is quicker access or that the linkages to particular state governments are made easier? That seems to be one of the problems we were told about in going to specific regions. Is the working party looking at those sorts of things—providing greater and easier linkages?

Mr Rizvi—You are absolutely right to highlight that particular point. Establishing the linkages between the prospective migrant and the settlement opportunities that exist outside perhaps Sydney and Melbourne, which are the two areas that migrants are most conscious of, is a real challenge for us. Those are issues that the working parties are looking at. We believe that, because the bulk of the information migrants get about migrating to Australia is increasingly obtained from our web site, it is the quality of our web site and its linkages to the state and territory government web sites that will determine how these things evolve. We currently have a project that we are pursuing to identify ways we can modify our web site to make it much more clear that Australia is interested in skilled migrants who are prepared to go to certain regions of Australia and to link our web site to those of the relevant state and territory government

agencies. We are hopeful that, if we can improve those linkages, we can address some of those issues that are arising.

CHAIR—I refer to the migration occupation list. One of the problems that came up time and time again was that occupations are listed as to demand, and they are updated, but the skills recognition in each individual state sometimes varies and the person arrives here and finds that their skills are not recognised. You are talking about linkages. Only one occupational association actually did have that information available on line, from memory. Is that something that the department could look into? It leads to a very cognitive dissonant experience for the intending migrant if they are told that their skills are in demand when they are offshore and then they come here and find that it is a different story. How can we as a committee look at addressing that or make recommendations? Is that something that should be online and updated, or is that just something that falls into the realms of another department?

Mr Rizvi—I might try to work through how it works. That might help to identify where the weaknesses may be. I will ask Mr Barnsley, who knows more about this, to speak to how we might improve it. The skills assessing bodies that are identified in the general skilled migration booklet are those bodies that have been identified by the National Office of Overseas Skills Recognition, located in DEST. NOOSR works, I understand, fairly closely with the equivalent state bodies that may be involved in registration or recognition issues. Our understanding—this is where there may be something wrong that we are not aware of—is that the skills assessing bodies that NOOSR identifies use skills assessing criteria which are commonly accepted by all state and territory governments. That is our understanding. Whether that is actually working out or not, I do not know. There may be a gap there, and that may be leading to difficulties.

I suspect if there are problems it may be occupation by occupation. In some occupations there may not be that problem; in others there may be. For example, in the dental area I know that the Australian Dental Council, which manages this issue from the perspective of the whole of Australia, has very rigorous processes. If you get through the Australian Dental Council requirements there should be no reason why you encounter difficulties in getting yourself registered in the particular state. That is the theory. Whether that is what is happening in practice I do not know. We would have to go through each occupation and investigate.

CHAIR—You just raised a point. Is it more on a base level, at an occupational level, in terms of the national bodies assessing techniques and mechanisms, or is it being given the wrong information offshore? I guess that is what we have to look at as a committee. Would anyone like to add anything further?

Mr Barnsley—Mr Rizvi has made a good point. It is, I think, an occupation-by-occupation issue. You heard evidence at the last hearing from the representative of a labour hire firm who deals in IT. IT covers such a wide area of skills, the labour market is highly dynamic, and people coming in who are assessed as generally being competent as a professional IT person may find that there is not the right niche for their particular skills when they first arrive. They may need to do some further training or look around longer for work they may like to do. For example, we deal with lawyers state by state, as we do with a number of other occupations. If they have come through that state process they are okay; there are no problems, from what we are hearing, with getting jobs in their profession.

A number of people mentioned at the last hearing that there is this thing called local knowledge that people seem to look at, on top of the technical training and skills that people bring with them. You may be able to be recognised within your occupation, but I do not know how a new arrival in Australia or even a young person entering the work force straight out of college or university overcomes that barrier. I am not too sure how or what we can do to address that.

CHAIR—Local experience is ranked pretty highly, too.

Mr Barnsley—That is right. If employers can be selective and the market is such that they can be selective, you can understand them going that route. If the market is such they will be less selective. We know how labour market forces work.

Mr LAURIE FERGUSON—The way it was put to me is not that there is any discretionary problems within occupations nor state distinction but that people in the field—practitioners—feel that the level of rigour in regard to controlling organisations is a worry. One that was cited to me was the Australian Institute of Management, for instance, which would seem in contrast to a number of the other controlling groups—to be extremely rigorous and hard line. To what degree does the department have any say in regard to these controls over who comes in in different occupations? What do you do to make sure that that is not the case?

Mr Rizvi—We do consult closely with the relevant agencies involved, particularly NOOSR. At the end of the day, though, the policy responsibility in this area to determine whether a particular skills assessing body is competent or not rests with the National Office of Overseas Skills Recognition. You are absolutely right to point out that the Australian Institute of Management is very rigorous and uses very, very high standards. Some people have argued too high, others have said that managers should have rigorous standards. It is a very difficult area for us to make judgments on. At the end of the day we tend to be guided by NOOSR.

Mr LAURIE FERGUSON—As I said, the people bringing this to me are not people saying the whole system is wrong, that every one of these organisations is a stuff up; they just feel this one is an example of a problem.

Mr Rizvi—I have heard that as well; that the Australian Institute of Management is very rigorous, that they pride themselves on being rigorous.

CHAIR—Just on different associations—the Institute of Engineers came before us and suggested that the sponsoring employer introduce a fee for some sort of English language—pay a fee—as is the case in the USA. What are your thoughts on, say, if an employer was sponsoring a skilled worker and they contribute to English lessons et cetera?

Mr Rizvi—The employer nomination scheme?

CHAIR—The employer nomination scheme.

Mr Waters—A number of employers do in fact provide English tuition for a number of their employees. But it really does vary from case to case. Ultimately, from the department's perspective, the issue is: is there a real job that needs to be done and can the person coming in—

the employer after all is the one that has found this person and said they can do the job—do the job? I think in some of the skilled trades in particular English may not be as important as in, for example, the case of a skilled lawyer coming in. So it is very hard to come up with a one-size-fits all type of arrangement. Rather than with the current arrangements where employers choose whether to provide English training to employees, one option would be to require them to contribute to some form of fund. But that has not been a route that the government has travelled to date.

CHAIR—And if it was, would it be some sort of visa charge-type mechanism?

Mr Waters—That would be one way of doing it.

CHAIR—Thank you for that.

Mr Rizvi—It could be done that way. That is certainly true. I guess we have not focused very heavily on English language ability mainly because the research seems to suggest that most of the people coming through the ENS category have very high employment rates, which is not surprising. Hence we have not really focused on that. But if that is an emerging concern, then that is a route that the government could go down and certainly it would not be difficult to administer it.

CHAIR—In terms of the Institute of Engineers, I think a lot of people do have a high standard of English. Perhaps occupational definitions is what they were talking about in terms of having more emphasis on occupational definitions of working terms that may differ from country to country?

Mr Rizvi—That would make it an English language course which is very tailored. Most of the charging that we do is for the Adult Migrant English Program, which is really much more social English rather than vocational English targeted to a particular occupation.

CHAIR—Do you see a place for associations to undertake specific courses in, for example, technical English for intending Australian engineers? Do you think there is a gap there? I know that even for an Australian-born person moving as a receptionist to a general business and then moving as a receptionist to a medical practitioner there are many different working terms that someone has to overcome. It was probably raised in that context.

Mr Rizvi—It is certainly worth exploring.

CHAIR—I might hand over.

Mr Barnsley—A number of the professional bodies do include English skills as one of their assessment tools, for example, the nursing council. Engineers Australia and teaching I think as well requires an IELTS 8 generally, which is significantly higher than the threshold requirement for entry for the migration program per se. Perhaps there needs to be more than the IELTS 8. For example, you are suggesting technical English on top of that level of English and questioning whether more professional and trade bodies should require a higher level of English again as part of their assessment process and whether it would need to need to work in with IELTS who run

these tests and maybe even have tests specific to occupations. I do not even know if that is possible.

CHAIR—And that would need to be run by the association themselves?

Mr Barnsley—There are bodies that run English language testing. The one we use is IDP Australia. Maybe there is scope for the professional bodies to work in with such an organisation to come up with specific tailored testing for particular occupations.

CHAIR—Is that something that could be looked at by a working party or is that specific to the association themselves?

Mr Rizvi—I think we would have to sit down and think it through. I am not sure it is a testing issue so much. The employers decide if they want person X. If person X has 95 per cent of the skills they need and they may be five per cent short in terms of technical knowledge of certain terms and that sort of thing, you would not want to prevent that person entering. Obviously, the employer needs them and wants them quickly and so on, so you would want to enable them to come. It is a question of how you fill the gap. You would not want to delay their entry. I think some of the employers would object to the delaying of the entry.

Mr Meredith—It is not an issue we get raised with us from employers.

Mr Barnsley—Bernie has a lot more contact with them than I do.

Mr Waters—Certainly the individual sponsoring employers have never raised it with us as an issue. In fact, the thing which I note that individual sponsoring employers are forever raising with us is, 'Faster, faster.'

CHAIR—Particularly in the medical area. I will ask you one more question before I hand over to Mr Ferguson. In terms of the medical—

Mr LAURIE FERGUSON—There is a comment down the end, I think.

CHAIR—Sorry. I apologise.

Mr Meredith—This point would assist, I think. To the extent we are talking about employer sponsored entry, under the employer nomination scheme there is a regulatory requirement for people to have vocational level English.

CHAIR—So it is a vocational level English.

Mr Meredith—That, I think, would mean that any sponsored employees would meet that requirement, so we may be talking about family members more than principal applicants.

CHAIR—That would be the case.

Mr Meredith—We may be talking about some technical skills at the margin rather than in a mainstream sense.

CHAIR—Where I have heard it being a problem—and the Medical Association raises it with me all the time—is foreign doctors being put through the tests that they have to go through after we have allowed them to come in on a temporary type visa. However, when they decide they want to become a permanent resident, they have to go through it, even though they have been working here for four years and their skills have been deemed adequate. It is the level of comprehension and the inability to pass the medical examination, and a lot of the problems that are raised are problems that deal with those occupational type terms and being able to comprehend them. It is not that they do not have the skills; it is the comprehension and the ability to communicate that.

Mr LAURIE FERGUSON—Just on the English test first, I refer to the waiver. Departmental officers put to me that that is a matter of concern in that there appears to be inconsistency with regard to this. Can you give me the thrust behind the waiver idea and instances of where it might be useful? What does the department do to try to make sure that the waiving is rational and open to criticism?

Mr Barnsley—Are you talking about where there is provision to not require a formal test but instead look at the person's background and training?

Mr LAURIE FERGUSON—Yes.

Mr Barnsley—Okay. It applies only to the employee nomination scheme and I think also to 457s, temporary long-term business visa entrants. What people forget is there is not a waiver of English language requirement, and that is the way some people tend to view it. It is just another way of assessing a person's English language skills based on their work experience and their qualifications rather than having a set of formal tests. It makes a lot of sense when you get, say, a lecturer being sponsored by a university who can clearly lecture and has been lecturing competently in English and the university has experienced that person lecturing competently in English. In that sense, the situation would seem quite sensible to exercise the waiver of the requirement to sit the formal English language test.

Sometimes people can be a little cautious—that may be the right word—as to when they might exercise that waiver and err on the side of caution because they know that English language, particularly in a lecturing role, is particularly important and some of the sponsors do get a little tense, shall we say, in respect of that request.

Mr LAURIE FERGUSON—It has been put to me that it cuts both ways. They see people come through that they have question marks about as well and that there is an inconsistency across the department. What actually is undertaken? What is the training in decision making for that kind of thing? What discussions are held with officers with regard to that?

Mr Rizvi—Where that arrangement applies in the general skilled area—

Mr Barnsley—There is no waiver in general skilled. It is only in the designated area which has set a lower standard, but that is not a waiver though.

CHAIR—Mr Rizvi, I think Mr Meredith wanted to add something to it.

Mr Meredith—If I could give an example, we have discretion to waive the English language requirement. A good example of that is under the Regional Sponsored Migration Scheme which is the regional version of the employer nomination scheme. Waiving an English language requirement there is focused very much on the requirements of the position. Under the Regional Sponsored Migration Scheme, we are in fact reliant on regional certifying bodies that are, in large part, arms of state government departments. They, based on their local knowledge and other knowledge, can make a pretty reliable assessment of whether a position has a high level requirement for English language skills.

In the regional situation, there are a number of positions that indeed have a lesser requirement in terms of English language skills. There might be someone who does not have face-to-face contact with clients and they have the skills but they do not need to be able to communicate regularly in the English language. So the emphasis there is very much on the requirements of the position rather than a DIMIA officer making an assessment directly about whether the English language skills of the applicant are in fact sufficient for them to gain employment in Australia.

Mr LAURIE FERGUSON—That is sensible. Are they the only criteria for which waiving does occur? Is it totally occupational or are there other criteria?

Mr Rizvi—I think there are other bases, Mr Ferguson. The two key things that a decision maker would look at is the country in which the person grew up. So, for example, if a person grew up, went to school and did all of their studying in, say, the United Kingdom, then waiver would become a more sensible route to go. Similarly, if the applicant did all of their tertiary studies, say, in a university where clearly we know the mode of delivery of the curriculum is in English, then waiver would become appropriate. I would agree with you that there is a degree of subjectivity in that, and hence there is always a perception that it may be problematic.

When we first went down this route we did look at the idea of making everyone sit the English language test. We thought, 'That's easy. We just make everyone do it.' There was quite some reaction in various quarters to that proposition. Hence we did not go down that route. But it is an option we could go down. It would avoid the subjectivity problem, but then it would make some people have to sit an English test—suffer the inconvenience and cost—when really it does not make a lot of sense. There is a judgment there, I suppose.

Mr Waters—The other issue that I would point to is that the department puts all of its decision makers through quite extensive decision-making courses and the foci of those courses are making a lawful decision and trying to achieve consistency of approach. Now, obviously this is quite a challenge for the department, but it is something we put a lot of effort into. For example, before we send an Australia based officer overseas, that person would do quite a detailed course of six to eight weeks to prepare them for their posting where they are going to be making decisions of this nature on a day-to-day basis.

Mr LAURIE FERGUSON—I understand various occupation lists include areas like glassblowers, gunsmiths, et cetera, but there seems to be a dearth of interest in people in the cultural arts occupational area. Has the department looked at that kind of issue? There is very little, as I understand, on the list of desired occupations in that facet of industry.

Mr Rizvi—With regard to the skilled occupation list, essentially what we have sought to do is identify, in consultation generally with the Department of Employment and Workplace Relations but often with other departments as well, occupations that are generally in ASCO major group 4 or above—that is, they are in the four top groups as opposed to the five lower groups. Having looked at the four top groups, we then look at occupations in which a person may be readily employable in Australia as opposed to occupations where you just could not automatically gain entry to Australia. For example, judges are crossed off because you just cannot come to Australia and say, 'I want to be a judge.' Thirdly, we have excluded occupations which are clearly and significantly in oversupply. Up until now, that has included medical practitioners but, with recent advice from other agencies, medical practitioners are now to be included. So I do not think that there are any occupations in the skilled occupation list that are excluded on that basis at this point. Most of the occupations that you are talking about—glassblower, gunsmith, et cetera—are in lower ASCO groups and hence for the skilled occupation list do not come into the frame. That is not to say, however, they cannot enter. They can enter, but they would have to enter via generally either employer nominated arrangements—Regional Sponsored Migration Scheme, where they can be accepted—or they can enter under the temporary subclass 457 arrangements or, if they are of exceptional ability, of course, they can enter via the distinguished talent category.

Mr LAURIE FERGUSON—As I said, it has been put to me that, while some people could make the distinguished talent category, there is an interim part of the labour market for this artist-music sector which is not really picked up. I am wondering whether it is just the way we think; we do not often think of those industries and sectors as work. Can the department give some consideration to that?

Mr Rizvi—We tend to seek advice from the department of employment about the labour market situation.

Mr LAURIE FERGUSON—Maybe they have a similar attitude.

Mr Rizvi—You are right; I think we have only ever had two ASCO dictionaries ever developed in Australia. So they do become out of date. Trends emerge in industries, which the dictionary does not keep up with. The artistic field may well be one where we have not really just kept up.

Mr LAURIE FERGUSON—Do you think there is enough coordination between the multicultural facet of the department and the migration attraction section and business and skills? I say this because of the importance of existing communities in regions as a factor to attracting people. Do you think the department has got it together enough on coordination and picking up ideas from the multicultural side of the department in this field?

Mr Rizvi—The work that we have been doing—for example, in the context of these working parties—with various state governments has involved very directly the people from the settlement and multicultural areas. They are on these working parties. Because the focus of these working parties is very much regional settlement—because that is where the success will lie—we have worked very closely with them. Certainly there is a significant emphasis on those settlement issues in those reports. Unfortunately I cannot give you any copies of those reports

yet because they are not finalised, but they do have extensive recommendations on settlement issues and multicultural issues.

Mr LAURIE FERGUSON—Apparently the original DIMIA submission listed a number of activities, for example overseas seminars. What is the balance between state and local authorities in the department in actually publicising Australia as a destination?

Mr Rizvi—Our focus in terms of promotion has increasingly shifted away from promoting overseas to promoting onshore within Australia. We have found that promoting overseas is a very expensive business, and it does not really give us much of a return. We are certainly finding the level of applications we are receiving is well in excess of the number we need, so promotion overseas is not the key issue for us. As I mentioned earlier, our web site is probably our primary overseas promotion tool. It is an incredibly effective tool. The number of hits we get on our web site is staggering.

Mr Waters—The other thing from that point of view is that our visitor programs and temporary entry programs tend to be, in many respects, the best promotion we can possibly have—for example, an overseas student studying in Australia and enthusing about Australia and opportunities to their friends and relatives. Increasingly, in respect of some of our temporary residence programs, we are noticing more and more in the skilled area that people are often coming in with the subclass 457 long-stay business visa, working for a couple of years in Australia as a temporary resident and then converting to permanent residency. Alternatively they return home and subsequently sell up and return. They are also some of our best ambassadors in that they try to recruit their mates.

CHAIR—Do you have accurate figures on how many come out on, say, a tourist or a 457 visa that do come back? Is that tracked?

Mr Waters—We do not track that per se, although where a person applies in Australia for residence we do track the type of visa they held immediately prior to obtaining residence.

Mr Rizvi—Certainly the percentage of the migration program that is sourced from people already here is rising very rapidly.

CHAIR—A few years back I worked on the Working Holiday Maker Program. There has been an extension of that program to other countries. Have there been any changes to that?

Mr Rizvi—The length of time is still 12 months.

CHAIR—I must be thinking of another country. A few other countries brought in recently. Can you reiterate which countries?

Mr Rizvi—The most recent countries to have entered the Working Holiday Maker Program are Italy and France. The process with Belgium is very slow. We have reached a working holiday maker agreement but, because they wanted the agreement to have treaty status, it is taking forever to get through their parliament. We have an in-principle agreement but it is not finalised.

CHAIR—Let me commend you on Italy.

Mr Rizvi—We are very close with Greece. We have been talking extensively with Portugal. We are very close with Taiwan. Could I take the rest of that on notice? I cannot remember all of the countries right now.

CHAIR—I would be interested to know. I heard there was an extension. Is the department able to determine how many of the people who come out on that program come back and apply? Is that difficult?

Mr Waters—If they return home and then apply, we do not have the linkage. We are finding increasingly that some of the working holiday makers are working with an employer, being sponsored for temporary residence under the long-stay business visa—the subclass 457—and then applying for residence. It almost becomes a chain of visas. It is a bit hard to be able to say, 'X per cent of former working holiday makers,' because they have been through various steps in the chain.

CHAIR—But if they change to a 457 while they are here, you can then—

Mr Waters—We can certainly tell you the number of people on working holiday maker visas who have switched to a 457, we can tell you the number of people on working holiday maker visas who have switched to permanent, and we can tell you the number of 457s to permanent, but we cannot tell you working holiday maker to 457 to permanent. It is just too distant an element.

CHAIR—Okay.

Mr Meredith—There has been a strong growth in the number of people converting from a 457 visa to an employer nominated visa onshore. I understand that in the order of 50 per cent of those that are being granted visas under the employer nomination scheme have previously been on a temporary business sponsored employee visa.

CHAIR—So the best chance we have is getting skilled migrants to convert while they are here, rather than spending advertising dollars trying to capture a scattered market?

Mr Meredith—That has been the natural feeder group for some time. It is partly through the need for expediency by employers to get people here quickly if they need a critical skill, but it also provides an opportunity for employers to look over the employees before they decide to sponsor them for permanent residence.

Mr Waters—To give you some idea of the dimension we are talking about, 12,500 people took subclass 457 visas while in Australia. Of those 12,500, there were 2,000 who had working holiday maker visas.

CHAIR—Just go through that again.

Mr Waters—There were 12,500 people on various visas—whether it be visitors, working holiday makers, short-stay business visas or the like—who transferred to the 457 visa while in Australia. Of those 12,500, there were 2,000 from the working holiday program.

Mr LAURIE FERGUSON—What percentage of the people in the skilled migrant category actually get bonus points for the $100,000 capital investment requirement?

Mr Barnsley—We do not have figures on that, but it would be very low. It is not something that happens routinely by any means. Not everyone has access to it. There are two more bites to that cherry, in that they can have Australian work experience or a community language or the $100,000. Obviously they go down the other routes by first choice. I do not have figures on that, but it would not be very high. Going back to the previous discussion, last year over 50 per cent of those in the general skilled migration program claimed points for Australian qualifications. That means that at least half of the general skilled migrants had been in Australia at some point studying post secondary.

Mr Rizvi—Not all of them would have applied whilst they were here. Some of them finish their studies, go home and then come back.

CHAIR—If they leave again and apply offshore, are you able to reasonably track that?

Mr Barnsley—We are tracking that through whether they claim points for the Australian qualifications.

CHAIR—They get their linkages there.

Mr Barnsley—That is right.

CHAIR—I think the previous health minister made some concessions—and there are some new changes there—to medical students who were studying in Australia that they would be given more favourable treatment if they applied for permanent status. Would you be able to clarify that? If not, can you let us know?

Mr Rizvi—Through the 1990s, and probably even the late 1980s, there was a view in government that we actually had an oversupply of doctors, particularly in Sydney. Over time that appreciably shifted. Precisely what the reasons for that were I do not know—it would relate to work force and demand matters, I suppose. As that shift has occurred, government has also gradually shifted policy, which makes it easier again for doctors to enter either on a temporary basis or on a permanent basis. One of the measures taken last year was to enable people who complete medical degrees as an overseas student in Australia to apply directly for a temporary resident doctor visa in Australia. The advice from the department of health last year was in the order of 50-odd medical students converted to a temporary resident.

Mr Waters—Between 50 and 100, at any rate.

CHAIR—And after they fulfil the requirements for the temporary visa, we then try to encourage them to become permanent?

Mr Rizvi—If they can get sponsorship from the relevant hospital, they can convert to permanent residents via the employer nomination scheme.

CHAIR—Will that be a strong condition—that it has to be employer nominated?

Mr Rizvi—For a temporary resident doctor visa they cannot apply onshore for general skilled migration at this point. They would have to apply overseas if they wanted to enter through the general skilled migration process. But I suspect, given how the medical recognition process works, that it would probably be far easier for them to get through the employer nominated process than to apply through general skilled migration. Going through general skilled migration would require them to go back to the Australian Medical Council to do the multiple choice test and then the clinical test.

CHAIR—What is that called?

Mr Rizvi—I cannot recall the name, but it is a long process. By going through the employer nomination scheme they can go directly through the state medical board and get recognition that way. That would probably be a lot faster for them.

Mr Waters—I should mention that the employer nomination route is quite a simple one.

CHAIR—That is good to know. In one way we have provided some loosening with their being able to obtain temporary residence. If they want to stay, we should be able to facilitate that a lot easier than it has been in the past.

Mr LAURIE FERGUSON—On the MODL bonus points, it is at point of decision rather than at the point of application. Could you give us a bit of a feel for the processing times? I understand that we do not want people coming in here when there is no work, when the need has totally collapsed, but on the other hand we do have people making applications on the expectations. Could you give us a bit of a feel for the decision time rather than application time with regard to these points and being on the list?

Mr Rizvi—If you have applied through the onshore overseas student category, which enables you to get to skilled migration, the average processing times are around five months. If you have applied from overseas, the processing times are substantially longer than that. They are close to nine or 10 months and sometimes 12 months or more. The longer processing times from overseas are generally due to the longer time it takes us to check things like references to employment overseas. The longer it takes us to do health checks, the longer it takes us to do character checks. Having said that, I would say that a 12-months wait—and 12 months has actually come down quite a bit from the old points test—is still too long. We are continuing to look for ways to make that process faster. We believe that electronic lodgment and various other initiatives we are looking at will enable that to happen. Whilst pleading guilty on the 12 months being too long, I would still say that it is a lot faster than our competitors.

Mr LAURIE FERGUSON—Is there any argument that the person making the application should be accepted if the occupation is on the MODL list at that time, rather than when the decision is made? Has that debate occurred in the department at all?

Mr Rizvi—It has occurred, and I can see the fairness of doing it at the time of application. On the other hand, the MODL list changes so rapidly that to remain responsive to the labour market you do not want to be giving credit to a person whose occupation may no longer be needed in the labour market to the same degree. It is a difficult balance to strike between those two desires.

Because they have excess demand, governments have traditionally gone down the route of picking people who will be readily employable as soon as they arrive.

Mr LAURIE FERGUSON—Has the department done any figures with regard to looking at a few of these MODL changes and how many people were affected from point of application to decision making and whether it is worth while having it?

Mr Rizvi—I think we provided some statistics on the number of people who were getting MODL points. So there is a reasonable number of people who are benefiting from them.

Mr LAURIE FERGUSON—I understand that. My point was whether there has there been any modelling with regard to particular occupations going on and off. How many people were affected by the fact that they originally were qualified, if the decision had been made then, but they were not when it actually got to the decision stage? Has any work been done on that?

Mr Grant—I can comment on the experience of IT applicants in the general skilled categories who had previously been in the group to benefit from the fact that they were listed on MODL. Of course, now there are no longer IT occupations on the MODL. In some of the analysis that we did do, the percentage of people that were affected who were IT applicants was very low. That was mainly because of the characteristics of that cohort. Essentially they were already in a highly skilled occupation, they were young and they had sufficient English language skills to simply not need the points. So the percentages, from memory, were less than 10 per cent of those that would have been affected from the time of application to the time of decision.

Mr LAURIE FERGUSON—I would like to ask about interdependencies and skills entry. As I understand it, people cannot bring in partners. They have to be separately sponsored later.

Mr Rizvi—That is right.

Mr LAURIE FERGUSON—Obviously there are political aspects to this. Do you feel that there might be part of the market we are losing because of that? Has there been any experience of that kind of issue coming up?

Mr Rizvi—It is possible that we are losing some of the market. It is very hard to judge. People do not declare those factors because they are not relevant to the application.

Mr LAURIE FERGUSON—And you would not keep figures for people entering with skills who are sponsoring later? I know you cannot keep figures on everything.

Mr Rizvi—It would be a difficult computer program to work it all out. Given the volume of interdependency applications, it would not be a very large number. The interdependency category is still a relatively small one.

Mr LAURIE FERGUSON—I am unaware of competitors like Canada et cetera. Do you know what their rules are?

Mr Rizvi—Most recently, Canada has made some changes to its interdependency equivalent rules whereby they may well have leapfrogged us. We were ahead of them, I think, for quite

some time through the 1990s but very recently I think they may have made some changes whereby their rules are more compatible to same-sex partners entering than ours.

Mr LAURIE FERGUSON—Thank you.

CHAIR—Mr Ferguson was asking about the MODL and the points test. Let me ask you about the basic requirement for the paid employment and the measuring of previous experience. There are two different ones: under the points test, I think that you have two out of the three years; and, under the skilled occupation list, you have to work at least 12 out of the 18 months. Why do we have two different measures? Is there a reason for that, or is it better to use one over the other?

Mr Rizvi—For simplicity, it would be easier to use a single one. My recollection is that in the review of the points test that took place in 1999 the committee indicated that we needed to give greater emphasis to those occupations in demand. This was one means by which you could give greater advantage to people on the Migration Occupations in Demand List. Whether that differential that you have identified there is sufficient to be of value is hard to say. We would have to go through files and do some pretty in-depth research to find out.

CHAIR—Do you think it causes confusion or is it just that they are interdependent?

Mr Rizvi—There may be a degree of confusion. I do not know. Have we had any correspondence on that issue?

Mr Grant—No.

CHAIR—It has not arisen as a problem area?

Mr Barnsley—No, it is not an issue that has been raised with me by migration agents or through correspondence.

CHAIR—Or through people doing the assessing?

Mr Barnsley—No, it has not come up as an issue at all.

CHAIR—What happens? Does a person just take their best chances? How does it work in practice when you have the two systems? You have the points and then, in terms of previous work experience, they will either fit into one category or another. Is that what you are saying? There will not be a problem—a grey area—I guess is what I am trying to say.

Mr Grant—The first one that you referred to is the basic requirement and it is part of the assessment of skill. The second one that you referred to—the 10 points for the specific work experience—benefits those who have already got at least the 12 in 18 months. Those numbers have been increasing over the last year. We are seeing more people, even in the younger age groups, who do not necessarily need these points but are getting them. We know that we are capturing a more skilled part of that labour market. I think that it is these points—three in four years and specific work experience in that 60-point occupation—that really do recognise and give an extra lift to people who need those points and are applying through the points, for instance those who had this work experience because they are in the older age groups and

therefore lose five points as they age. So that is the main benefit that we see. As Noel said, we have not seen problems in that regard.

CHAIR—Thank you for that. I have one other question in terms of other departments that you work with. Do you do any liaising with Austrade to try to attract business migrants? Do they just tend to work in their field? Is there an overlap there?

Mr Waters—There are linkages with Austrade with business migrant promotion work overseas. It tends to be an informal type of arrangement and it tends to be at a post where a business migration seminar might be being arranged. We will almost always in that situation work with Austrade on that and also in the selection of where to have it. For example, we have recently had promotional efforts of that nature in Taiwan and Hong Kong. In both instances it has been a joint effort primarily involving state governments but also Austrade and ourselves.

CHAIR—Do you see that increasing? What was the feedback?

Mr Waters—It works, but I would not say that we are in a situation where we are heavily promoting business migration overseas. It is something that we work with and assist the state governments with primarily, because they are in there saying, 'Come to Victoria' or 'Come to South Australia.' We will support those efforts and work with Austrade to achieve that outcome, but a lot of the impetus for it actually comes from the state governments.

CHAIR—So a state government would approach you if they were receiving a large number of inquiries from Taiwan, for example? How did it get to be Taiwan?

Mr Waters—It was entirely a case of where the inquiries were coming from at that time. I know that there is an upcoming one in the UK and a number of the state governments are working together. That is one of the other good things that I have noticed—the state governments, generally speaking, will work together and pool resources. Sure, they have a great pitch of, 'Come to our state,' but there is quite a degree of cooperation there and we are seen as simply part of that cooperative group with Austrade.

CHAIR—Thank you for that.

Mr Waters—I should mention that our migration program is not under threat. So we are in a situation where there is plenty of demand to be able to achieve a program. There is not quite the same pressure on us to promote as there would be if we were underachieving our program targets.

CHAIR—So you are not stretched to go looking for additional business.

Mr LAURIE FERGUSON—One submission complained about processing times. I think that all of us around this table understand why things take time, but is there any priority in regard to skills processing? Are there any state secrets in regard to what you process more quickly?

Mr Rizvi—There are no secrets, but there are priorities. The minister has actually issued a section 499 direction under the Migration Act, in which she has identified those cases that should be given priority. At this stage, priority is given to any skilled migration application which is

under the state specific and regional migration umbrella. So if you are sponsored by a state government, or you are under the RSMS category, that will get priority over all others. The second group where there is priority is nurses. Shortly, I believe, doctors may be added to the list. So it will be all state specific and regional migration categories, doctors and nurses.

Mr LAURIE FERGUSON—That is it; no other?

Mr Rizvi—I recall for a time we had IT workers, but that was taken off following the IT bust of 2001.

Mr Barnsley—Can I just correct something? I may have misled you. Mr Ferguson was asking about the waiver of the IELTS testing requirement. I will claim momentary confusion. We do have scope, as described by Mr Rizvi, to waive the IELTS testing for the reasons that he outlined—that is, they have extensive periods of living in and working in an English language country or have taken tertiary studies in the English language. So it does extend to the general skilled migration program as well. I should correct that, because I may have left you with the wrong impression.

CHAIR—Can I just ask about the changes to the working holiday maker visa, with the extension of time? Did that start in January? Is it up to three years that graduates and their dependants can stay?

Mr Rizvi—Unfortunately the two names are a bit confusing.

CHAIR—The work and holiday visa.

Mr Rizvi—At the moment there is only one agreement country, and that is Iran. We are working with Thailand also to extend that visa to them. The reason for the extension from one year to three years for that particular visa was following the negotiations with the Iranian government where they felt that the benefits of the scheme to them would not be adequate if the person was in Australia for only 12 months. They felt that the person would take time to settle into a particular job. For both sides to get the skills transfer benefits from those people entering, a longer period would be needed. It was against that background that the government agreed to enable that visa to be extended to up to three years on condition that there was approval from the originating government and there was agreement between the employer and the employee.

CHAIR—I think we are probably nearing the end of questions. There is just one other area that, while not strictly in scope, does relate to some aspects. Has there been any stretching of the rules to students who are studying here on student visas? I have been made aware of a few cases where students are not complying with the requirements of their courses and using it as a vehicle. Does the department come across many breaches?

Mr Rizvi—Unfortunately, there is a substantial level of breach of the student visa requirements where people work beyond the hours that they are permitted. The number of student visa cancellations each year has been rising and that is of concern to us. Having said that, as a percentage of the aggregate student visa program, it is still a relatively small number and, given the overall benefit of the overseas student visa program, I think that is a cost Australia simply has to bear in order to reap the larger benefits from overseas students.

CHAIR—There being no further questions, thank you very much for your attendance and your extensive additional submissions. The secretary will write to you if there are any matters on which we might need any additional information. You will be sent copies of the transcript of your evidence to which you can make editorial corrections.

Resolved (on motion by **Ms Gambaro**, seconded by **Mr Laurie Ferguson**):

That this committee authorises publication of the proof transcript of the evidence given before it at public hearing this day.

CHAIR—I thank you all very much for your attendance today and also thank Hansard and the secretariat for the fine work that they do as always. Thank you very much.

Subcommittee adjourned at 10.15 a.m.