

## **MIA submission on the Review of the Migration Occupation in Demand List (MODL)**

The Migration Institute of Australia (MIA) believes there are two major points of concern and contention in relation to the General Skilled Migration (GSM) program. The MIA submits that the outcome of the MODL review should aim to provide a resolution to these two major issues within the GSM program; namely that of simplification of the scheme and also stability of the program.

The MIA recognises the need for the Commonwealth Government to review the Migration Occupation in Demand List (MODL) in the light of either current economic conditions or the efficacy of the MODL as a tool to address Australia's skills shortages.

### **Need for stability and transition arrangements**

The current system currently operates with a Skilled Occupation List, a MODL, a Critical Skills List and various lists for state/ territory nomination. Overwhelmingly, these lists are also subject to great change and create convulsion in the process of individuals obtaining permanent residence.

The MIA believes that stability of the lists (whether MODL or otherwise,) particularly for current students, is vital to the program. The practice of implementing MODL changes retrospectively, or not allowing sufficient time to elapse in modifying the MODL, denies applicants natural justice.

Justification of sudden changes which adversely affect current students by claiming that the Student Visa program and the GSM program are quite separate and discrete programs flies in the face of the fact that there is a clearly defined pathway for students to apply for GSM. It also ignores the fact that these students have paid very large amounts of money to study in Australia, often with the legitimate aim of accessing the established GSM pathway.

While radical changes which have to affect all stakeholders could not possibly have a transition period, changes to something such as the MODL can and should have a transition period for stakeholders who may be adversely affected by such changes. The lack of such a transition period does nothing for Australia's reputation as an international education provider, or as a nation where fairness and good sense are valued.

### **Concerns about the methodology of creating the MODL**

The MIA also has concerns about what the methodology of creating MODL would be. The MODL is created after consultation with groups such as the Department of Education, Employment and Workplace Relations (DEEWR), key industry bodies and unions. Many occupations or skills shortages, particularly in regional areas, are off the radar of as many small businesses have little or no contact with these groups.

Currently the MODL is restricted to 60 point occupations (which have a specialised skills assessing authority). This potentially denies otherwise qualified and attractive applicants in 50 point occupations (such as geologists, construction project managers and urban planners) from accessing the GSM program.

## **Role of the MODL in GSM**

The MIA believes that the review of the MODL is but one means of correcting inadequacies in the current GSM program, and it should not be the sole method of correction, or considered in isolation from other issues.

Indeed it would appear the some matters to do with the MODL in particular, and to the GSM program in general, have already been decided. The Select Legislative Instrument 2009 No. 237 of 17 September 2009 now allows for the possibility of a MODL to be applied to particular visa classes and subclasses.

Issues paper 2 does raise the concern that having a Future Skills List applying only to new applicants would have a group of applicants being given visas on the basis of skills "*which have been identified as no longer meeting the objectives of the Future Skills List*". This is quite a false argument, for skills (or occupations) do not, in reality, suddenly become in or out of demand overnight.

Changes to the MODL, or the creation of Future Skills List and its use, need to be relatively long-lasting. Frequent sudden changes not only adversely and unfairly affect current students in Australia, but also make the giving of meaningful advice by the migration advice profession impossible. In this regard, the MIA strongly endorses the principle that changes to the MODL should not be driven by short term economic or political imperatives, and that one of the criteria for any occupation being placed on the list is the long-term needs of Australia.

### **Option A**

The first model presented in the issues paper of an abolished MODL list and selecting applicants based on the relative merits does address to an extent the issues of simplification and stability.

The announcement on 23 September 2009 of a new direction for priority processing of visa applications would seem to indicated that the Government has already dismissed this option.

### **Option B**

The second model presented of a more targeted MODL has largely been eschewed by our members. Whilst the MIA recognises the government would be looking to create a more targeted MODL system, the current MODL has created a scheme whereby few occupations outside of the MODL are used as the basis for applicants accessing the GSM program. Should a MODL points be awarded to applicants in line with the second model, the relevant points allocated to this should be scaled down to counter this overemphasis on this alone as the basis of permanent residence.

### **Option C**

The third model of a Future Skills List operating in a similar way to that of the current interim measure of the Critical Skills List could have the capability of creating stability within the program in terms of eligibility, however will do little in terms of simplification of the system. It also provides little certainty for applicants in terms of processing timeframes as their occupation falls on and off an ever-changing list. Should this third model be implemented as a result of the MODL review, the MIA would hope that the government would be mindful of providing sufficient warning of changes

to the list. This would then enable future visa applicants, particularly those studying in Australia, to make informed choices in relation to their visa options in Australia and plan accordingly.

### **Alternative concept of Future Skills List**

This concept of a Future Skills List also provides the opportunity to consider a list of skills, rather than occupations. A future Skills List which is merely a revamped list of occupations will, in itself, do little to improve the General Skilled Migration program. However, A Future Skills List which identifies, in some way, skills rather than occupations, would more accurately reflect the reality of the emerging job market and requirements, where general and generic skills, rather than occupation-based skills, are required.

Despite the claim in Issues Paper 2 that Issues paper 1 “*explains how a Future skills List could be devised*”, that paper spoke of the “need for a new MODL” and “*proposed principles for a new MODL*”, and while it mentioned “*skills of high value*”, this was in the context of “*occupations to be included on MODL*”. Indeed, the term “Future Skills List” does not seem to appear in Issues Paper 1.

While Issues Paper 2 does have some consideration of the concept of a list of skills rather than occupations (page 12 *Would a future Skills List be solely focussed on occupation?*”), this matter needs further research. Issues Paper 2 is still very much married to the concept of a Future Skills List being an occupation list.

If a Future Skills List is to be a genuine skills list, it will have the benefit of removing many of the current problems and inadequacies (noted in Issues Paper 2) of having an occupation list having such a prominent position in the GSM process and being a component of the Points Test.

### **Concluding remarks**

Reviewing the limited models presented in the Issues Paper, the first option would appear to be the best for dealing with the two major concerns of both simplifying the process and also providing stability for the program. Particularly given the time that elapses between an applicant making a visa application and being granted permanent residence, looking to source people with a more generalised skill set, and thus greater flexibility to integrate into a skilled occupation in the Australian labour market, would greater serve the longer term interests of Australia.