16 July 2010

Director
Deregulation Strategy Section
Department of Immigration and Citizenship
PO Box 21
Belconnen, ACT 2615
deregulation@immi.gov.au

Also sent by email

Dear Sir / Madam

Thank you for the opportunity to respond to the Department of Immigration and Citizenship (DIAC) discussion paper *Simpler visas: Creating a simpler framework for temporary and permanent entry to Australia.*

We would like the opportunity to be consulted on further developments of policy in this important area before any final policies are promulgated.

Please find attached a submission from the Migration Institute of Australia (MIA) in response.

Yours sincerely,

Maurene Horder
Chief Executive Officer
The Migration Institute of Australia (MIA)

MIGRATION INSTITUTE
— OF AUSTRALIA —

The Migration Institute of Australia (MIA) supports in principle the initiative of the Department of Immigration and Citizenship (DIAC) to rationalise Australia's visa framework in order to make it simpler and more efficient.

The current framework is far from simple. It features an unnecessarily large number of visa Subclasses and has grown in an ad hoc manner through a series of legislative amendments, resulting in a lack of consistency in regulatory requirements and definitions.

Simpler visas: Creating a simpler framework for temporary and permanent entry to Australia represents a sensible, if cursory, start to this rationalisation process. It reads:

> *Following consideration of responses, a final discussion paper will be released to stakeholders later in the year proposing initiatives to simplify present temporary residence and visitor visa arrangements, prior to the Government taking any decisions.*[1]

That tiered process is consistent with the MIA's desire for greater attention paid by DIAC in legislative and regulatory rollout, and for great consultation amongst affected stakeholders. The impact of the discussion paper in question, however, is less than clear. It is obscured by equivocation and ambiguity of language and much of its very intent is left unsettled by the superficiality of its limited brief.

The following represent the Institute's standing and potential concerns:

Insufficient Definition
Due to the vagaries of this discussion paper's visa rationalisation program, it cannot be regarded as adequate consultation, but as an early starting point:

1. The options put forward in *Simpler visas* cannot be read as the only options as that might limit the options and proposals available in the "final discussion paper";

2. *Simpler visas*' timeline for proposed changes must also be read as a guideline only, so as not to prevent genuine consultation with stakeholders;

3. The broad principles of simplification of the visa framework, as laid out in the "Why simplify?" section are sensible and well-reasoned.[2] The "Examples" sections, however, are simplistic and smack of hasty preparation.[3] Initial work would better focus on identifying the reasons for Australia-bound migration, as well as research into migration programs in similar countries, particularly Canada, in order to identify peak performance guidelines and potential pitfalls in implementation and rollout. A simple, rushed or incomplete rejigging will prove inadequate.

Insufficient Consultation
Consultation with stakeholders cannot be limited to providing written responses to discussion papers:

1. Consultation must be expanded to emphasise face to face discussions with stakeholders, including the MIA, the peak professional organisation representing Registered Migration Agents (RMAs). Due to their closeness to visa applicants and their range of experiences, RMAs are often able to foresee better than lawmakers the consequences of proposed changes.

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[1] Department of Immigration and Citizenship (DIAC) Discussion Paper, "Simpler visas: Creating a simpler framework for temporary and permanent entry to Australia," June 2010, page 6.
[2] DIAC, page 9.
[3] DIAC, page 13-19.

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Potential for Overreach

The "Overview" section states that this project will "ensure that clients who currently are eligible for a visa will remain eligible for a visa within the simplified visa framework."[4] It is the MIA's sincerest hope that this objective remains a priority throughout the Department's overhaul of the visa class system:

1. There must be no fewer options for clients at the end of the process than at the beginning;

2. Gaining a visa must not be more arduous for legitimate, legal applicants and potential applicants following this project;

3. Changes to legislation cannot be able to authorise further subordinate legislation giving unfettered powers, and that delegated powers be restricted.

Potential for Confusion

It is stated in the "Overview" section that this project will "make it easier for clients to determine what visa option is most appropriate."[5] For this to come to fruition, several changes must be implemented between *Simpler visas* and the next stage of public consultation:

1. New visa classes and subclasses must be named in a way intelligible to clients not bureaucrats:
    a. The difference between "Work and Holiday" and "Working Holiday" is not readily apparent;
    b. "Domestic Working – Executive" is clunky and possibly counterintuitive;
    c. "Government Agreement" is obscure at best;
    d. "International Relations" is actually a step backwards into opaqueness and confusion for Subclasses 406, 427, 417 and 462.[6]

2. Intended to "identify and address inconsistencies in legislation which leave clients confused"[7], this project must implement language rationalisation based on legal and tribunal precedent, rather than the caprices of the law writers, including a full examination of situations in which redundancies and inconsistencies have and will arise and a rigorous language guide so as not to fall prey to this piecemeal construction in the future.

The MIA would gladly be part of a genuine consultative discussion to ensure that the review and restructure of the migration program is based on accountability, transparency, fairness and efficiency.

[4] DIAC, page 5.
[5] DIAC, page 5.
[6] DIAC, page 13.
[7] DIAC, page 5.

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