

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

*to attract people... to areas where they are not normally attracted to, as part of a larger picture of trying to develop growth in regional centres.*<sup>1</sup>

### **The Scheme**

- 4.1 RSMS is as a variation of the *Employer Nomination Scheme (ENS)*. It allows employers in regional areas to sponsor overseas personnel for permanent entry into Australia to positions which cannot be filled from the local labour market or through the employers' own training arrangements.<sup>2</sup> Employment and job opportunities are strong motivators for migration to Australia.<sup>3</sup>

### **Federal - State/Territory Consultation**

- 4.2 Consultation between the Federal Government and the States and Territories had continued since the working parties of 1996 and 1999. In the case of RSMS, these consultation had led to the introduction of the Skill Matching Visa and to the retention of the Commonwealth/State Working Party on Skilled Migration. South Australia was 'impressed with the overall responsiveness to proposals...to improve outcomes'.<sup>4</sup>

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1 Powercorp Pty Ltd, Evidence, p. 162.

2 DEWRSB, Submissions, p. 117.

3 DIMA, Exhibit 12, p. 21 shows that 32% of independent migrants chose their settlement location because of employment considerations.

4 SA Government, Submissions, pp. 69-70.

- 4.3 Although the Tasmanian Government initially described consultation to mid-1999 as ‘only just adequate’, it subsequently indicated that it was participating in a number of meetings.<sup>5</sup>
- 4.4 DEWRSB identified the continuing working party as ‘an excellent forum for consultation’, while considering that consultation arrangements overall had been ‘adequate’. DEWRSB also noted that, as a Federal body, it provided advice to local organisations on request.<sup>6</sup>
- 4.5 The ACT Government commented that it was ‘pleased’ with the consultations<sup>7</sup> and the NT Government was ‘happy’ with them<sup>8</sup>
- 4.6 However both South Australia and Tasmania noted the lack of consultation prior to changes to ENS which affected the operation of RSMS from 1 July 1999.
- 4.7 These changes removed the requirement for a contract between employer and employee under ENS, yet left a similar requirement for RSMS, the scheme considered to be a concessional version of ENS.<sup>9</sup> South Australia considered that this change disadvantaged the State by enhancing the appeal of the nation-wide ENS program, thereby eroding the appeal of the regionally-oriented RSMS. At the time it was thought that this change threatened the State with the loss of ‘one of its major promotional vehicles’ under SsMM, but subsequently it proved not to be a concern.<sup>10</sup>
- 4.8 In the context of the ENS change and its implications for RSMS, South Australia described itself as ‘disappointed’ with the lack of consultation,<sup>11</sup> while Tasmania commented adversely on Canberra-based policy making.<sup>12</sup>

## Conclusion

- 4.9 The Committee concluded that the main criticisms were of decisions relating to ENS which was technically not SsMM and therefore outside the arrangements set up for SsMM consultation. Apart from this, the consultation appears widespread and satisfactory, at both the formal and working level.

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5 Tasmanian Government, Submissions, p. 90; Evidence, p. 333.

6 DEWRSB, Submissions, p. 117.

7 ACT Government, Submissions, p. 99.

8 NT Government, Evidence, p. 126.

9 SA Government, Submissions, pp. 74-75.

10 SA Government, Submissions, pp. 74-75; however, in Evidence, p. 428, “it does not seem to be a concern”

11 SA Government, Submissions, p. 70.

12 Tasmanian Government, Submissions, p. 90.

## Localities involved

- 4.10 DIMA documents indicated that RSMS applied to ‘regional or low-growth areas of Australia’, and to ‘regional or low population growth areas’.<sup>13</sup> According to evidence presented by DIMA, RSMS did not apply to Melbourne, Perth, Sydney, Wollongong, Newcastle, Brisbane, the Sunshine Coast and the Gold Coast.<sup>14</sup> The Committee, however, noted that there was no firm definition of the ‘regional’ aspect of RSMS.

## Conclusion

- 4.11 The Committee concluded that, in view of the concern over the term ‘regional’, RSMS should refer to clearly specified regions.

## Recommendation 2

- 4.12 **The Committee recommends that a specific definition should be devised by DIMA in consultation with the States and Territories to identify the areas covered by RSMS.**

## Concessions to attract migrants

- 4.13 The skill and English thresholds are slightly lower than for the ENS. Under RSMS potential migrants who do not meet the qualifying points score as skilled independent migrants may nevertheless gain permanent residency in Australia. Details are set out below under *Attractions of the scheme*.

## Operation

- 4.14 The RSMS pilot scheme began on 1 October 1995 and the scheme was expanded in 1996. By the end of January 2001, 2,700 RSMS visas had been issued.<sup>15</sup> Under RSMS an employer sponsored a skilled migrant to Australia. Skilled persons wishing to migrate may have contacted employers direct from overseas or while visiting Australia. Employers

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13 DIMA, Fact Sheet 23 *Skilled Migration to Australia*, 10/2/00; *Form 1054 Employer nomination under the Regional sponsored migration scheme*, respectively.

14 DIMA, Evidence, p. 466.

15 DIMA, Submissions, p. 415.

may have sought out potentially suitable migrants through their personal and business networks. These informal arrangements may have enabled Australian employers to meet their skill demand, or they may not. DIMA aimed to expedite the matching of skilled migrants from overseas with local demand through the creation of a Skill Matching Database (SMD).<sup>16</sup>

## Skill Matching

- 4.15 The SMD is an electronic store of information about the educational qualifications, employment background and work skills of potential migrants. SMD was updated monthly and distributed to all State and Territory Governments and some local development agencies.<sup>17</sup> At any one time SMD contained data on approximately 1,000 individuals.
- 4.16 Not all potential migrants were listed on the SMD. The data is gathered from two specific groups of intending migrants: those who applied for a Skilled Independent Visa and those who sought a Skill Matching Visa (SMV).

## Skilled Independent Visa applicants

- 4.17 To be eligible for a Skilled Independent Visa applicants had to accumulate a minimum number of points which were allocated on the basis of age, level of education, skill, etc (the 'points test'). Those who did so could opt to be placed on the SMD. However, skilled people who did not pass the points test could be included in the SMV 'pool' if they:
- were less than 45 years of age at the time of application;
  - had degree, diploma or trade certificate qualifications which are recognised in Australia;
  - had a vocational level of English;
  - had been employed in an occupation listed in the skilled occupations list for at least 6 months in the 12 months immediately prior to applying for the visa;<sup>18</sup>and
  - had elected to be listed on the SMD with appropriate privacy disclaimers.<sup>19</sup>

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16 DIMA, Submissions, p. 24.

17 DIMA, Submissions, p. 25.

18 DIMA, Fact Sheet 26: *State/Territory-Specific Migration*, 26/7/01.

19 DIMA, Submissions, p. 25.

## SMV applicants

- 4.18 Those applying for a SMV, which is not points tested, were automatically included in the SMD.

## Certification of demand

- 4.19 State and Territory Governments and employers could nominate applicants appearing on the database for RSMS. Once a nominee for a skilled position had been identified, a State/Territory authority (or other specifically gazetted body) had to 'certify' that the skills in question were in short supply. The certification process was to ensure that nominations were consistent with the objectives of the scheme, including the requirements that:
- the nomination was for a genuine full time vacancy, available for at least two years, that cannot be filled through the local labour market;
  - the position was skilled; and
  - the wages and conditions were consistent with Australian standards.
- 4.20 In addition, the applicant had to meet the age, qualifications, and English language thresholds.<sup>20</sup>
- 4.21 There was also a provision for nominations (and hence visa applications) to gain approval despite not meeting all these criteria. In such cases the nominating employer had to provide a written statement outlining the reasons why the nomination should be approved as 'exceptional'.<sup>21</sup>

## Safeguards

- 4.22 The process of certifying that the skills in question were in short supply was designed to ensure that local skilled workers were not denied the opportunity for employment.
- 4.23 The requirement that the wages and conditions offered were consistent with Australian standards was a barrier to exploitation of migrant labour.
- 4.24 The provision that an RSMS visa application must be made within six months of the relevant skilled position becoming available was intended

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20 DIMA, Submissions, pp. 29-30: Nominees use Visa 119 if offshore or Visa 857 if already in Australia.

21 Some grounds for considering the need for 'exceptional' arrangements under RSMS are: the position does not require a person with diploma level qualifications; or the person does not have functional level English; or the person is over 45 years of age at the time of visa application. DIMA, Fact Sheet 26: *State/Territory-Specific Migration*, 27/6/01.

to ensure that the RSMS process was responsive to the local economic conditions.

## Attractions of the scheme

- 4.25 The Committee noted that RSMS provided advantages to the employers, to their locality, and to the nominees - the potential migrants.

### For the employers

- 4.26 Under RSMS the nominating employers expected to gain a number of benefits. Primarily, they filled skilled positions for a period of two years. These positions might otherwise have been left vacant under the ENS arrangements which required employers to demonstrate a National or State-wide shortage, rather than a peculiarly local one.<sup>22</sup>
- 4.27 In addition, employers also benefited from access to information about the availability of relevant skills overseas on the constantly updated SMD, an option not available under ENS.<sup>23</sup> The SMD permitted the matching of skill demand and supply without the necessity of costly international advertising.
- 4.28 Further, recruitment could be expeditious because the nominee was selected from a pool of people who have already been assessed as having met the migration threshold requirements for skill, age, and English language ability.
- 4.29 The employers were not charged the \$285 nomination fee which applied to ENS.<sup>24</sup>

### For the locality

- 4.30 The arrival of migrants under RSMS increased the local skills pool. Because most skilled migrants brought their families, the filling of one skilled vacancy introduced more than one person to the region, generating additional demand for local goods and services.<sup>25</sup> Both outcomes of migration were important contributions to regional economies.

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22 SA Government, Submissions, p. 383.

23 SA Government, Submissions, p. 383.

24 SA Government, Submissions, p. 383.

25 79% of RSMS employees were living with a spouse or partner, and 58% were living with children. DIMA, Submissions, pp 468-69.

## For the potential migrants

- 4.31 Under RSMS the skill and English thresholds were slightly lower than for Employer Nomination Scheme.<sup>26</sup> Under RSMS, too, the nominees were assured of employment for two years after their arrival.
- 4.32 The existence of the SMV opened a further migration opportunity to applicants under the Skilled Independent category who had not scored the points test pass mark, but who could satisfy threshold skill, age and English language requirements.
- 4.33 Employers' use of the SMD to proffer nominations served to expedite the potential migrants' chances of gaining a visa. One user of RSMS as a recruiting tool advised the Committee that it was generally faster for the employee to gain approval under RSMS than under the normal skilled migration program.<sup>27</sup>
- 4.34 Applicants for a SMV paid a fee of \$155 for the initial processing of the applications, and only paid the additional costs associated with the visa if they were successfully nominated.<sup>28</sup> Applicants for RSMS did not have to pay the initial visa fee of \$1,125 which normally applied to applicants under the ENS arrangements.<sup>29</sup>

## Utilisation

- 4.35 RSMS was the most popular of the main SsMM. The extent to which this scheme had been used since its inception in October 1995 is summarised in Table 3.1. This shows the numbers of visas granted, which was larger than the number of sponsored employees directly involved in the scheme. Most (79 per cent) of the sponsored workers were living with a spouse or partner, and 58 per cent had children, all of whom required visas to settle in Australia.<sup>30</sup>

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26 Diploma usually representing 2 years training vs ENS requirement of 3 years training and 3 years post-training experience; functional English vs ENS vocational English. SA Government, Submissions, p. 383.

27 Powercorp Pty Ltd, Evidence, p. 153.

28 DIMA, Fact Sheet 26: *State/Territory-Specific Migration*, 27/6/01.

29 They and their family members are still liable (if successful) for the second instalment of ENS application charges.

30 DIMA, Submissions, pp 466, 468-69.

Table 4.1 RSMS: Annual visa grants by State/Territory – 1995/96 – 2000/01

|          | NSW  | Vic | Qld | SA  | WA  | Tas | NT | ACT | Total       |
|----------|------|-----|-----|-----|-----|-----|----|-----|-------------|
| 1995/96* | nd** | nd  | nd  | nd  | nd  | 0   | nd | nd  | <b>38*</b>  |
| 1996/97  | nd   | nd  | nd  | nd  | nd  | 0   | nd | nd  | <b>170</b>  |
| 1997/98  | 70   | 16  | 111 | 217 | 58  | 28  | 53 | 28  | <b>581</b>  |
| 1998/99  | 39   | 43  | 71  | 436 | 67  | 45  | 41 | 23  | <b>765</b>  |
| 1999/00  | 18   | 30  | 60  | 373 | 69  | 65  | 33 | 16  | <b>664</b>  |
| 2000/01  | 70   | 75  | 97  | 437 | 129 | 84  | 54 | 75  | <b>1021</b> |

Source Submissions: DIMA, pp.413-15; DIMA Hobart, p. 339; DIMA, Exhibit 12, p. 24; Minister for Immigration and Multicultural Affairs, Media Release 98/01. \* 11/95-6/96, \*\* no data available.

- 4.36 The reversal of the rising trend in use of RSMS in 1999/2000 was identified by the South Australian Government as a response to the slowing of the Australian economy in those years. In addition, applications considered for approval declined briefly in the last months of 1999 in South Australia and, because that State was the major contributor to the RSMS totals, this contributed to the fall.<sup>31</sup> Data for the first six months of 2000/01 indicated continued expansion of the use of the scheme, partly due to the increased coverage of certifying bodies in Victoria.<sup>32</sup>
- 4.37 Because very few applications for RSMS had been refused, it is unlikely that changes in refusal rates would have significantly affected the statistics.<sup>33</sup>

## RSMS in Practice: The South Australian Government Approach

- 4.38 As Table 3.1 showed, South Australia has been the most frequent user of RSMS to date, taking in about half of all migrants under the scheme.
- 4.39 The South Australian Government actively promoted the scheme to employers and employer groups and targeted independent skilled migrants.<sup>34</sup>
- 4.40 The Government's services are directed to the employers through the *International South Australia* component of the State's Department of

31 SA Government, Evidence, p. 426.

32 DIMA, Submissions, p. 514.

33 Refusal was "one in 66" - Goldfields Esperance Development Commission, Evidence, p. 117; "two or three" versus 130+ approvals - DIMA Brisbane Office, Evidence, p. 193; three "refused or withdrawn" versus 138 approved, DIMA, Submissions, p. 339; no refusals in NT, DIMA, Darwin Office, Evidence, p. 141.

34 SA Government, Evidence, pp. 403-404.



Industry and Trade.<sup>35</sup> It assisted employers with RSMS nominations by examining the proposals in detail and helping to refine them.<sup>36</sup>

- 4.41 Most potential migrants were 'onshore' applicants under RSMS, ie they were already in Australia when they applied. Those who applied from overseas ('offshore') accounted for a third of the employees.<sup>37</sup> Potential migrants to Australia were invited to seminars promoting South Australia once they had met the initial health and character checks. These seminars included advice about the varieties of SsMM, and the *Immigration South Australia* program for independent skilled migrants which offered a range of services including three months pre-booked public housing accommodation.<sup>38</sup>
- 4.42 The Committee considered that these proactive approaches contributed significantly attracting people to settle in South Australia under RSMS. In addition, the Committee believed that the use of RSMS by employers in the State might have been encouraged by the State's arrangements for certification. South Australia had adopted a centralised approach, whereby representatives of the SA Government, DIMA, and DEWRSB met weekly to make decisions about applications.<sup>39</sup>
- 4.43 The SA Government's policy was that:
- we want everything that affects our state to be dealt with by Immigration Adelaide... For RSMS...DIMA has total power in Adelaide to determine every case.<sup>40</sup>
- 4.44 The advantages which accrued from such a centralised arrangements were that:
- the decision-makers were more practiced in assessing RSMS proposals than might be the case in smaller regional organisations dealing with fewer cases;
  - decisions could be expected to be consistent; and
  - the final decision-makers were directly involved, which meant that decisions -

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35 SA Government, Evidence, p. 433.

36 SA Government, Evidence, p. 422.

37 68% onshore according to SA Government, Submissions, p. 193.

38 Other services include: Meet and Greet; Migrant Loan Referral; Overseas Qualification Assessment Service, Settlement Orientation; State Government Concessions (discounts or rebates on motor registration, public transport, TAFE fees, etc); Home Ownership Promotion. SA Government, Evidence, p. 436, Submissions, p. 394.

39 SA Government, Submissions, p. 385.

40 SA Government, Evidence, p. 424.

- ⇒ were not subject to review, as might be the case with regional certification;
- ⇒ could be finalised immediately; and
- ⇒ were advised to employers and nominees quickly.

- 4.45 South Australia's arrangements enabled applications which were fully documented to be approved by the SA decision-makers within seven working days of being lodged.<sup>41</sup> This occurred in two thirds of the cases.<sup>42</sup> In the Northern Territory, where decision-making was similarly centralised, some RSMS processing took only days, with the average being three weeks.<sup>43</sup>
- 4.46 Employers surveyed in SA indicated that they were satisfied with the RSMS time frame. Eighty per cent of their employees commenced work by the expected commencement date. The immigration process delayed the start of 16 per cent beyond the employers' expectations and other delays arose as a result of the employers or employees themselves.<sup>44</sup>
- 4.47 DIMA data indicated that more than 80 per cent of employees' permanent RSMS visa applications were finalised within 6 months of applying.<sup>45</sup>

## **RSMS in Practice: Other States and Territories**

- 4.48 Queensland was the second largest user of RSMS. In Victoria a Skilled Migration Unit coordinated policy, procedural development, promotion and training for the Regional Certifying Bodies.<sup>46</sup>
- 4.49 In Tasmania, the ACT and the Northern Territory the certification arrangements were centralised, as in South Australia. In Tasmania the certifying panel comprised representatives of Multicultural Tasmania, DEWRSB, Workplace Standards Tasmania (which examined the contracts) and DIMA, which had the ultimate power of approval.<sup>47</sup> In the Northern Territory the Department of Industries and Business was the only certifying body, similarly subject to DIMA.<sup>48</sup> The ACT had its own body and is also a part of Australian Capital Region, a grouping of the Territory and surrounding Shires.<sup>49</sup>

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41 SA Government, Submissions, p. 385.

42 SA Government, Submissions, p. 193.

43 DIMA Business Centre, Darwin, Submissions, p. 297.

44 SA Government, Submissions, pp. 195.

45 SA Government, Submissions, pp. 194-5.

46 Government of Victoria, Submissions, p. 301.

47 Multicultural Tasmania, Evidence, pp. 302, 313.

48 DIMA Darwin Office, Evidence, p. 148.

49 ACT Government, Evidence, p. 398.

4.50 The Australian Capital Region was one of the Regional Certifying Bodies created by State and Territory governments. They were generally regional or State or Territory development authorities. When the Committee began its review there were 28 such bodies in Australia. This had risen to 44 by 2001, including 14 in NSW and 11 in Victoria.<sup>50</sup>

## Conclusion

4.51 RSMS remained a minor component of skilled migration. From 1997/98 to 2000/01 RSMS migrants accounted for 2.0 per cent of the total visa grants in the skill stream.<sup>51</sup> It was a niche scheme, rather than a major component of skilled migration. Numbers were increasing, as experience with the scheme spread and a better understanding developed among administrators, employers and applicants.

## Issues raised

4.52 Despite there being a variety of approaches to RSMS across the States and Territories, a number of systemic concerns emerged including:

- the role of local bodies;
- delays;
- consistency;
- lack of certifying bodies;
- risks to employers;
- flexibility on thresholds;
- 'exceptional' approvals;
- medical personnel;
- use of the Skill Matching Database;
- labour market testing;
- prior connections;

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50 From 20 June 2000: NSW = 14 (previously 7); Vic = 11 (2); Qld = 7 (7); WA = 8 (8); SA = 1 (1); Tas = 1(1); ACT = 1 (1); NT = 1 (1). Minister for Immigration and Multicultural Affairs, *Media Release* 59/2000; DIMA website: [www.immi.gov.au/business/certifyb](http://www.immi.gov.au/business/certifyb). See Appendix G for a full list.

51 RSMS = 3031, Total skilled migration = 148,000. DIMA, *Submissions*, pp. 415; Minister for Immigration and Multicultural Affairs, *Media Release* 98/01 and *Annual Report* 1999/00, respectively.

- migration as a substitute for local training;
- monitoring RSMS after arrival; and
- publicity for the scheme.

## Role of local bodies

- 4.53 Local participation in the running of RSMS in most States was primarily directed through the formal operation of the Regional Certifying Bodies. However, there was also widespread involvement of other bodies. South Australia reported close links between local authorities, the State Government and DIMA.<sup>52</sup> Western Australia, Tasmania, the Northern Territory and the ACT also reported similar cooperation.<sup>53</sup>
- 4.54 A number of organisations argued that local skills and contacts should be more involved in RSMS arrangements particularly because local governments now had broader developmental responsibilities.<sup>54</sup>
- 4.55 However, the desire for more local involvement in RSMS had arisen in some cases from the perception that:
- It is only the local bodies who know where the needs are, who the people are and how to target it. Once you take that back to a state department based in a capital city or one of the biggest cities, you lose that completely and it dilutes it.<sup>55</sup>
- 4.56 Such criticism of the nation-wide schemes has not been unusual. The concerns expressed in relation to RSMS appeared to arise in part from the apparent second-guessing by DIMA of a certification.<sup>56</sup>
- 4.57 However, the small number of examples cited indicated that the rejection of certification generally arose from a reappraisal by DIMA of proposals for 'exceptional' appointments.<sup>57</sup> When this had occurred, the Committee was told, there may have been follow-up with the certifying body before a final decision was made.<sup>58</sup>

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52 South East Area Consultative Committee, Evidence, p. 61; SA Government, Evidence, p. 434.

53 Goldfields Esperance Development Commission, Evidence, p. 117; DIMA Hobart Office, Evidence, pp. 346-349; DIMA, Darwin Office, Evidence, p. 144; ACT Government, Evidence, p. 398.

54 Circular Head Council, Evidence, p. 274.

55 Greater Green Triangle Region Association, Evidence, p. 32. For similar sentiments see: Circular Head Council, Evidence, pp. 282, 284; Migration Agent, Evidence, p. 287.

56 Western Murray Development, Evidence, p. 96.

57 Goldfields Esperance Development Commission, Evidence, p. 117; DIMA Brisbane Office, Evidence, p. 194; DIMA, Submissions, p. 339; Western Murray Development, Submissions, pp. 169-70.

58 DIMA, Brisbane Office, Evidence, p. 194, DIMA, Submissions, p. 339.

4.58 DIMA assured the Committee that it relied:

quite extensively on the states and certifying bodies... we do not reject very frequently and we would do it with a great deal of care, given that we are actually rejecting a decision of another government body.<sup>59</sup>

**Conclusion:**

4.59 The Committee concluded that the dissatisfaction expressed was genuine, but probably to be expected in the early days of the operation of a new scheme.

**Delays**

4.60 A number of witnesses told the Committee of their concerns over the time taken to process applications,<sup>60</sup> reflecting an issue raised in a survey of employers in SA.<sup>61</sup> According to a national evaluation of RSMS, employers of 19 per cent of RSMS migrants were dissatisfied with the time taken by DIMA to process visa applications. However in 68 per cent of cases, the employers reported they were 'satisfied' or 'very satisfied'.<sup>62</sup>

4.61 DIMA data indicated that, under RSMS, 87 per cent of permanent resident visas were granted within six months.<sup>63</sup> The actual time taken usually depended on health and character processing.<sup>64</sup>

4.62 However, the time taken to process permanent residence visas did not necessarily affect the timeliness of the employees' arrival at work because they could be brought in on temporary visas.<sup>65</sup>

4.63 The outcome of this approach was evident in RSMS data for SA, where 80 per cent of employers reported that their employees started work within the expected time frame.<sup>66</sup>

4.64 One witness who had used the scheme to bring out four specialists concluded that:

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59 DIMA, Evidence, pp. 480-81.

60 For examples provided to the Committee see: Migration Agent, Evidence, p. 90; Migration Agent, Evidence, p. 48; Greater Green Triangle Region Association, Evidence, pp. 21-2.

61 SA Government, Submissions, p. 199.

62 DIMA, Submissions, p. 454.

63 SA Government, Submissions, p. 194.

64 DIMA Service Standards are 4 months for countries classified as "Low Risk" and 6 months for "High Risk". DIMA Business Office, Darwin, Submissions, pp. 297-8.

65 NT Government, Submissions, p. 137; SA Government, Evidence, pp. 438-9; Migration Agent, Evidence, p. 90.

66 SA Government, Submissions, p. 195.

the fact that that whole process takes three to six months is perfectly reasonable. If it were to take a year or longer, you would lose the people. They would not wait for a year to allow that whole process to go through, but they accept three to six months as a reasonable period. In fact, getting rid of their own job, packing up their goods and doing all the things they have to do is reasonable, and they accept the restrictions in language and all the other things that have got to go on—health checks and everything else.<sup>67</sup>

## Conclusion

- 4.65 The Committee concluded that the delays identified were consistent with the necessity of determining who gains the right to permanent residency. Notwithstanding this, use of non-RSMS migration arrangements has proven sufficiently flexible to accommodate both Australia's overall migration strategy and the employers' RSMS expectations.
- 4.66 The Committee also concluded that some of the concerns might be allayed if there was more information available about the expected processing times. The DIMA Pretoria (South Africa) website, for example, provides list of visa types and the expected processing times.<sup>68</sup>

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## Recommendation 3

- 4.67 **The Committee recommends that information concerning expected and current processing times be made readily available, including on the DIMA website.**

## Consistency

- 4.68 One migration agent raised the issue of apparent inconsistency in the application of the RSMS provisions within DIMA and nationally by certifying bodies.<sup>69</sup>
- 4.69 The Committee considered these comments in the light of the claims by DIMA and DEWRSB that they were actively involved in the provision of training and guidelines.<sup>70</sup>

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67 Powercorp Pty Ltd, Evidence, p. 153.

68 [www.immi.gov.au/pretoria/times.htm](http://www.immi.gov.au/pretoria/times.htm)

69 Migration Agent, Submissions, p. 159; Evidence, pp. 44-45.

70 DIMA, Brisbane Office, Evidence, p. 185; DEWRSB, Evidence, p. 374.

## Conclusion

4.70 The Committee was aware that inconsistent application of RSMS principle could cause confusion and frustration. However, the Committee considered that there were bound to be apparent inconsistencies because the scheme was designed to be adaptable to local requirements. There was also likely to be disagreement over the assessment of 'exceptional' applications. Overall, consistency of application did not appear to be a serious issue and the Committee was satisfied that both Commonwealth entities were addressing it.

## Lack of certifying bodies

4.71 In the early stages of the review a number of witnesses from Victoria complained that there were only two functioning regional certifying bodies in the State, and that they did not cover all the State.<sup>71</sup>

4.72 Subsequently, in May 2000, more certifying bodies were appointed, covering all of the State,<sup>72</sup> and all the relevant areas of Australia are now covered by 44 regional certifying bodies.<sup>73</sup>

## Conclusion

4.73 As the lack of certifying bodies was only raised in connection with Victoria, and the situation had subsequently changed, the Committee concluded that this was no longer an issue.

## Risks to employers

4.74 Employers reportedly considered that RSMS involved risks for them, and that these were a disincentive to use the scheme. There was, for example, some concern about their:

obligations towards the new employee... from overseas who may have higher expectations regarding the community than it is possible for the employer to meet.<sup>74</sup>

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71 Migration Agent, Submissions, p. 133; Greater Green Triangle Region Association, Submissions, p. 145; Western Murray Development, Evidence, p. 96.

72 Department of Premier and Cabinet, Victoria, Submissions, p. 301; DIMA website [www.immi.gov.au/business/certifyb](http://www.immi.gov.au/business/certifyb), Minister for Immigration and Multicultural Affairs, *Media Release 59/2000*.

73 DIMA, Evidence, pp. 466, 480. DIMA, Submissions, p. 511-13.

74 Riverina Regional Development Board, Submissions, p. 65.

- 4.75 The Committee considered that this was a risk, but noted that a study of 257 RSMS employees indicated high levels of satisfaction with where they had settled.<sup>75</sup>
- 4.76 A more significant concern was that employees would leave before their two-year contract had been completed. In examining this issue the Committee was aware that in any one year approximately 13 per cent of employees in Australia change their job.<sup>76</sup>
- 4.77 In South Australia, 82 per cent of employees under RSMS were still with their sponsor.<sup>77</sup> However this information did not assist the Committee to determine what proportion completed their contracted two year periods because few, if any, of the migrants had been under RSMS for that period.
- 4.78 What was clear in South Australia was that one in five employees had parted company with their sponsor prior to two years elapsing.<sup>78</sup> A national survey of RSMS showed a worse outcome. The report concluded that 'a *minimum* of 30 per cent left within the two years', and that one third of those (ie about one in ten of all employees using RSMS) stayed with their sponsor for fewer than six months.<sup>79</sup>
- 4.79 This was despite DIMA's advice to the Committee that the contract required under RSMS aimed at maintaining the employee retention rate.<sup>80</sup> The issue was taken up at public hearings:
- There is a two-year contract but... advice from the department is that, if the employee decides to take another job somewhere – and he has already got permanent residence – he can do that without incurring any penalty.<sup>81</sup>
- 4.80 DIMA was reported to have no capacity to enforce the contract. The Committee was told that it would be a matter for a civil action between the employer and employee.<sup>82</sup>
- 4.81 The Committee was advised that a common approach was for employers not to use RSMS. Instead, the Committee was told, there was:

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75 98% were satisfied or very satisfied, 61% preferred to remain where they were, and 46% had bought or were paying off a house. DIMA, Submissions, pp.478-80, 503.

76 12.8% of those who worked during year ended February 2000, changed employer/business (Australian born 13.1%, overseas born 11.7%). Australian Bureau of Statistics, 6209.0 *Labour Mobility Australia*.

77 SA Government, Submissions, p. 197.

78 SA Government, Submissions, p. 197.

79 DIMA, Submissions, p. 472, (emphasis in the original); p. 495.

80 DIMA, SA Office, Evidence, p. 428.

81 Migration Agent, Evidence, p. 90.

82 Migration Agent, Evidence, pp. 90-91, 94.



a high percentage of employers using the temporary residence option rather than permanent... it gives employers the opportunity to have a trial run ... to see whether the person they wish to nominate possibly for permanent residence is suitable and whether they intend to stay on... then they will take the step to sponsor them for permanent residence.<sup>83</sup>

- 4.82 The precautionary use of the Business (Long Stay) Visa as a possible preliminary to RSMS may have benefited both employer and employee because temporary residence visas were generally issued more quickly than the permanent visas under RSMS.<sup>84</sup>
- 4.83 The advantage for the employer of the Business (Long Stay) Visa, compared to RSMS was that employees could not change jobs without DIMA permission, otherwise they risked cancellation of their visas.<sup>85</sup>

## Conclusion

- 4.84 The Committee concluded that employers' fears that their nominees would not fulfil their contracts was justified. The Committee also concluded that this is a potential disincentive for some employers to use RSMS.
- 4.85 Yet evidence to the Committee indicated that employers had already developed strategies to minimise the risk to them of employees leaving. The Committee noted that the use of the Business (Long Stay) Visa in such circumstances achieved a similar result to the use of RSMS, that is, the movement of employees and their families to the employers' locality, with the advantage that it was for a potentially longer period – up to four years as opposed to two under RSMS.
- 4.86 The Committee therefore concluded that failure by some employees to keep to the two-year contract was a significant issue, but that it was too early to determine the effect on employers' willingness to use RSMS.
- 4.87 The Committee noted that the Commonwealth's Migration Legislation Amendment (Integrity of Regional Migration Scheme) Act 2001 was intended to ensure that the employee honoured the two-year contract by allowing the Minister to cancel a RSMS visa.
- 4.88 The Committee considered that employers might be more willing to pursue RSMS if they had a clearer idea of their options for redress if

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83 DIMA, Darwin Office, Evidence, pp. 136, 139. See also Migration Agent, Evidence, p. 90.

84 65 % of temporary visas are issued within 1 month and 97% within 3 months, whereas only 21% of permanent residence visas are issued within 3 months. SA Government, Submissions, p. 194.

85 DIMA, Darwin Office, Evidence, pp. 144-45.

employees did not remain for the contracted period. The Migration Legislation Amendment (Integrity Of Regional Migration Schemes) Act 2001 aimed to:

enable the Minister to cancel a person's regional sponsored migration scheme visa if the Minister is satisfied that either:

the person has not commenced the employment referred to in the relevant employer nomination within a period prescribed in the Regulations; or

the person commenced the employment referred to in the relevant employer nomination (whether or not within the prescribed period) and the employment terminated within the required employment period of 2 years; and

the person does not satisfy the Minister that either:

he or she made a genuine effort to commence that employment within that period; or

he or she has made a genuine effort to be engaged in that employment for the required employment period.<sup>86</sup>

- 4.89 The Committee considered that this amendment, which was passed by the Senate in April 2001, would materially assist in allaying potential employers' reservations about employing migrants under RSMS.

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#### **Recommendation 4**

- 4.90 **The Committee recommends that DIMA ensure that potential employers and migrant employees are aware of the sanctions relating to RSMS employees who do not complete their two-year contract.**

#### **Flexibility on thresholds**

- 4.91 Two issues were raised with the Committee concerning what was perceived as unnecessary rigidity in the RSMS requirements relating to skills and age.

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86 Explanatory Memorandum, *Migration Legislation Amendment (Integrity of Regional Migration Schemes) Bill 2000*.

## Skills

- 4.92 In its submission, the NT Government argued that it should have ‘flexibility and discretion under the RSMS criteria of “skilled position” ‘ because positions which cannot be filled locally, but do not meet the definition of ‘skilled’, do not qualify under RSMS.<sup>87</sup> A similar argument was made by Greater Green Triangle Region Association and by Bartter Enterprises.<sup>88</sup>
- 4.93 DIMA’s Darwin Business Centre indicated that it had some discretion in such cases,<sup>89</sup> and the SA Government noted that there was provision under RSMS for employers to argue that their requirement was ‘exceptional’.<sup>90</sup>

## Age

- 4.94 The Tasmanian Government argued that the 45 years of age cut-off was no longer appropriate because of changing labour market arrangements which saw shorter careers and more job mobility. The Government considered that the ability to argue for an ‘exceptional’ case was not a satisfactory solution to the problem.<sup>91</sup>

## Conclusion

- 4.95 The Committee concluded that the opportunity for ‘exceptional’ appointments provided RSMS with sufficient flexibility and that no further concessions were required

## ‘Exceptional’ approvals

- 4.96 The Committee was surprised to find that ‘exceptional’ cases accounted for more than ten per cent of the approvals under RSMS.<sup>92</sup> These employees qualified for permanent settlement in Australia although they did not fully meet the specified standards for language skills, or age, or qualifications.<sup>93</sup>

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87 NT Government, Submissions, p. 141; Evidence, p. 124.

88 Greater Green Triangle Region Association, Evidence, p. 29. Bartter Enterprises, Submissions, p. 222.

89 DIMA Business Centre, Darwin, Evidence, p. 148.

90 SA Government, Evidence, p. 407.

91 Tasmanian Government, Submissions, pp. 91-92.

92 Employers report 11% of employees; employees themselves 8%: DIMA, Submissions, p. 457, 470; SA Government, Submissions, p. 203, indicates that ‘exceptional’ accounts for one in five.

93 DIMA, Evidence, p. 481, indicates that each accounted for about one third of the exceptions approved.

4.97 As DEWRSB pointed out to the Committee:

these various criteria... are there for a purpose. It is the case that people who do breach those criteria are less likely to do well in the Australian labour market, in the Australian economy and for the Australian government in terms of tax return.... the unemployment rate is much higher for older people and the unemployment duration is much longer for older people.<sup>94</sup>

English language is a very strong indicator of how people go in the labour market... with quite a significant difference in incidence of unemployment, incidence of long-term unemployment, and even incidence of employment.<sup>95</sup>

4.98 The Committee was told that applicants who failed to meet the basic parameters but were nevertheless granted visas might have initially failed because they were perhaps a year too old, or might work in an area where there was no immediate need for English language skills, or have experience but lack formal qualifications.<sup>96</sup>

4.99 In explaining how 'exceptional' cases came to be approved, the South Australian Government said that, provided the position was skilled:<sup>97</sup>

we always try to make sure that any exceptional case, for a start, adds value to the employer, that there is a reason for that exceptional circumstance that we think is reasonable... DIMA has the decision on the exceptional. What we do is to try and help the employer...<sup>98</sup>

4.100 The Committee appreciated that there would be applicants who only narrowly failed to meet some of the criteria, such as age. The opportunity for argue for 'exceptional' appointments added to the flexibility, and hence the attractiveness of RSMS.

4.101 In practice, the Committee was advised that, although one in ten successful applications was classified as 'exceptional', fully three quarters of those who initially sought 'exceptional' entry under RSMS failed to gain approval. Those who did succeed did so on the basis of exceptional circumstances divided equally among age, language, and qualification factors.<sup>99</sup>

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94 DEWRSB, Evidence, p. 425.

95 DEWRSB, Evidence, p. 429.

96 SA Government, Evidence, p. 423; Migration Agent, Evidence, p. 91

97 SA Government, Evidence, p. 421.

98 SA Government, Evidence, pp. 423, 424.

99 DIMA, Evidence, p. 481.

## Conclusion

4.102 The Committee concluded that elimination of potential employees because of marginal failure to meet RSMS requirements would reduce the possibility of easing local skilled labour shortages through skilled migration. Yet, as the Tasmanian Government highlighted, the high proportion of ‘exceptional’ approvals threatened the credibility of the migration process,<sup>100</sup>

## Recommendation 5

4.103 **The Committee recommends that the scale of ‘exceptional’ approvals be continually monitored, and reviewed in 2003 in order to ensure that required standards remain relevant.**

## Medical Personnel

4.104 Witnesses mentioned the scarcity of medical personnel, such as doctors, pharmacists and physiotherapists outside major metropolitan regions.<sup>101</sup> In addition, the Committee was informed that there was a nation-wide shortage of nurses.<sup>102</sup>

4.105 In response to the local nurse shortage the Tasmanian Government distributed material from the Skill Matching Database to hospitals, leaving it to them whether they wished to pursue a nomination under RSMS.<sup>103</sup> In South Australia specialist nurses had been nominated, but unspecified industrial issues had prevented direct RSMS sponsorship of nurses.<sup>104</sup> In the Riverina, RSMS had been used to recruit a pharmacist and a physiotherapist, and in the Kalgoorlie area a speech pathologist and nurses.<sup>105</sup>

100 Tasmanian Government, Submissions, pp. 91-92.

101 **For shortages of Doctors see Evidence** - Greater Green Triangle Region Association, p. 26; Rural Workforce Agency Victoria, pp. 70-71; Goldfields Esperance Consultative Committee Inc, p. 107; Migrant Resource Centre Townsville Thuringowa Ltd, p. 224; Circular Head Council, pp. 271-72; Tasmanian Government, p. 315; ACT Government, p. 396; SA Government, p. 408, and McKinlay Shire Council, Submissions, pp5-6.

102 **For nursing shortages see Evidence**, Rural Workforce Agency Victoria, p. 79; NT Government, p. 125; DIMA, Brisbane Office p. 183; Circular Head Council, p. 271; Tasmanian Government, p. 303; and ACT Government, p. 396.

103 Tasmanian Government, Evidence, p. 304.

104 SA Government, Submissions, p. 73

105 Riverina Regional Development Board, Submissions, p. 65; Goldfields Esperance Development Commission, Evidence, p. 114.

4.106 The Committee was told that RSMS had also been considered as a means of filling general practitioner vacancies, but this had not been pursued widely because:

- overseas-trained doctors wishing to become permanent residents (as would occur under RSMS) faced a number of professional and administrative barriers;<sup>106</sup>
- there was reluctance by some local authorities to sponsor a medical practitioner as an employee<sup>107</sup>; and
- it was more straightforward to bring in doctors under temporary migration arrangements such as the Area of Need arrangements; the Rural Locum Relief Program; the Western Australian Centre for Rural and Remote Medicine; and a rural and remote health agency in SA.<sup>108</sup>

## Conclusion

4.107 The Committee concluded that RSMS appeared to have been an appropriate mechanism for attracting medical personnel to some areas. However, medical institutional factors affected the scope of RSMS in alleviating local shortages of medical personnel, and a range of more direct and targeted recruitment methods was in use.

## Usefulness of the Skill Matching Database

4.108 The prevalence of on-shore applications also led the Committee to query how useful the Skill Matching Database (SMD) was proving in practice. The SMD was set up in 1996 and enhanced in July 1999 with the introduction of the Skill Matching Visa Class.<sup>109</sup> The Committee was told that at any one time it held details of approximately 1,000 applicants. In March 2001, for example, it held 1,324, with 182 new applicants having been added and 105 removed during the month.<sup>110</sup>

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106 These include meeting professional registration requirements and the qualifying for the allocation of Medicare provider numbers – see Rural Workforce Agency Victoria, Evidence, pp. 71-73, Submissions, pp. 231-32; SA Government, Evidence, p. 408; DIMA, Evidence, p. 474.

107 Tasmanian Government, Evidence, p. 315.

108 Rural Workforce Agency Victoria, Submissions, pp. 229, 95; Goldfield Esperance Development Commission, Evidence, p. 108; SA Government, Submissions, p. 73; Evidence, p. 408. Under the 1999 Regional and Rural Overseas Doctors Scheme 50 had been recruited for WA, 13 for Victoria, and 24 for Queensland by early 2001; DIMA, Submissions, p. 510.

109 DIMA, Submissions, p. 24; DEWRSB, Evidence, p. 372.

110 DIMA, Submissions, p. 525.

4.109 The Committee noted that between 70 and 90 per cent of those on the SMD had already gained sufficient points to migrate to Australia. They therefore would not need the concessional arrangements of RSMS (although they could elect to use them to secure employment prior to migration). In effect, only about 300 people on the SMD people actually needed SsMM to qualify for permanent residence in Australia.<sup>111</sup> This currently limits the size of the skill pool.<sup>112</sup>

## Conclusion

4.110 The Committee considered that that the Skill Matching Visa class which was introduced in July 1999 to boost the pool size had not yet done so. The South Australian Government claimed that it contributed only 20 cases in 1999/00.<sup>113</sup> This meant that the SMD was not yet playing its expected key role in the RSMS process of matching local requirements with skilled overseas workers.

4.111 In light of the role of personal contacts in securing employees, the Committee was not convinced that the SMD would be the 'critical resource' for nominations envisaged by DIMA.<sup>114</sup>

## Recommendation 6

**4.112 The Committee recommends that the use of the Skill Matching Database should be re-examined in 2003.**

## Labour market testing

4.113 From 1 July 1999, no labour market testing was required under RSMS if the occupation was listed on the Migration Occupations in Demand List.<sup>115</sup>

4.114 Evidence to the Committee indicated that confusion existed concerning labour market testing required under RSMS. There was uncertainty about whether any labour market testing was needed, and of a lack of clarity about how the labour market should be tested. The employer's

111 70%, DIMA, Submissions, p. 525, 90%, DEWRSB, Evidence, p. 372. "B" Category applicants able to obtain visas only through STNI totalled 305 in January 2001 and 329 in March 2001: SA Government, Submissions, p. 71; DIMA, Submissions, pp 419, 525.

112 SA Government, Evidence, p. 403; Greater Green Triangle Region Association, Evidence, p. 27

113 DIMA, Submissions, p. 26; SA Government, Submissions, p. 390.

114 DIMA, Submissions, p. 24.

115 Western Murray Development, Submissions, p. 219.

nomination form indicated that RSMS could be used to fill a skilled vacancy if ‘the position cannot be filled from the local labour market’.<sup>116</sup>

### A 4 Wheel Drive Story Part 1

Employers are looking for Land Rover mechanics ... have advertised Australia wide and cannot get anybody ... most people that come to us have somebody in mind ... even to get a mechanic who is well qualified to come to work for them has been impossible ... people are not well enough qualified or they have not dealt with Land Rover ... people will not move to country communities [and]... leave a lot of the creature comforts.

Evidence, pp. 27, 28, 29.

#### 4.115 DIMA claimed that under RSMS:

the principal focus of the certifying bodies and the objective of that structure was to allow a body that is closer to the detailed knowledge of the local labour market to establish that, within that labour market, those skills are not readily available. The historical alternative under our employer-sponsored categories is for employers to go through a formal labour market testing process. That would normally involve advertisements in the newspapers and the examination of professional journals and the like. But, under the regional sponsored scheme, it pivots very much on the local labour market knowledge of the certifying body.<sup>117</sup>

#### 4.116 However, the *Labour Market Testing Guidelines* provided to RSMS Certifying Bodies by DIMA and DEWRSB do not spell out how the local labour market was to be tested under RSMS. Rather the document:

suggests that certifying bodies consider the following issues in assessing nominations...under the Employer Nomination Scheme.<sup>118</sup>

#### 4.117 The Employer Nomination Scheme *required* the employer to have undertaken at least two of four options: advertising in metropolitan and national newspapers; advertising in professional/trade journals; taking

116 DIMA, Form 1054.

117 DIMA, Brisbane Office, Evidence, p. 184

118 Western Murray Development, Submissions, p. 243; DEWRSB, Submissions, p. 412.



advice from professional/industrial bodies; or using recruitment agencies with national representation.<sup>119</sup>

4.118 As witnesses commented:

labour market testing is often irrelevant and expensive;<sup>120</sup>

4.119 The Riverina Regional Development Board echoed the concern about costs,<sup>121</sup> indicating that:

my great concern was, when it was time to lodge the nomination on form 1054 under the scheme, to get acknowledgment from the Job Network that the position had been advertised and that there had been no response to it. I believe that the scheme would happily accept that much, yet this person was asked to pay \$550. I clarified the situation with the manager of this Job Network and he confirmed that that was their commercial charge. I find that an absolute impediment to the good intentions of the scheme and to the good intentions of the employers.<sup>122</sup>

4.120 DEWRSB, although not formally involved in RSMS,<sup>123</sup> explained that, in its view, 'labour market testing' under RSMS was where the employer had taken reasonable steps to get somebody but had been unsuccessful.<sup>124</sup>

4.121 DIMA responded to the comments:

if a certifying body was to come to us and say, 'Our assessment is that there is a genuine vacancy', and if what they presented to us seemed a plausible and reasonable representation... we would accept that.<sup>125</sup>

4.122 However, in South Australia, the test imposed by the centralised Certifying Body in which DIMA participates, was that employers:

advertise at least twice in the *Adelaide Advertiser*, which is our main paper, and that they also have been through a Job Network provider. If there is a professional or trade association that can offer an independent opinion about whether that particular occupation is in shortage or not, we ask that information to be provided as well. If there are any people who have applied for

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119 Western Murray Development, Submissions, p. 243; DEWRSB, Submissions, p. 412;

120 Riverina Regional Development Board, Submissions, p. 64. For other, similar views see - Migration Agent, Evidence, p. 90; Western Murray Development, Evidence, p. 97; Westvic Pumps, Submissions, p. 265.

121 Riverina Regional Development Board, Submissions, p. 64.

122 Riverina Regional Development Board, Evidence, p.447.

123 DEWRSB, Evidence, p. 370.

124 DEWRSB, Evidence, p. 417.

125 DIMA, Evidence, p. 482.

those positions, we ask to see why they were deemed not suitable for that particular job. We go through a fairly thorough detailed analysis of what they have done for that job.<sup>126</sup>

## Conclusion

- 4.123 The Committee concluded that, although RSMS did not formally require testing of the 'local labour market',<sup>127</sup> in practice the labour market testing required under RSMS did not diverge significantly from the approach used under the Employer Nomination Scheme (ENS). This had led to confusion about the nature and intensity of labour market testing required to meet the requirements of RSMS.

## Recommendation 7

- 4.124 **The Committee recommends that, in its advice to Certifying Bodies, DIMA indicate how labour market testing for RSMS may diverge from the standards for ENS and still be accepted as valid.**

## Prior connections

- 4.125 Evidence to the Committee indicated that, in many cases, employers already knew which employees they were seeking prior to accessing RSMS:<sup>128</sup>

In practice, a lot of employers have already become familiar with the person they want to employ through contacts.<sup>129</sup>

There is usually some connection, like a business connection... There might be a family relationship. There might be another member of the family already here.<sup>130</sup>

In most cases...businesses... already have an employee working under an existing visa.... it would appear that the employee is the instigator... and the employers are generally ignorant of the RSMS.<sup>131</sup>

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126 SA Government, Evidence, p. 417.

127 DIMA, Form 1054.

128 Greater Green Triangle Region Association, Evidence, p. 27; Powercorp Pty Ltd, Evidence, pp. 158-59; Riverina Regional Development Board, Evidence, p. 448

129 Migration Agent, Evidence, p. 90.

130 Migration Agent, Evidence, p. 49.

131 Cairns Chamber of Commerce, Submissions, p. 314.

employers who have questionable motives... have met all the guidelines.<sup>132</sup>

- 4.126 This anecdotal evidence concerned the Committee because it raised the possibility that RSMS was being used as a back-door route to permanent residency through the ambitious claims by potential employees of their skills and/or the creation of bogus skills shortages.

### **A 4 Wheel Drive Story Part 2**

Why would we need to bring in specialists from other countries to be four-wheel drive motor mechanics ... are people inventing shortages in order to reunite families ... we would not want to see schemes that we have in place being rorted just to suit the interests of individuals ... what checks and balances were done to ensure that this was a legitimate sponsorship in order to meet a very specialised vacancy in that particular field?

Evidence, pp. 416, 109, 185.

- 4.127 DIMA advised the Committee that:

various organisations... do try to assist people who belong to their organisations to migrate... That is not illegal. Whilst you may look at it with some concern, it in itself is not of concern to Immigration. So long as in each individual case they meet the legal requirements we will visa them.<sup>133</sup>

- 4.128 The Committee considered that the DIMA vetting of qualifications minimised the risk that potential employees would be able to misrepresent their skills. The Committee was assured by the South Australian Government that there was additional scrutiny of applications when it noted a possible connection between employer and employee which might not be related to skill shortages.<sup>134</sup>

- 4.129 The Victorian Government reported that the initial contact prior to using RSMS could have come about through:

- meeting at conferences;

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132 Riverina regional Development board, Submissions, p. 64.

133 DIMA, Evidence, p. 481.

134 SA Government Evidence, p. 409.

- employing the person while on a working holiday;
  - business contacts; or
  - the employee visiting while on holiday.<sup>135</sup>
- 4.130 In addition, the Committee observed that churches provided international contacts.<sup>136</sup>
- 4.131 Studies of RSMS showed that most employees using the scheme had applied for it in Australia.<sup>137</sup> According to a national study of RSMS:  
in total, 57 per cent of migrants had prior work experience with the sponsoring employer. In other words, in a majority of cases employers have accessed the RSMS to permanently fill vacancies with employees who had already worked for them or were working for them.<sup>138</sup>
- 4.132 According to that study and a South Australian one, the high proportion of applications made in Australia was seen as evidence that employers preferred to bring their nominees in on a trial basis prior to seeking permanency through RSMS.<sup>139</sup> This interpretation was echoed by the NT Government.<sup>140</sup>
- 4.133 The SA Government commented that it was also easier for potential employees to visit an area and then, if they liked it, look for employment opportunities.<sup>141</sup>
- 4.134 A study of RSMS indicated that temporary visas issued in Australia were generally finalised in a shorter time than those issued overseas to enable employees to commence work.<sup>142</sup> The Committee considered that the time saving possible with the temporary visa option would be attractive to both employer and employee. The use of a temporary visa to bring in employees prior to applying under RSMS would swell the proportion of RSMS visas being processed in Australia.

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135 Government of Victoria, Submissions, p. 302.

136 DIMA, Brisbane Office, Evidence, pp. 194-195; SA Government, Evidence, pp. 409-410, Riverina Regional Development Board, Evidence, p.451.

137 SA Government, Submissions, p. 193.

138 DIMA, Submissions, p. 469.

139 DIMA, Submissions, p. 469; SA Government, Submissions, p. 193.

140 NT Government, Submissions, p. 137.

141 SA Government, Evidence, p. 441.

142 97% of temporary visas issued on shore within 3 months of application, compared with 41% of offshore visas granted within the same period. SA Government, Submissions, pp. 194-95.

## Conclusion

4.135 The Committee concluded that:

- The scheme appeared to be more successful in allowing those already in Australia to remain permanently rather than attracting new applicants.
- There was no conclusive evidence that the scheme was being misused.

## Recommendation 8

4.136 **The Committee recommends that the role of personal contacts in the operation of RSMS should be re-examined in 2003.**

## Migration as a substitute for local training

4.137 The Committee acknowledged that RSMS was intended to be responsive to local labour market conditions, but it was concerned that RSMS did not:

test an employer's training record or what efforts they are making for training. It is a derivative of the Employer Nomination Scheme, which does require an employer to have a satisfactory training record, but under RSMS there is no requirement to look at that... The scheme simply does not pick that up.<sup>143</sup>

4.138 In discussion of the use of apprenticeships as a means of building up local skills, the Committee was advised that there were structural disincentives to employers taking on apprentices:

an employer has his person gone for nine weeks in a block... they simply state that with the paperwork and the time that they are away...the employer does not want to go through the hassle of the apprenticeship system.<sup>144</sup>

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143 DIMA, SA Office, Evidence, p. 416.

144 Glenelg Shire Council, Evidence, pp. 37-38.

### **A 4 Wheel Drive Story Part 3**

The issue is that nationally there is a shortage of motor mechanics ... probably since the fifties ... the occupation pays very poorly ... might be described as a mechanic, but they might have very specialist mechanical skills that might relate to diesel technology of tractors or something similar that is a critical skill in a regional area.

Evidence, pp. 416, 418, 184.

4.139 The Committee considered that a long-term reliance on the importation of overseas skilled labour could emerge, to the detriment of the local labour market. This was a real risk, as was demonstrated in the Kalgoorlie area, where an employer's proposal to bring in a specialist:

was not approved... DIMA said no. They said that so many had been approved that, by now, they should be training locally. Considering that what the scheme was designed to do was that they were to come in and then train locally, you could understand some of that decision.<sup>145</sup>

### **Conclusion**

4.140 The Committee considered that the option of local training as a remedy for skills shortages should not be ignored, as appeared possible under RSMS, but not the 'parent' ENS.

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### **Recommendation 9**

4.141 **The Committee recommends that DIMA make the employers' training record a consideration in RSMS.**

### **Monitoring RSMS after arrival**

4.142 There have been surveys of the operation and the level of employer satisfaction with RSMS. These gave snapshots of the scheme at a

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<sup>145</sup> Goldfields Esperance Development Commission, Evidence, p. 117.

particular time.<sup>146</sup> Some of the results were discussed previously under *Risks to employers*. However neither DIMA nor DEWRSB undertook regular monitoring of the individual employment arrangements.<sup>147</sup>

## Conclusion

4.143 The Committee accepted that it was inappropriate to monitor permanent residents. However, in view of their other concerns about the operation of RSMS, the Committee considered that there should be regular direct monitoring of the operation of the scheme.

## Recommendation 10

**4.144 The Committee recommends that a follow-up survey of employees' and employers' performance should be conducted in 2003 to determine whether successful applicants were remaining in regional areas as intended.**

## Publicity

4.145 In its hearings the Committee was told that there was not widespread awareness of RSMS.<sup>148</sup> Similar comments were made about other SsMM. The Committee therefore decided to address the issue of publicity for SsMM generally, rather than consider it scheme by scheme. This aspect of SsMM is examined in Chapter 9 *Overview*.

## Measuring success

4.146 The Committee considered a number of criteria which could indicate the success of RSMS. These included the numbers involved and whether:

- the local skill needs were met;
- the employer was satisfied with the scheme's arrangements;

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146 SA Government, Submissions, pp. 180-218 - *Regional Sponsored Migration Scheme (RSMS)- South Australia: Employer Survey October 1999*; DIMA, Submissions, pp. 431-506 - *Evaluation of the Regional Sponsored Migration Scheme*, National Institute of Labour Studies Inc, August 2000.

147 DEWRSB, Evidence, p. 374; DIMA, Brisbane Office, Evidence, p. 197; DIMA, Adelaide Office, Evidence, p. 407.

148 Westvic Pumps, Evidence, p. 41; Rural Workforce Agency, Evidence, p. 75; Riverina Regional Development Board, Submissions, p. 65; DIMA, Darwin Business Centre, Evidence, p. 137.

- the employer was satisfied with the outcomes of the scheme;
- the employee was satisfied with the mechanics of the scheme;
- the employee was satisfied with the outcomes of the scheme;
- the employee remained for the contracted two years; and
- there had been a positive effect on the local labour market, economy, and population.

4.147 The Committee also noted that the RSMS target areas were low-growth or low population growth areas of Australia.<sup>149</sup> The Committee therefore considered that, although not directly related to the aims of RSMS, it would be relevant to consider how many people accompanied the skilled migrant, and whether they stayed on in the area after the two-year contract.

## Numbers

4.148 In 1999/2000 half of the 70,200 migrants who came to Australia under the migration programs other than humanitarian ones arrived through the skilled stream. RSMS arrangements accounted for 664 of the 35,330 skilled migrants, or less than two per cent of the total skilled migrant intake that year,<sup>150</sup> but:

the nature of the scheme is that there are fairly small numbers... It is employer driven... and it depends on the employer having a particular requirement at a point in time.<sup>151</sup>

4.149 In addition, the Committee was told that, while the total:

may seem like a small number, but with so many of the smaller communities here having a skilled industry of some kind... one extra employee affecting a business and therefore the community directly through that business and indirectly through boosting the regional economy is a lot of people boosting small economies.<sup>152</sup>

4.150 The Committee agreed that the numbers of skilled workers under RSMS was not a clear indicator of the overall success of the scheme. The use made of the scheme was the product of employer knowledge and use of the scheme, the knowledge available to potential migrants, the

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149 DIMA, Fact Sheet 23 *Skilled Migration to Australia; Form 1054 Employer nomination under the Regional sponsored migration scheme*, respectively

150 Minister for Immigration and Multicultural Affairs, *Media Release*, 7/2000, 27 July 2000. In 1998/99 the proportion was less than 1%, DEWRSB, Submissions, p. 116.

151 DIMA, Brisbane Office, Evidence, p. 182.

152 Greater Green Triangle Region Association, Evidence, p. 22.



appropriateness of their skills to the identified demand, their willingness to settle in the area in which the job was located, and the level of activity of the certifying bodies.

## Meeting local skill needs

- 4.151 The RSMS administrative arrangements are designed to ensure that the scheme did meet the local skill needs. The process of approving an application establishes *prima facie* evidence that the skills provision component of RSMS was working.
- 4.152 The scale on which this activity occurred across Australia was another indicator of the degree of success of RSMS in meeting local needs. In this regard, evidence to the Committee indicated that use of RSMS was patchy.<sup>153</sup>

## Employer satisfaction with arrangements

- 4.153 Surveys of RSMS employers indicated a high level of satisfaction for the scheme and its operation. Responses by the employers of 255 RSMS nominees revealed that:
- the RSMS nomination process was considered ‘simple’ in recruiting 64 per cent of employees and ‘OK’ for a further 33 per cent;
  - there was only one expression of dissatisfaction with the length of time taken to certify nominations;
  - 80 per cent of employees commenced at the date planned; and
  - 16 per cent of employees did not commence at the planned time because of delays in the immigration process.<sup>154</sup>
- 4.154 In a later national survey, employers of 61 percent of 372 RSMS skilled migrants were ‘very satisfied’ with the scheme and a further 28 per cent were ‘satisfied’.<sup>155</sup>
- 4.155 These responses do not indicate any serious shortcomings with the RSMS process. Further evidence of employer satisfaction with the scheme was that employers of 85 percent of the migrants would not hesitate to use the scheme again. Indeed the fact that more than one in four migrants was

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153 DEWRSB, Evidence, p. 367; DIMA, Brisbane Office, Evidence, p. 191; SA Government, Submissions, pp. 190-91.

154 SA Government, Submissions, pp. 192-93, 195

155 DIMA, Submissions, p. 454.

working for employers who had made multiple use of RSMS, indicates strong employer satisfaction with its outcomes.<sup>156</sup>

## **Employer satisfaction with outcomes**

4.156 One employer with a workforce of 20 told the Committee that RSMS:

has been enormously successful. I think we have now brought in four. In two weeks time I will bring in my next one, a specialist software engineer with particular expertise.<sup>157</sup>

4.157 This individual view was supported by responses to the employer survey which indicated that:

- overall 37 per cent of migrants provided a strong positive effect on the employers' businesses, and a positive effect in 43 per cent;
- in 73 per cent of cases employers considered migrants had transferred skills to a 'moderate' or 'great' extent;
- in 55 per cent of cases, on-the-job performance was rated as very good, and a further 26 percent rated as good; and
- 87 per cent of nominees met or exceeded employers' expectations of their skill level.<sup>158</sup>

4.158 The Committee considered that these responses indicated that the RSMS was providing employers with the outcomes sought, although the Committee found the final point about the skill level expectation unsurprising in view of the fact that more than half of the employees recruited via RSMS were already known to the employer.

## **Employee satisfaction with arrangements**

4.159 The national survey of RSMS indicated that most were very satisfied (51 per cent) or satisfied (28 per cent) with the time taken to process visas. There was very little dissatisfaction (7 per cent) with the requirement to have a two year employment contract, with which most were satisfied or very satisfied (38 and 42 per cent respectively).<sup>159</sup>

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156 DIMA, Submissions, pp. 453, 458.

157 Powercorp Pty Ltd, Evidence, p. 152.

158 DIMA, Submissions, pp 461-62, 459.

159 DIMA, Submissions, p. 476.

## Employee satisfaction with outcomes

- 4.160 The Committee considered that the numbers and proportions of employees leaving prior to the expiry of their two-year contract indicated dissatisfaction among employees with the outcome of their RSMS arrangements.
- 4.161 However, a national survey found that more than nine out of ten migrants were 'very satisfied' or 'satisfied with their job', and 98 per cent of migrants stating they were 'very satisfied'... or 'satisfied' with life in Australia.<sup>160</sup> Overall, employees rated the scheme very highly, and with good employment results.<sup>161</sup>
- 4.162 The latter outcome, the Committee felt, should have been expected, given that most of the employees had worked for or were working for their employer prior to coming under RSMS.
- 4.163 The Committee was concerned that there was no systematic follow-up of employees. In effect:
- the only real measure sometimes of a success of a scheme is by the number of complaints you get about things going wrong.<sup>162</sup>
- 4.164 In the Committee's view this was an inadequate approach because the scheme had to be attractive to migrants as well as employers if it was to bring skilled workers to areas of need.
- 4.165 The Committee has already addressed the issue of monitoring and reiterates recommendation No. 10.

## Employees remaining for two years

- 4.166 Another indicator of the success of RSMS was whether the employees fulfil their two-year contract. The employees were permanent residents by virtue of their sponsorship under RSMS, and therefore able to change jobs and move about Australia like other Australians.
- 4.167 DIMA pointed out that:
- even where the best possible conditions for retention of skilled migrants exist... inevitably... some proportion of those selected through State specific migration mechanisms will move away from the target State or area.<sup>163</sup>

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160 DIMA, Submissions, pp. 477-78.

161 DEWRSB, Evidence, p. 367.

162 DIMA, Adelaide Office, Evidence, p. 407.

163 DIMA, Submissions, p. 17.

- 4.168 The Committee received anecdotal evidence of why employees left, such as having used RSMS primarily to gain permanent migration and then leaving their employer shortly after.<sup>164</sup>
- 4.169 The Committee considered this a ‘worst case’ outcome, and not an indication of the complex reasons which prompted people to move. The national survey of RSMS found that the migrants who left their employer had done so:
- to look for or take another job (30 per cent); or
  - because they were dissatisfied with the existing job (25 per cent); or
  - for ‘business related reasons... a redundancy’ (25 per cent).<sup>165</sup>
- 4.170 However, the same study cautioned against accepting these as providing full explanation of why employees left. It examined factors associated with employees remaining and concluded that they:
- were all to do with how the migrant lived up to expectations and performed on the job...Where the employer believed that the migrant’s skills exceeded expectations, where there had been some skills transfer to other employees, where the migrant’s job performance was rated as good or very good were all strongly, positively associated with retention... migrants who worked in larger workplaces (100 employees or more) were more likely to have stayed.<sup>166</sup>
- 4.171 The Committee considered that these attributes indicated a supportive environment for migrant workers, which could encourage them to remain.
- 4.172 It appeared to the Committee that the failure of employees to remain with their sponsor for the expected period indicated a potential for abuse of RSMS simply to obtain permanent residence. The Committee noted that, with the introduction of the Migration Legislation (Integrity of Regional Migration Scheme) Act, the Commonwealth had recognised the need to safeguard RSMS against possible abuse by employees.
- 4.173 Looking beyond the contractual issue, the Committee considered if employees left their sponsor but remained in the area, then the skill, economic, and population aims of RSMS would still have been served. In South Australia, half those who had left their original employer job were still in the State.<sup>167</sup> Nationally, however, perhaps only one third of those
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164 DIMA Business Centre Darwin, Evidence, p. 136; Tasmanian Government, Evidence, p. 316.

165 DIMA, Submissions, p. 487.

166 DIMA, Submissions, p. 488.

167 25 of the 49 who had left their employer, (a further 17 were still in Australia): SA Government, Submissions, p. 197.

who had left their sponsors' employment remained in the same city or region.<sup>168</sup>

- 4.174 The Committee concluded that this was not a desirable outcome for the sponsor, but that lack of individual adherence to a contract did not automatically mean that RSMS was unsuccessful.
- 4.175 The Committee has already addressed the issue of monitoring and reiterates recommendation No. 10.

## Family size

- 4.176 RSMS was aimed at skilled migrants to low-growth and/or low population growth areas. The impact of those skilled migrants could, however, be greater than the addition of a skill to the local community because their family members contributed to the community and the presence of migrants could encourage more migrants to settle in the region.<sup>169</sup>
- 4.177 Detailed information from Tasmania's RSMS program indicated that sponsorship of 69 skilled migrants led to the arrival of 169 people because two thirds of the skilled migrants brought family members with them.<sup>170</sup> This multiplier effect is common under RSMS<sup>171</sup> and assists the SsMM goals of augmenting local economic activity and population.

## Effect on local labour market, economy and population.

- 4.178 Given the small numbers of migrants involved and the range of other local and external factors affecting a local economy, the Committee concluded that it would not be possible to separate out a quantifiable measure of the RSMS contribution.

## Remaining beyond 2 years

- 4.179 The Committee expected that beneficial local effects RSMS would be increased if the skilled workers (and their families) remained in the area beyond their two-year contract.

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168 Derived from DIMA, Submissions, p. 466-67.

169 Greater Green Triangle Region Association, Submissions, p. 149.

170 From 1/7/98 – 13/9/00 there were 69 skilled migrants under RSMS. 23 had no family and the 46 with families had a total of 100 dependants. Tasmanian Government, Exhibit 24.

171 79% of employees are married, 58% have children with them. DIMA, Submissions, p. 469.

- 4.180 Most (79 percent) of the employees surveyed said that they did not know how much longer they would be staying with their employer. However, 64 percent thought that they would still be working for their employer in 5 years time, and a further 24 percent thought that they would not be.<sup>172</sup>
- 4.181 In this context, the Committee noted that the migrants themselves appeared to contemplate staying with their employer and suggestions that the duration of the new settlers' contract should be increased.<sup>173</sup>

## Conclusion

- 4.182 The Committee did not gather detailed information about the desirability of extending the period, but was sympathetic to the view that:
- to tie somebody down to a particular region for five years may be a bit long.<sup>174</sup>
- 4.183 However, the Committee was aware that the success of the scheme depended on employers feeling confident that they would get sustained and predictable benefit. The Committee concluded the Migration Legislation Amendment (Integrity of Regional Migration Scheme) Act 2001 would serve to encourage such confidence.

## Summary

- 4.184 On the evidence available to it, the Committee concluded that RSMS successfully met the needs of local employers in filling skilled vacancies. It was, however, not reaching its full potential, in part because of some concern about employees' willingness to remain. The Committee's recommendation No. 4 addressed that point.

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172 DIMA, Submissions, p. 490.

173 Queensland Chamber of Commerce, South-West Regional Council, Evidence, p. 202.

174 Tasmanian Government, Evidence, p. 317