

Submission No. 80
Date Received 18-7-05

## Policy objectives and context

Overseas skill recognition processes are a critical part of Australia's migration arrangements. The high level policy objective of these arrangements is to ensure that:

- those selected to migrate on the basis of their skills are able to integrate readily and rapidly into the Australian work-force
- others who migrate to Australia and who have overseas qualifications and skills have effective pathways for assessment, recognition and upgrading

Our capacity to select migrants who have recognised skills and English language ability to quickly enter the labour market means that skilled migrants make a strong contribution to the Australian economy. Research by the National Institute of Labour Studies shows that the labour market performance of skilled migrants has improved significantly in recent years. More information on this research can be found in The Changing Labour Force Experience of New Migrants : Inter-wave Comparisons for Cohort 1 and 2 of the LSIA on the DIMIA website.

Given the current skill shortages in Australia and the prospect (in around a decade's time) of a rapidly declining working age population, the skill stream of the migration program continues to grow with the largest ever skill stream of 97,500 persons planned for 2005-06. The Government has also adopted a range of measures designed to better target skilled migration to the areas of skill shortage.

These developments have accentuated the importance of having fast, efficient and client friendly skills recognition procedures.

Within the Skill Stream of the Migration Program there are a number of broad categories:

- general skilled migration
- state territory sponsored migration
- employer sponsored migration
- business skills migration

Within each category there are a number of specific visa subclasses.

Overseas skills recognition processes are relevant to the first three of these categories. Applicants in the first two categories (General Skilled Migration and State/Territory sponsored migration must have their qualifications and

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.

Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

skills assessed for migration purposes before they can lodge their migration applications. Further detail on these categories from a skills recognition perspective is set out below.

### **Current arrangements for overseas skills recognition and associated issues for licensing and registration.**

#### Skill stream migrants who obtain assessment prior to migrating

The skill stream of Australia's migration program has been designed to target people who have skills or outstanding abilities that will contribute to the Australian economy. There are a range of visa options for people to enter Australia either;

- as independent migrants,
- sponsored by an employer to fill a specific vacancy unable to be filled by an Australian citizen or Australian permanent resident; or
- sponsored by a State or Territory Government to meet their skilled shortage needs.

#### **General Skilled Migration (GSM) Program**

Highly skilled people seeking to live in Australia permanently who are not sponsored by an Australian employer are required to have their skills formally assessed by an Australian assessing authority. People in this group apply for a visa through the General Skilled Migration Program (GSM).

Applicants in the GSM program must meet a core set of requirements and pass a point test to be granted a visa. Attachment A outlines the range of components and the points available on the points test. Applicants must be under 45 years of age when they apply and have good English skills. Applicants are required to nominate an occupation listed on the Skilled Occupation List (SOL). The SOL includes approximately 450 occupations. Once an applicant has identified an occupation on the SOL they need to contact an Australian assessing authority and arrange to have their qualifications and work experience assessed to see if they meet the Australian standard for their nominated occupation. There are approximately 35 assessing authorities. Some occupations have more than one assessing authority, for example accountants. In addition some occupations have state/territory based assessing authorities, for example doctors and lawyers.

Some occupations also require the person to be licensed or registered in the state/territory they intend to work. This process varies between occupations and in some cases visa holders are required to undergo further assessments after they arrive in Australia, particularly if they are required to be licensed or registered prior to being employed in their occupation. This procedure has received some criticism, particularly where migrants relocate after their arrival, as states/territories do not necessarily recognise each others licensing/registration certificates.

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.

Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

The current skill assessment arrangements evolved from a need to determine the quality and comparability of skills and qualifications obtained in countries outside the traditionally accepted British education and vocational training systems. The arrangements, known as PASA, or pre application skill assessment, have been recognised as world's best practise. They ensure that only those people who have the necessary qualifications and skills required to work in their nominated occupation are successful.

A key factor in the success of the current arrangements has been the National Office of Overseas Skills Recognition. NOOSR is the principal adviser recommending to the Minister for Immigration and Multicultural and Indigenous Affairs the suitability of skills assessing bodies for professional occupations. Once NOOSR recommends an assessing body the name of the organisation is published in a gazette notice.

Until the formation of the National Office of Overseas Skills Recognition (NOOSR) in July 1989, the Commonwealth's attempts to develop a consistent assessment framework were constrained by limited resources.

The introduction of NOOSR (now known as NOOSR AEI) has led to the consolidation of expertise in two key areas:

- policy advice to Government and key Government agencies on qualification assessment issues; and
- a skills recognition advice and assessment service for education providers and assessing authorities.

### **State Specific Regional Migration Mechanisms (SSRMs)**

Since 1996-97 the Australian Government, in consultation with State and Territory Governments, has introduced a number of initiatives designed to assist states and territories to:

- encourage a more balanced dispersal of Australia's skilled migrant intake;
- address skill shortages that may exist in specific regions of Australia; and
- attract overseas business people to establish new or joint ventures in regional areas.

The range of visas under the SSRMs enable State and Territory Governments, regional employers and development bodies to pursue regional development objectives and employment and business outcomes through the use of more flexible program provisions and threshold criteria for skilled migrants.

### **Employer Sponsored Migration**

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.  
Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

The Temporary Business (Long Stay) - subclass 457 visa is an option for both graduating students and working holiday makers wishing to extend their stay in Australia. This visa is available on the internet and is designed for people who wish to work in Australia for up to four years. The process involves sponsorship and nomination by the employer and visa application by the employee.

Under the **Temporary Business Entry (visa subclass 457)** arrangements, all applicants are required to demonstrate that they have the qualifications, personal attributes and employment history necessary to perform the activity for which they have been nominated.

Where the visa applicant has an Australian qualification, this is generally sufficient to satisfy the requirements.

Where the applicant has an overseas qualification or work experience, DIMIA officers consider the applicant's work history and other personal attributes to determine whether they have the background to be able to perform the duties of the position nominated by the sponsoring employer. The *Australian Standard Classification of Occupations (ASCO)* provides guidance and is a source of information on the normal duties and skill requirements for occupations in Australia. Overseas qualifications may be assessed by authorities such as TRA or *Vetassess* or a professional body in Australia where doubts or concerns exist or where registration is required to work in the profession.

Where verification of references, the duties performed in previous employment and qualifications is required, officers may decide to seek further information from the overseas post/s in the country:

- where the visa applicant is a citizen or usually resident and/or
- from which the visa applicant has provided an employment reference and/or obtained an educational qualification.

#### Intra-company transfers

Where the visa applicant is nominated for an intra-company transfer, DIMIA officers may give significant weight to the assurance of the sponsoring employer that the applicant's skills meet Australian standards for the type of position they will take up. Another factor considered is that intra-company transferees also bring knowledge of the company's processes and requirements.

#### Formal assessment of qualifications

In some occupations, such as doctor, barrister or nurse, formal qualifications are essential. These are subject to assessments by the registration boards in their respective professions. However, in other occupations, formal

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.  
Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

qualifications can be considered as one aspect of the applicant's abilities. They may have acquired the skill level required through on-the-job training and work experience.

Where doubts exist, the applicant may be asked to obtain a formal qualification assessment.

#### Assessing authorities

Given the objective of quick, streamlined entry for the 457 visa, formal skills assessments are required only if the decision-maker believes they are not able to decide the application based upon the information provided in the application.

In these cases, the applicant is directed to approach the relevant Australian skills assessing authority for their occupation to obtain a formal *skilled migration* assessment. (The relevant skills assessing authorities are gazetted for skilled migration purposes i.e. the General Points Test.).

#### Licensing and registration

If the position nominated is one that requires registration or licensing, the applicant may be asked to provide evidence that they would be eligible for this on arrival in Australia.

It is not necessary that the visa applicant actually hold this registration or licensing at the time of visa application or grant. Many Australian licensing/registration authorities require applicants who have a foreign qualification or foreign licensing/registration to undergo a formal assessment program after arriving in Australia before they are able to obtain Australian licensing/registration.

Applicants are generally able to be granted a visa without evidence of Australian licensing/registration if:

- the period between the applicant arriving in Australia and obtaining the licence/registration is no more than 4 weeks *and*
- the nature of the applicant's employment during this period is not considered "training" and is consistent with the nominated activity.

If obtaining the licence/registration will take more than 4 weeks or requires formal training (i.e. external to the employer), the applicant may, for this training period, apply for a visitor visa (eg Business (Short Stay)), occupational trainee visa or student visa.

Sponsoring employers undertake to ensure that employees covered by a sponsorship agreement hold the necessary license or registration where it is mandatory for the performance of work by the employee. Where the employer has failed to comply with these undertakings, they may be barred from

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.

Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

sponsoring or nominating further sponsored employees or their sponsorship agreement may be cancelled.

### Medical practitioners

Medical practitioners wanting to work in Australia may apply for either a subclass 457 visa or a subclass 422 medical practitioner visa. Medical practitioners require registration from the relevant State/Territory medical board to work in Australia. Overseas trained doctors applying for temporary visas do not usually have *general* or *unconditional* registration. They may, however, be eligible to be granted *conditional* registration by the relevant State/Territory medical board. This is sufficient for entry on a temporary visa.

Evidence of registration or a letter from the medical board giving 'in principle' acceptance must be provided to the DIMIA decision maker before the visa application may be approved. 'In principal' acceptance is appropriate in many cases because applicants are normally given their registration only after their arrival in Australia or after the grant of a visa. In some States, doctors must also attend an interview to have their registration confirmed.

Some specialist medical practitioners may also receive conditional or unconditional registration (also referred to as Fellowship or Equivalency) from the relevant Australian specialist college. Specialist medical practitioners may meet the registration requirement by providing a letter from the relevant college giving "in principle" approval for at least conditional registration.

### **Skills recognition and licensing for permanent employer sponsored migration**

The permanent employer sponsored migration schemes offer three options for Australian employers to nominate skilled overseas staff to take up positions that cannot be filled from within the Australian labour market or through the employer's own training programs.

The Employer Nomination Scheme (ENS) enables Australian employers to nominate highly skilled staff whose occupations are listed on the ENS list. Positions on the list are generally those requiring a three year post secondary school qualification. The positions should be full-time, available for a period of at least three years and offer a salary at least matching that shown on the ENS list for the occupation. In general, the current level is \$39,100 per annum and \$50,775 for IT professionals. Amendments were made to the *Migration Regulations 1994*, commencing on 2 April 2005, to create additional pathways for permanent migration applicants under the ENS.

Applicants are to be highly skilled and can demonstrate their skill level in any one of three ways, either by having their qualifications assessed by the relevant assessing body plus having three years of relevant post-qualification work experience, or by attracting a salary of \$151,500, or by having spent two

Joint Standing Committee on Migration – Inquiry into skills recognition,  
upgrading and licensing.  
Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

years working in Australia on a 457 (or other stipulated temporary) visa, the last 12 months of which are to have been with the sponsoring employer.

Applicants should normally be less than 45 years of age and have vocational English language skills. Additionally, applicants and all their family unit members are to meet mandatory health and character requirements. In certain circumstances, where a position is so unusual or highly specialised that the employer is unlikely to find anyone who meets the established criteria to fill the vacancy, exceptions to the age and English language requirements can be made. This will depend on the circumstances that the employer outlines to demonstrate the special skills required and difficulties experienced filling the position from the Australian labour market.

For trade skills requiring formal assessment, evidence of their acceptance by Trades Recognition Australia or a State government skills assessing body is required. However, where there is a mandatory licensing or registration requirement for their trade, licensing or registration by the appropriate State body is considered equivalent to a successful trade skills assessment.

### **The Regional Sponsored Migration Scheme (RSMS)**

The Regional Sponsored Migration Scheme (RSMS) enables regionally based employers to nominate overseas workers to fill positions located in regional Australia that cannot be filled from within the Australian labour market. Regional Australia is all of Australia except Brisbane, the Gold Coast, Sydney, Melbourne and Perth. Under the RSMS scheme, the sponsoring employer approaches an appointed regional body to obtain certification that the vacancy is genuine. An RSMS visa applicant is required to have a two year Diploma or higher qualification that is relevant to the appointment. RSMS skill assessments are generally conducted by the relevant assessing body for the occupation where required.

Applicants under the RSMS should normally be less than 45 years of age and have functional English language skills. Additionally, applicants and all their family unit members are to meet mandatory health and character requirements. As with the ENS, there are provisions within RSMS for exceptional circumstances to be taken into account. Where a position is so unusual or highly specialised that the employer is unlikely to find anyone who meets the established criteria to fill the vacancy, exceptions to the age and English language requirements can be made. This will depend on the circumstances that the employer outlines to demonstrate the special skills required and difficulties experienced filling the position.

### **Labour Agreements**

Labour Agreements are formal arrangements negotiated between the Commonwealth Government, represented by the Department of Immigration and Multicultural and Indigenous Affairs and the Department of Employment

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.

Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

and Workplace Relations, and an employer or an industry association. Labour Agreements enable Australian employers to recruit a specified number of workers from overseas in response to identified or emerging labour market or skill shortages. The skill level required for entry under a Labour Agreement is determined on an individual agreement basis and takes into account the specific needs of individual employers. Applicants are expected to have qualifications and experience that are suitable for the agreed position and how that is determined can differ across occupations and industries. The terms of Labour Agreements include employer commitments to provide regular monitoring information and to demonstrate their commitment to training Australian staff. Over 100 companies and peak bodies currently have Labour Agreements in place.

**Families of skill stream migrants, family stream migrants and humanitarian entrants who seek assessment/registration/upgrading after arrival.**

Family members of GSM skill stream migrants are advised that if they have an occupation on the Skilled Occupation List to consider having their skills assessed prior to moving to Australia.

Under the Integrated Humanitarian Settlement Strategy (IHSS), Refugees and Special Humanitarian Program (SHP) entrants receive, on a needs basis, initial settlement support which aims to promote their competence and to discourage dependency. IHSS services include individually tailored information and referral assistance in relation to a range of areas including employment (eg. job network, qualifications recognition) and education and training.

**Comparison between Australia's skill assessment arrangements and major immigration countries.**

**Canada**

Unlike Australia's practice, Canada does not require an applicant for permanent skilled migration to have post-secondary qualifications and skills assessed by a relevant assessing body as suitable for a nominated occupation in order to be able to apply for permanent skilled migration. Indeed Canada appears to require only a minimum of one year work experience in an occupation in certain groups of the Canadian National Occupational Classification within the last ten years before migration. It appears that any assessment and recognition of skills occurs only after entry.

A report by the National Institute of Labour Studies, *A Comparison of Australian and Canadian Immigration Policies and Labour Market Outcomes*, commissioned by DIMIA, observed that Canada has an early assessment of qualifications process but it is advisory only. In contrast to Australia where the assessment is valid in all states and territories, in Canada, formal acceptance



Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.

Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

of a qualification in one province does not necessarily mean acceptance in another and multiple acceptances must be sought if the migrant intends to move within Canada. The report also concluded that “the process for recognition of migrant qualifications in Canada is more cumbersome than in Australia”.

Canada has recently established a national Foreign Credential Recognition (FCR) Program (from April 2005) to achieve national coordination of overseas skills recognition across government, professional bodies and provincial authorities. The goal of the program is to develop assessment and recognition processes for overseas-trained Canadian residents that are fair, accessible, consistent, transparent, and rigorous in both regulated and non-regulated professions. The FCR Program aims to facilitate the integration of internationally trained Canadians and immigrants into Canada’s labour market and is part of the Government of Canada’s Internationally Trained Workers’ Initiative (ITWI) which also includes language training, bridging courses, labour market information, and research. In acknowledgement of provincial/territorial legislative authority for the majority of regulated professions and trades in Canada, the FCR Program works in close cooperation with provincial and territorial governments.

### ***New Zealand***

Similar to Australia, New Zealand requires an applicant for permanent skilled migration to have their qualifications recognised by a relevant New Zealand assessing body in order to be able to apply for permanent skilled migration. This applies to the Skilled Migrant Category (SMC) which first requires lodgement of an Expression of Interest (EOI) which itself requires the applicant to undergo a Qualifications Assessment Report. This can be done semi-formally online in the first instance, requiring no documentation, but is a non-binding assessment, providing an indication only of the applicant’s suitability for the SMC. This is called a Pre-Assessment Result (PAR).

If the applicant is accepted and is invited to apply for permanent residence, their qualification will need to be formally assessed by the New Zealand Qualifications Authority (NZQA) which evaluates overseas qualifications. This formal skills recognition process is conducted post-grant in New Zealand and focuses on the qualification and not the competence of the migrant. NZQA also checks that the qualification has been awarded by a recognised overseas institution and that documents submitted are not fraudulent. NZQA also conduct overseas qualifications evaluation for people who come to New Zealand by other visa pathways.

### ***United States***

The US “E” immigrant visa classes are most comparable to Australia’s Skill Stream although they are all employer-sponsored and require the employer to

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.  
Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

file an “immigrant petition (application)” on the applicant’s behalf. The employer must also submit a labour certification request to satisfy the Department of Labor’s Employment and Training Administration that the job cannot be filled by a US citizen. This also requires documentary proof that the foreign worker’s qualifications, skills and experience are commensurate with the specific position for which the foreign worker is sought. It would appear that this is all the skills assessment that is needed for this kind of application.

The US “H” non-immigrant visa classes are comparable to Australia’s business temporary entry visas (eg subclass 457) and require detailed evidence of the applicant’s suitability for the position and that the position can not otherwise be filled by a US citizen. All H visa classes, except for H-1B, require the same labour certification process as E classes.

In order to qualify for an H-1B visa, the foreign worker must demonstrate that s/he is able to work in the speciality occupation for which s/he is being hired by the sponsoring employer as demonstrated possession of a relevant US college degree or a non-US college degree (and, generally, 3 years’ relevant high-level work experience) independently evaluated as being equivalent to a relevant US college degree, and possession of any relevant State or Federal license that may be required in order to practice in a particular profession. In the absence of a degree, at least 12 years’ high-level work experience, independently evaluated as being equivalent to a US college degree may be substituted. If there is a requirement for a State or Federal license in order to practice any ‘speciality occupation’, then the foreign worker must also generally possess such a license in order to qualify for an H1B visa. For example, doctors, lawyers, accountants and similar professionals must generally have passed the relevant state licensing examination and be in all other respects qualified to practice in the State of intended employment.

Generally, the process for recruiting skilled workers to the US, including the labour certification and state licensing procedures, is regarded as prohibitively complex: apart from the H-1B visa, most other H class quotas are not met each year due to low application rates.

For people who arrive in the US by other pathways (notably, through the Family Stream) and require skills recognition, this is handled on a state-by-state basis. Occupation licensing and registration requirements differ from state to state and information on these requirements for all occupations in all states is listed on a Department of Labour-driven website called CareerOneStop ([www.acinet.org/acinet/licensedoccupations](http://www.acinet.org/acinet/licensedoccupations)). This “gateway” operates as a federal-state partnership, and is funded by grants to states.

Joint Standing Committee on Migration – Inquiry into skills recognition, upgrading and licensing.  
Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

### ***United Kingdom***

Entrants to the UK under the Highly Skilled Migrants Program (HSMP – not requiring employer sponsorship) must to possess either an MBA from one of 50 specified institutions or satisfy a set of strict criteria with detailed documentary proof including industry prizes, intellectual property rights, published work, published testimonials, scholarships, research grants, and press articles. This documentary evidence appears to be sufficient for verification of qualifications.

The majority of other non-EEA skilled workers who wish to work in the UK will need to be sponsored by an employer under the Work Permit scheme. The application for a Work Permit must provide documentary evidence of the worker's qualifications and experience and of the worker's registration or licensing in occupations where this is necessary for employment in the UK.

For the recognition of overseas-gained qualifications, people in the UK can use the UK National Academic Recognition Information Centre (UK NARIC) which is the national agency for skills recognition under contract to the UK Government Department for Education and Skills. It is the official source of information and advice on the comparability of international qualifications from over 180 countries worldwide with those in the UK. UK NARIC provides advice and information about academic recognition, the comparability of international and national qualifications and their use in education and training, professional registration and international employment. However, according to the NARIC website, "In the UK employers and admitting institutions are autonomous. Therefore, they have the right to make the final decision on any overseas applications."

Vocational qualifications are assessed by the UK National Reference Point for Vocational Qualifications (UK NRP) which is an independent unit under UK NARIC. UK NRP serves as a first point of contact for national vocational qualifications and is a central information resource for UK skilled worker, trade and technician level qualifications. It provides an evaluation service for skilled worker, trade and technician qualifications to enhance employment prospects.

### **Areas where Australia's procedures can be improved**

#### **Australian National Skills Recognition Portal**

##### ***Background***

One issue that has been raised by State and Territory governments and a number of other parties has been the difficulties migrants face in accessing information on processes for getting their skills recognised both before they migrate and afterwards. The Report of the Review of Settlement Services for Migrants and Humanitarian Entrants made a number of recommendations to

Joint Standing Committee on Migration – Inquiry into skills recognition,  
upgrading and licensing.  
Department of Immigration and Multicultural and Indigenous Affairs  
Contribution

seek to improve skills recognition processes, including the development of streamlined arrangements for obtaining information about skills assessment in all States/territories.

In announcing the 2005-06 Migration Program, the Minister for Immigration and Multicultural and Indigenous Affairs also announced that DIMIA would work with the Department of Education, Science and Training (DEST), the Department of Employment and Workplace Relations (DEWR) and State and Territory governments to develop a national web portal on Australia's skills assessment and recognition processes. Work on the portal has commenced and is expected to be completed early in 2006.

**Objective**

The objective of the project is to develop a "gateway" for the provision of accurate, cohesive and accessible information about pathways and services for recognition and licensing in Australia of skills and qualifications gained overseas.

The portal will address the information needs not only of potential migrants wishing to meet the requirements to migrate to Australia but also of migrants who entered under the Family category, dependants of skilled entrants and humanitarian entrants who may wish to have their skills recognised. The portal will also be a valuable service to employers and education and training providers.

Improving access to information on skills recognition will benefit migrants directly and will also benefit employers, States and Territories and regional areas within those jurisdictions through more timely recognition of overseas skills leading to earlier and more effective participation by skilled and qualified new arrivals in the workforce.

**Achieving greater consistency in recognition of qualifications for occupational licensing by state and territory regulators.**

Licensing procedures and mutual recognition throughout Australia's has been raised as an area where improvement is needed. This matter was discussed at recent Council of Australian Government (COAG) discussions, in particular in the context of achieving a national approach to apprenticeships, training and skills recognition. COAG has agreed to establish a joint Commonwealth – State working group to address this important issue.