

## State/Territory Nominated Independent

*State/Territory Governments... sponsor Independent category applicants identified through skill matching... who are willing to settle in nominated States and Territories.<sup>1</sup>*

### The scheme

- 5.1 Under the State/Territory Nominated Independent (STNI) Scheme 'Independent' skilled migrants seek to enter Australia on the basis of the economic contribution they will make but either do not have relatives in Australia to sponsor them, or choose not to be sponsored.<sup>2</sup> STNI enables State and Territory Governments to nominate such intending migrants who have skills and experience which are in short supply.<sup>3</sup> Employment opportunities are strong motivators for migrants to Australia.<sup>4</sup>

### Federal - State/Territory consultation

- 5.2 The scheme was developed following Commonwealth consultations with State and Territory Governments in 1996 and 1999. The outcome was a proposal that they should sponsor, through skill matching, Independent category applicants who were willing to settle in their State or Territory.<sup>5</sup>

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1 DIMA, Submissions, p. 27.

2 SA Government, Submissions, p. 404; DIMA, *General Skilled Migration* booklet 07/01, p. 16.

3 SA Government, Submissions, p. 388.

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

5 DIMA, Submissions, p. 27.

- 5.3 Subsequently the South Australian Government sought changes to increase the size of the potential pool of nominees. This resulted in DIMA creating a visa aimed at encouraging applications (the Skill Matching Visa) and by increasing the time potential migrants spent in the pool from one to two years.<sup>6</sup>

## Conclusion

- 5.4 The creation of a new set of arrangements specifically targeted to benefit State and Territory Governments, and subsequent refinements, indicated that the consultation process worked.

## Localities involved

- 5.5 Audits were carried out in some States and Territories to establish what skills were in short supply and where. On the basis of these audits they selected applicants likely to gain employment<sup>7</sup>.
- 5.6 The nominating State or Territory may have required applicants to show their ability to settle in and their intention to reside and work in the State or Territory.<sup>8</sup>
- 5.7 These, as far as the Committee could determine, were the only geographic constraints on the intending migrants.

## Concessions to attract migrants

- 5.8 Applicants under STNI do not have to meet the pass mark of 110 on the points.<sup>9</sup> They are, however, expected to achieve at least 70 points (the 'pool mark').<sup>10</sup>

## Operation

- 5.9 STNI was introduced on 1 November 1997 as a subclass of the Skilled Independent (Migrant) class. The States and Territories wishing to use it
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6 SA Government, Submissions, p. 76.

7 DIMA, Fact Sheet 26, *State/Territory Specific Migration*, 12/1/2001.

8 SA Government, Submissions, p. 404.

9 DIMA, Submissions, p. 27.

10 DIMA, *General Skilled Migration* booklet 07/01, pp. 25-37; SA Government, Submissions, p. 388.

are required to undertake an audit of the labour market. The audit was to identify occupations in which there were shortages of employees, and to estimate the size of those shortages.<sup>11</sup> This process provided the potential nominator with guidance concerning which skills they might seek in migrants applying under STNI.

- 5.10 The migrants whom the State and Territory Governments nominated were those who had qualified to enter the Skill Matching Database (SMD)<sup>12</sup> and who had skills and experience which were in short supply.<sup>13</sup> In that sense it paralleled RSMS arrangements for sponsorship by an employer.
- 5.11 Three categories of potential migrants had their particulars listed on the SMD:
- intending skilled migrants who met the points test and were eligible for the Skilled Independent visa class;
  - intending skilled migrants who had not meet the Skilled Independent points test; and
  - skilled potential migrants who had applied for a Skill Matching Visa (SMV).
- 5.12 All intending Skilled Independent migrants are required to pay a non-refundable fee of \$1075 for applications for skilled migration visas specifying an occupation on the Skilled Occupations List.
- 5.13 Intending Independent migrants who had passed the points test did not require sponsorship or nomination. Their presence on SMD offered the States and Territories opportunities to identify migrants who might decide to settle in their jurisdictions.<sup>14</sup>
- 5.14 Those who did not meet the Skilled Independent migrant pass mark but met the 'pool mark' threshold score had their applications held current for two years in a pool so that their application could be reviewed if the pass mark was lowered. Those who wished to be considered for STNI in addition had to elect to complete the Skill Matching forms to enable their details to be entered on SMD.<sup>15</sup> The information provided by applicants scoring the 'pool mark' of 70 or more was placed on the SMD for two years.<sup>16</sup>

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11 SA Government, Submissions, p. 389.

12 SMD contains educational and employment details of skilled Independent applicants. See Chapter 4 for a description of SMD.

13 SA Government, Submissions, p. 388.

14 DEWRSB, Evidence, p. 373.

15 DIMA, *General Skilled Migration* booklet 07/01, pp. 7, 17, 29; SA Government, Submissions, p. 404.

16 DIMA, *General Skilled Migration* booklet 07/01, p. 18.

- 5.15 Skilled potential migrants may have elected to apply for a \$150 SMV, which is not points tested, rather than for a Skilled Independent Visa. To be eligible for the SMV the applicants had to be under 45 years of age; have post-secondary qualifications which were recognised in Australia; have a vocational level of English and have worked in a listed skilled occupation for at least six of the preceding 12 months. Those who met these threshold requirements had their details entered on the SMD.<sup>17</sup>
- 5.16 The requirements for Independent applicants were more specific and demanding than those choosing the SMV. Applicants could gain most of their points (40, 50 or 60) on the basis of skill as assessed against their post-secondary qualifications. They could also be awarded up to 30 points if aged under 45 as well as points for 'vocational' (15) or 'competent' (20) English language ability. Further points were awarded for specific skilled work experience (5 or 10); whether they had an offer for a job on the Migration Occupation in Demand List (5 or 10); for Australian qualifications (5 or 10); for spouse skills (5), as well as some bonus points.<sup>18</sup>
- 5.17 It appeared to the Committee that, although points could be gained for a variety of criteria, there were effectively thresholds of age, skill and language achievement which had to be met by Skilled Independent potential migrants. Those scoring 70 and thus becoming eligible for STNI could be expected to be less than 45 years of age, skilled, with appropriate qualifications and at least vocational English.
- 5.18 At any one time the SMD contained details of some 1,000 potential migrants with an average turnover of more than 100 listings each month as the two-year listing period expired for some and as new applicants were added.
- 5.19 Most intending migrants listed on SMD had sufficient points to come to Australia as Independent migrants.<sup>19</sup> The remainder comprised those who put in SMV applications and also those who had achieved the threshold 'pool mark'. These two latter groups were of prime interest to the States and Territories because they were potential migrants whose move to Australia depended on being nominated.<sup>20</sup>

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17 DIMA, Submissions, pp. 25-26.

18 DIMA, *General Skilled Migration* booklet 2001, pp. 25-37. Spouse skill points are available if the spouse satisfies the basic requirements of age, English language ability, qualifications, nominated occupation, recent work experience and has a suitable skill assessment.

19 910 of 1059 listed (86%), DEWRSB, Evidence, pp. 372-73.

20 SA Government, Submissions, p. 389.

## Safeguards

- 5.20 STNI did not guarantee the migrant employment in Australia. The State and Territory Governments who nominated a migrant under STNI ran the risk that the person would fail to find employment.
- 5.21 Steps taken to reduce this risk were:
- the requirement that the applicants' occupations were on the Skilled Occupations List, which guarded against unskilled applicants with poorer employment prospects being invited to migrate;
  - the data on skill shortages gathered in the State or Territory audits of their local skill shortages, which improved the chances for the STNI migrants getting jobs;
  - the final decision on nomination being made by the State or Territory which would be aware of the level of risk; and
  - an assessment of the applicants' intentions to reside and work in the nominating jurisdiction.
- 5.22 In addition, in the case of potential Independent migrants who had achieved the threshold 'pool mark', nominating jurisdictions had:
- knowledge of whether the applicants had merely narrowly qualified for STNI or had scores which, because they were nearly sufficient to enable them to migrate under the existing Independent category, indicated good employment prospects; and
  - information on the application form indicating whether the applicants' occupations were on the Migration Occupations in Demand List for the nominating jurisdiction, and therefore whether they would have significantly better prospects of obtaining early employment than other intending migrants in the pool.

## Attractions of the scheme

- 5.23 STNI had attractions for the States and Territories and for the migrants whom they nominated.

## For the States and Territories

- 5.24 Instead of the States and Territories having to search out potential migrants to fill identified skills shortages, STNI provided a means of

discovering details of potential migrants including their skills, employment and educational backgrounds.

- 5.25 STNI therefore offered the potential for a fast, up-to-date recruiting pool to meet local skill shortages.

### **For the potential migrants**

- 5.26 STNI gave those who had not gained a pass in the points test and therefore would not normally be able to migrate to Australia the opportunity to do so.
- 5.27 Although they were not guaranteed a job in the State or Territory to which they migrate, they were selected by a State or Territory for STNI on the basis of an audit of local skill shortages. The migrants might therefore expect to be able to gain employment.
- 5.28 For those using SMV, another attraction was its low initial cost, with no further charges until they were nominated.

### **Utilisation**

- 5.29 When the Committee reviewed SsMM, STNI had been little used, with most interest being shown by the South Australian Government. Until the end of 2000 it had been the only State to sponsor migrants (generally specialised nursing staff) under STNI.<sup>21</sup> Tasmania considered that the State's relatively high unemployment and low employment growth made STNI unattractive, but monitored the South Australian experience.<sup>22</sup> Both Victoria and the ACT had begun to use STNI in 2001.<sup>23</sup>
- 5.30 Queensland had not used the scheme, possibly because it was not confident of entrants under that category were committed to remain in the area in which they indicated that they were prepared to settle.<sup>24</sup>

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21 SA Government, Submissions, p. 73.

22 Tasmanian Government, Submissions, p. 91, Evidence, p. 303.

23 ACT Government, Evidence, p. 397-98; DIMA, Evidence, p. 466.

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

Table 5.1 STNI: Annual visa grants by State/Territory – 1997/98 – 2000/01

	NSW	Vic	Qld	SA	WA	Tas	NT	ACT	Total
1997/98	0	0	0	16	0	0	0	0	16
1998/99	0	0	0	169	0	0	0	0	169
1999/00	0	0	0	9	0	0	0	0	9
2000/01	0	47	0	36	0	0	0	2	85

Source DIMA, *Submissions*, pp 415-17; Minister for Immigration & Multicultural Affairs Media Releases 77/2000, 98/01.

## Conclusion

5.31 The Committee concluded that STNI was not a major component of SsMM.

## STNI in practice

5.32 South Australia was the only jurisdiction with any experience of STNI at the time of the Committee's review, so the Committee's examination of the operation of STNI deals only with the South Australian experience.

5.33 When a search of the SMD identified an intending migrant with skills, qualifications and experience which match a trade or occupation in short supply, the government contacted the person and sought confirmation that they could meet additional requirements under STNI, including:

- their ability to settle in the State; and
- their intention to reside and work in the State.

5.34 If the State was satisfied, it recommended that DIMA process the application, whether it was for a Skilled STNI visa or SMV. The processing included standard health and character checks and, in the case of SMV applicants, a requirement to pay the full visa cost.<sup>25</sup>

5.35 The South Australian Government's main STNI activity took place shortly after the program was initiated. Most of the migrants who were nominated as a result were approved in the 1998/99 financial year. The following year, approvals fell from 53 to 3. The South Australian Government attributes this drop to the low numbers of suitably qualified applicants entering the SMD.<sup>26</sup>

5.36 The Government did not comment on the success of the nominees in finding work in South Australia.

25 SA Government, *Submissions*, p. 405.

26 SA Government, *Submissions*, p. 389.

## Issues raised

5.37 Although South Australia was the only jurisdiction which raised issues based on direct experience of STNI, other States and Territories made comments about the scheme. The issues raised were:

- usefulness of the skill matching database;
- resource implications;
- employment opportunities;
- legal obligations; and
- settlement intentions.

## Usefulness of the Skill Matching Database

5.38 The South Australian Government's experience of STNI and SMD was that:

since that first original sort of 1,000 names, every month we have only been seeing a small number of people going onto the database, maybe only 80 or 100 people, and that is across all occupations that are available.... Our shortage list here is very small so we see very few people who have the skill set that we are looking for. We find whilst every month we go through the new database we receive, we have had very limited opportunity to nominate people under that scheme.<sup>27</sup>

5.39 The Northern Territory Government also mentioned the lack of sufficient numbers in the SMD.<sup>28</sup>

5.40 The South Australian Government noted that the SMV had been introduced to attract more applicants and that more than 14,000 Independent migrant visas were issued in 1999/00. Yet the SMD generally held fewer than 1,000 applicants in any one month. On average fewer than 120 applicants were added to the SMD each month as others dropped out.

5.41 SMV, introduced in July 1999, had contributed only 20 potential migrants to the SMD by the end of the financial year.<sup>29</sup> The South Australian Government's view was that, overall,

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27 SA Government, Evidence, p. 403.

28 NT Government, Submissions, p. 136.

29 SA Government, Submissions, p. 390.



less than 10% of independent migrants' data actually enters the SMD... this figure needs to be increased substantially for South Australia to gain maximum advantage from the scheme.<sup>30</sup>

- 5.42 The Government also expected the pressure on SMD to increase as more States and Territories began to use it for STNI.<sup>31</sup> The implications were that a larger SMD was necessary, and that it would make STNI more useful and therefore more used.
- 5.43 The Committee was aware that there was no requirement that skilled Independent applicants participate in SMD. They are invited to do so if they:
- are uncommitted in terms of their place of intended residence or they intend to settle in a target area.<sup>32</sup>
- 5.44 The Committee considered that intending migrants who had already purchased a *General Skilled Migration* booklet and its application forms, had submitted a formal application, and been assessed under the points test, would have already considered where they preferred to settle. They could be reluctant to reconsider their destination and therefore be uninterested in SMV.
- 5.45 In the *General Skilled Migration* booklet the SMV option is prominently displayed and explained in a page of text.<sup>33</sup> In sharp contrast the STNI option is not given special prominence, being included as one paragraph within the 'Independent Categories' section. These categories are initially defined as being for:
- those who do not have a sponsor, or who choose not to be sponsored.<sup>34</sup>
- 5.46 Paradoxically, the subsequent explanation of STNI outlines the process which enables:
- possible nomination by a State or Territory government or employer.<sup>35</sup>
- 5.47 The Committee considered that the subtle definitional distinction between applications which might involve *sponsorship* and those involving *nomination*<sup>36</sup> would not encourage STNI applications.

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30 SA Government, Submissions, p. 390.

31 SA Government, Submissions, p. 390.

32 DIMA, Submissions, p, 25.

33 DIMA, *General Skilled Migration* booklet 7/01, p. 18.

34 DIMA, *General Skilled Migration* booklet 7/01, p. 16.

35 DIMA, *General Skilled Migration* booklet 7/01, p. 17.

## Conclusion

- 5.48 The Committee noted that the number of applicants in the SMD had increased subsequent to the submissions which had commented on its limited usefulness.<sup>37</sup> However, as it indicated in its consideration of RSMS, the Committee too had concerns about the SMD.
- 5.49 The Committee concluded that STNI could benefit from a fuller explanation of its aims and requirements in the *General Skilled Migration* booklet, and reiterated its recommendation (No. 6) that the use of the SMD should be reviewed in 2003.

## Resource implications

- 5.50 In its description of STNI, DIMA highlighted the fact that:
- a State or Territory must be prepared to commit some level of resources to the nomination process.<sup>38</sup>
- 5.51 The Northern Territory Government explained that resources would be needed for research and a skills audit, possibly requiring additional staffing.<sup>39</sup> The ACT Government nominated the resource demands of STNI as a reason for not pursuing it.<sup>40</sup>
- 5.52 The Committee considered it significant that South Australia was not only the major user of STNI but was also the main user of RSMS. Both schemes use the SMD, and both require research into skill shortages. It appeared to the Committee that the South Australian decision to centralise its administration had brought some economies of organisation, research and processing which made STNI a less onerous scheme for that State than it was perceived to be by other jurisdictions.

## Conclusion

- 5.53 The Committee concluded that the resource demands complained of were necessary. It was important that there were audits to establish skill gaps prior to bringing in STNI migrants because it would benefit the sponsoring government, the credibility of the scheme, and the migrants themselves if they quickly found work.

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36 DIMA, *General Skilled Migration* booklet 7/01, p. 4 defines *sponsor* as a “relative who is living in Australia, is an Australian citizen or permanent resident...”, but does not define *nomination*.

37 In March 2001 it held 1324, with 182 new applicants having been added and 105 removed during the month. DIMA, *Submissions*, p. 525.

38 DIMA, *Submissions*, p. 28.

39 NT Government, *Evidence*, pp. 130-31.

40 ACT Government, *Evidence*, p. 398.

## Employment opportunities

5.54 The Tasmanian Government indicated that one of the reasons it had not taken up the STNI arrangements was that it wished to be sure that the migrants which it sponsored would be employed. Informal research among employers found that:

most employers would have preferred to have seen the person before they committed to them.<sup>41</sup>

5.55 The Committee recalled that this sentiment was evident in the sponsorship arrangements which it had examined under RSMS, where more than half the migrants had prior work experience with the sponsoring employer.<sup>42</sup>

## Conclusion

5.56 The Committee considered that, from the employers' point of view, offering employment to a familiar employee under RSMS could be more attractive than taking on an unknown government-sponsored one under STNI. The Committee concluded that prudent State and Territory Government concern with the potential employment of their nominees would continue to restrain their use of STNI.

## Legal obligations

5.57 The Northern Territory Government said that a 'major concern' about STNI was the government's potential liability if its nominees failed to find work.<sup>43</sup> The legal opinion it provided to the Committee indicated that there were no court decisions concerning the specific issues raised by STNI arrangements, but advising that written disclaimers of liability for inaccurate information should accompany each submission of skills audit information and that:

there is significant exposure to the risk of a successful action... if such disclaimers are not included.<sup>44</sup>

## Conclusion

5.58 The Committee noted that the South Australian Government had not reported legal problems with its STNI nominees.

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41 Tasmanian Government, Evidence, p. 303.

42 DIMA, Submissions, p. 469. See Chapter 4, under *Prior connections*.

43 NT Government, Submissions, p. 136.

44 NT Government, Submissions, p. 295.

## Settlement intentions

5.59 The Northern Territory Government expressed reservations about whether the effort expended to attract STNI migrants would be repaid because:

STNI has no enforceable contractual obligations... most of the skills in short supply in the Northern Territory are also listed as national shortages...increase[ing] the probability of an interstate drift... for migrants nominated by the Territory under STNI.<sup>45</sup>

5.60 The Northern Territory Government considered that it would not be able to devise a legally enforceable requirement for an STNI migrant to remain in the Territory for a nominated period.<sup>46</sup>

5.61 Similarly, in Queensland, the Committee heard that there could be reluctance to use STNI because the applicants were:

not committed in an employment or other sense to remain in the area that they might indicate they are prepared to settle.<sup>47</sup>

5.62 South Australia, the only State with direct experience of STNI, had not voiced such concerns, but had taken the precaution of requiring evidence of the migrants' intentions to settle in the State.<sup>48</sup>

## Conclusion

5.63 The Committee agreed that there was a risk that STNI migrants might not remain within the sponsoring jurisdiction, but concluded that South Australia's experience with its approach indicated that this was not a serious problem.

## Measuring success

5.64 The Committee considered that the success of STNI might be assessed from:

- the numbers involved;
- whether the local skill needs were met;

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45 NT Government, Submissions, p. 136.

46 NT Government, Submissions, p. 136.

47 DIMA, Evidence, p. 182.

48 SA Government, Submissions, p. 405.

- whether the nominating State/Territory was satisfied with the scheme's arrangements;
- whether the nominating State/Territory was satisfied with the outcomes of the scheme;
- whether the nominees were satisfied with the mechanics of the scheme;
- whether the nominees were satisfied with the outcomes of the scheme;
- how long the nominee remained; and
- whether there had been a positive effect on the local labour market, economy, and population.

## Numbers

- 5.65 By the end of the 1999/00 financial year, after 31 months of operation, 58 skilled workers had been nominated as suitable migrants and were going (or had been) through the DIMA approval process. All had been nominated by the South Australian Government, which expected a total of 196 people to migrate as a result of the nominations.<sup>49</sup>
- 5.66 As indicated above, the use of STNI was restricted by the small pool of potential migrants and the resource commitment required of States and Territories wishing to make use of that pool.

## Conclusion

- 5.67 The Committee considered that the resource demand might be relatively less onerous in jurisdictions where administration of STNI was centralised, as it was in South Australia. The recent decision by other jurisdictions with centralised administrations, Victoria and the Australian Capital Territory, to pursue STNI reinforced the Committee's view. Even so, the Committee thought that, overall numbers nominated under STNI would remain low.

## Meeting local skill needs

- 5.68 One measure of success of STNI would be whether the migrants nominated on the basis of their potential ability to fill a skill shortage actually did so. DIMA suggested a slightly different measure. Rather than focus on how well the migrants filled the skilled vacancies, the criterion might be broader, ie the proportion who gain employment within

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49 SA Government, Submissions, p. 389.

the nominating jurisdiction. DIMA also considered that some time (6-12 months) might be allowed for this to happen.<sup>50</sup>

### Conclusion

5.69 There were no details available to the Committee which would allow it to assess STNI under those criteria. In addition, the Committee considered that the small numbers thus far involved would not have provided a useful guide to future success of the scheme in meeting local skill needs.

### Nominator satisfaction with arrangements

5.70 The dissatisfaction expressed by a number of jurisdictions with the numbers of potential skilled nominees in the pool and the resource implications of skills audits, was examined above.

### Conclusion

5.71 The Committee concluded that more applications for inclusion in SMD, the STNI source, could be encouraged by a clearer exposition of the schemes in material supplied to the intending migrants.

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### Recommendation 11

5.72 **The Committee recommends that DIMA revise the STNI entry in the *General Skilled Migration* booklet prior to the next edition.**

### Nominator satisfaction with outcomes

5.73 The South Australian Government made no comment on the outcomes.

### Conclusion

5.74 In the absence of adverse comments on employment outcomes the Committee concluded that their STNI outcomes were satisfactory.

### Nominee satisfaction with arrangements

5.75 The South Australian Government stated that its contact with 150 potential nominees led to only 58 being nominated.<sup>51</sup> The Government may have found, on further contact, that the applicants approached were

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50 DIMA, Submissions, p. 35.

51 SA Government, Submissions, p. 389.

not suitable, or that the applicants themselves were not satisfied with the arrangements under STNI.

- 5.76 There was some evidence that STNI was seen less attractive than straightforward migration under the Skilled Independent stream. In 1999 the skilled Independent migration pass mark was reduced,<sup>52</sup> making many in the pool eligible to migrate under skilled Independent arrangements. If the low number accepting STNI was a result of this, it would indicate that the potential migrants preferred the Skilled Independent Visa to STNI. As neither scheme guaranteed employment it appears that one factor in the migrant's decision would have been the apparent STNI restriction on the freedom to settle anywhere in Australia.

### **Conclusion**

- 5.77 There was insufficient information concerning nominee satisfaction for the Committee to reach any firm conclusion. The limited evidence did, however, suggest that potential skilled migrants were wary of the conditions imposed by STNI.

### **Employee satisfaction with outcomes**

- 5.78 There was no information on which to assess this aspect of STNI.

### **Duration of settlement**

- 5.79 The Committee considered that the small number of participants and the relatively short time they would have been in Australia prevented any useful assessment of success or otherwise of STNI against this criterion.

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

- 5.80 Similarly, it was not possible for the Committee to reach any conclusions concerning the effect of the scheme at the local level.

### **Summary**

- 5.81 STNI is applicant, not demand, driven. The number of nominees depends on the number of eligible applicants in the SMD. This in turn depends on the numbers applying for SMV and on how many seeking Skilled

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52 Minister for Immigration and Multicultural Affairs, *Media Release 62/99*, 29/4/99.

Independent migration score the 'pool mark' but not the pass mark and who also decide that they want their details made available to potential sponsors.

- 5.82 STNI competes with RSMS. The SMV is a source of both STNI and RSMS nominees. Of the two, RSMS is likely to be the more attractive, because it offers employment to intending migrants.
- 5.83 In view of the small pool of potential nominees, and the competition for those applicants from RSMS, the Committee considered that that STNI was not likely to be a major component of SsMM.
- 5.84 In view of the apparent low take-up of SMV, the Committee reiterates its earlier recommendation (No. 6) that the operation of the SMD be reviewed.