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**SUBMISSION OF THE**

***HUMAN RIGHTS AND EQUAL OPPORTUNITY  
COMMISSION***

**TO THE**

***JOINT STANDING COMMITTEE ON MIGRATION***

**REGARDING THE**

***INQUIRY INTO ELIGIBILITY REQUIREMENTS AND  
MONITORING, ENFORCEMENT AND REPORTING  
ARRANGEMENTS FOR TEMPORARY BUSINESS VISAS***

**January 2007**

**Human Rights and Equal Opportunity Commission  
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## **Introduction**

1. The Human Rights and Equal Opportunity Commission (the Commission) is pleased to provide this submission to the Joint Standing Committee on Migration ('the Committee') regarding its *Inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas* ('the Inquiry').
2. This submission addresses Item 2 of the Inquiry's Terms of Reference: 'Identify areas where procedures can be improved'.
3. This submission deals only with how the human rights of Temporary Business (Long Stay) 457 visa holders ('temporary business visa holders') may be better protected.

## **Summary of recommendations**

4. The Commission recommends that:
  - Temporary business visa holders should be properly informed of their rights under Australian law
  - DIMA should ensure effective complaint mechanisms for temporary business visa holders
  - DIMA should ensure rigorous monitoring of temporary business visa holder workplaces

## **Temporary business visa holders should be properly informed of their rights under Australian law**

5. Many temporary business visas holders will be unaware of their workplace rights under Australian law.
6. The Commission recommends that all persons working in Australia on temporary business visas be properly informed of their human rights, as well as their rights under industrial relations laws.
7. Upon receiving a temporary business visa, DIMA should provide the visa holder with an information sheet setting out employee rights in Australian workplaces.
8. The information sheet should be translated into the temporary business visa holder's first language. Facilities should also be available for people with print disabilities.

9. The information sheet should cover the following issues, amongst others:
- (a) The *Racial Discrimination Act 1975* (Cth) protects all people working in Australia from discrimination on the grounds of their race, colour, descent, immigrant status, or national or ethnic origin.<sup>1</sup>
  - (b) The *Sex Discrimination Act 1985* (Cth) protects people working in Australia from discrimination on the grounds of their sex, marital status or pregnancy. This protection extends to sexual harassment.<sup>2</sup>
  - (c) The *Disability Discrimination Act 1992* (Cth) protects people working in Australia from discrimination on the grounds of their disability.<sup>3</sup>
  - (d) The *Age Discrimination Act 2004* (Cth) protects people working in Australia from discrimination on the grounds of their age.<sup>4</sup>
  - (e) Under the *Human Rights and Equal Opportunity Commission Act 1986* (Cth) people working in Australia can ask the Commission to investigate and conciliate complaints regarding discrimination in employment on the following grounds:
    - religion
    - political opinion
    - sexual preference
    - social origin
    - trade union activity
    - criminal record
    - medical record.<sup>5</sup>
  - (f) Each State and Territory in Australia has laws prohibiting discrimination in employment on a range of grounds similar to those covered in the Commonwealth laws listed above.
  - (g) Australia also has Commonwealth and State workplace relations laws which make it unlawful to dismiss an employee on a range of grounds, similar to those covered in the Commonwealth anti-discrimination laws.

<sup>1</sup> See further: [http://www.humanrights.gov.au/complaints\\_information/guides/info\\_sheet\\_rda.html](http://www.humanrights.gov.au/complaints_information/guides/info_sheet_rda.html)

<sup>2</sup> See further: [http://www.humanrights.gov.au/complaints\\_information/guides/info\\_sheet\\_sda.html](http://www.humanrights.gov.au/complaints_information/guides/info_sheet_sda.html)

<sup>3</sup> See further: [http://www.humanrights.gov.au/complaints\\_information/guides/info\\_sheet\\_dda.html](http://www.humanrights.gov.au/complaints_information/guides/info_sheet_dda.html)

<sup>4</sup> See further: [http://www.humanrights.gov.au/complaints\\_information/guides/info\\_sheet\\_age.html](http://www.humanrights.gov.au/complaints_information/guides/info_sheet_age.html)

<sup>5</sup> See further:

[http://www.humanrights.gov.au/complaints\\_information/guides/info\\_sheet\\_employment\\_discrimination.html](http://www.humanrights.gov.au/complaints_information/guides/info_sheet_employment_discrimination.html)

- (h) Contact details of the relevant complaint agencies (see paragraph 14).
10. In addition to providing information sheets to temporary business visa holders, the Department of Immigration and Multicultural Affairs (DIMA) should ensure that staff working on its information hotline (131 881) are properly educated in these rights.
  11. Staff working on the DIMA information hotline should also have clear referral instructions. For example, the hotline staff should be aware that questions regarding the issues set out in paragraph 9(a)-(e) above can be referred to the Commission's Inquiry line (1300 656 419). The DIMA hotline should also be linked to Telephone Interpreting Services (TIS).

**DIMA should ensure effective complaint mechanisms for temporary business visa holders**

12. DIMA should ensure that any person with concerns about the way they are being treated by their employer have free, simple and confidential access to a DIMA complaints line for temporary business visa holders.
13. The DIMA complaints line should be linked to TIS.
14. DIMA should ensure that contact information for the following complaint agencies is prominently displayed in all workplaces where temporary business visa holders are employed:
  - DIMA
  - Office of Workplace Services (OWS)
  - Human Rights and Equal Opportunity Commission<sup>6</sup>
  - State and Territory anti-discrimination and equal opportunity agencies
  - legal aid services in the relevant state or territory
  - relevant unions.
15. Staff on the DIMA complaints line should be properly trained as to the alternative complaint options available to the temporary business visa holder.

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<sup>6</sup> Any person wishing to make a complaint regarding discrimination on the grounds listed in paragraph 9(a)-(e), can contact the Human Rights and Equal Opportunity Commission on 1300 656 419.

**DIMA should ensure rigorous monitoring of temporary business visa holder workplaces**

16. DIMA and the Office of Workplace Services (OWS) should ensure regular and rigorous monitoring of the workplaces hiring temporary business visa holders.
17. Workplace inspections should be both announced and unannounced.
18. Workplace inspectors should have the power to conduct:
  - interviews with temporary business visa holders
  - interviews with employer staff
  - spot inspections of payment and leave records.
19. If the workplace inspections identify any problems, DIMA and OWS should work with temporary business visa holders and employers to promptly address the concerns. DIMA should ensure ongoing close monitoring of workplaces in which problems have arisen in the past.