



**Submission to
the Department of Immigration and Citizenship.**

Discussion paper – December 2010

***Simpler visas: Implementing a simpler framework for temporary residence
work visas***

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About AMMA

The Australian Mines and Metals Association (AMMA) represents all major minerals, coal and hydrocarbons producers and associated processing and service industries, plus a significant number of construction and maintenance employers in the resource industry.

In particular, AMMA member companies operate in the following industry areas:

- Exploration for minerals and hydrocarbons;
- Metalliferous mining, refining and smelting;
- Non-metallic mining and processing;
- Coal mining;
- Hydrocarbons production (liquid and gaseous); and
 - Associated services such as:
 - Construction and maintenance;
 - Diving;
 - Transport;
 - Support and seismic vessels;
 - General aviation (helicopters);
 - Catering; and
 - Bulk handling of shipping cargo.

The resource industry

The Australian resource industry makes a significant contribution to Australia's wealth and prosperity, underpinning critical supply and demand relationships with the Australian manufacturing, construction, banking and financial, process engineering, property and transport industries.

The industry contributed just under \$160 billion to export earnings in 2008–2009¹, along with more than 80 per cent of total commodities exports; close to 70 per cent of total merchandise exports; and 56 per cent of total goods and services exports.

The growth of mineral commodity exports since 2003–04 has been phenomenal, driven largely by strong demand, particularly for iron ore and coal. The value of iron ore exports increased from \$5.3 billion in 2003–04 to \$34.2 billion in 2008–09. Metallurgical and thermal coal increased in value from \$6.5 billion to \$36.8 billion and from \$4.4 billion to \$17.9 billion respectively over the same period.

There is no doubt the Australian resource industry is experiencing difficulties securing sufficient skilled labour and professionals to meet its operational requirements. While shortages have traditionally existed for professional personnel and demand for these roles continues to be the highest of all the occupational groups, demand for tradespersons and

¹ Parliamentary Library, 23 September 2010, Background Note: The Australian Resources Sector – its contribution to the nation and a brief review of issues and impacts.

semi-skilled workers now also exceeds supply. (See Attachment A of this submission for details).

About this submission

The Department of Immigration and Citizenship (DIAC) in December 2010 released a discussion paper seeking stakeholder views on the proposed simplified visa framework for the temporary residence work visa group.

AMMA has prepared this submission in response to the discussion paper to help inform the development and implementation of the new temporary residence work visa framework.

It is important to note the concerns and recommendations raised in this submission only relate to the proposed introduction of the Short Stay Activity Visa ('SSAV').

ISSUES OF CONCERN

The need for a short-stay visa

Australia's current temporary (long-stay) 457 visa program plays an important role in attracting people with the skills Australia needs. A survey of AMMA members conducted in late 2010/early 2011 (see Attachment A for details) revealed a little more than half of AMMA's members currently utilise the temporary (long-stay) 457 visa program to supplement their employment and training of Australian workers.

With the skills shortage expected to deteriorate in the coming years, resource industry employers will shortly face the prospect of having to delay projects until the skilled labour they require can be accessed from overseas. Accessing this labour is not always a quick and easy process for employers with urgent projects in the pipeline.

AMMA therefore welcomes the proposed Short Stay Activity Visa (SSAV) which would facilitate the entry of persons for short-term work and specialised activities where there is a genuine requirement for their expertise. In particular, AMMA supports the proposal in relation to the SSAV that due to the non-ongoing nature of business activities and the short period of stay covered by this visa, formal sponsorship would not be required on a SSAV.

It is not uncommon for the lead time before a project commences in the resource industry to be very short. The current temporary (long-stay) 457 visa system is not sufficiently flexible to allow employers to bring workers in quickly and easily for urgent projects. Currently it can take longer to process an application and collect the required documentation than the time the worker will actually spend working on a project.

Given the significant contribution of resource projects to the Australian economy, some much-needed flexibility should be built into the system to cater for short-term projects as well as those with a short lead time. Unfortunately, there are currently no options available to bridge the gap between the 456 visa, which allows work in limited situations for up to 3 months in Australia, and the current temporary (long-stay) 457 visa, which allows a worker to remain in Australia for up to four years.

AMMA welcomes the DIAC proposal to introduce a SSAV which would address the concerns of AMMA members for short or urgent projects where the skills or expertise are not accessible in Australia. In doing so, DIAC should introduce measures to address the needs of employers on short-term and urgent projects to enable them to access visas more quickly and effectively.

How is 'short-term' work defined?

In the resource industry, it is not uncommon for projects to run for a few weeks to a few months, particularly, in offshore oil and gas. AMMA is therefore concerned as to how DIAC will define 'short-term work' under the proposed new SSAV especially, as this has not been specified in the discussion paper. This definition is important because some parties might see 'short-term' projects as lasting for two months while others might see them as lasting for two years.

AMMA proposes the period of time for 'short-term work' should be no longer than six months from the date of the application being approved². Six months gives an employer enough leeway to arrange for the visa applicant to travel to Australia, fulfil their contractual obligations on the project and depart to their home country.

Current visa processing times

AMMA is concerned that its members in the resource industry will shortly face the prospect of having to delay projects until the skilled labour they require can be accessed from overseas, which in many cases takes months rather than weeks under the current system.

In cases where the visa applicant is required only for a short-term project, for example a project that spans a couple of months, it is not uncommon under the current 457 (long-stay) visa system for it to take longer to have the visa processed and approved than the time the applicant actually spends in Australia. This is obviously not an optimal situation, especially for resource industry employers who have a strong track record of compliance and often need to access temporary skilled labour in a short timeframe due to operational imperatives.

While AMMA supports the introduction of the proposed SSAV, it has concerns about how long it will take DIAC to process SSAV applications. With DIAC resources already stretched, AMMA proposes an online system be put in place specifically for SSAV applications in order to reduce the administrative burden that DIAC faces with current visa applications. A reasonable processing time for a SSAV should be no longer than two weeks for 'decision-ready' applications.

² AMMA notes that the Australian Taxation Office, as per the International Tax Agreements Amendment Bill 2003, defines a "short-term visit" by a migrant worker as 183 days or six months. It is only after this time that a worker begins to pay tax in Australia as opposed to their home country. DIAC could align its reduced application requirements with this ATO definition and impose different and more onerous requirements on visas that are intended to last for longer than six months.

Assessment of SSAV applications

Under the current 457 (long stay) visa which lasts for up to four years, DIAC requires a comprehensive employment contract, labour market testing and research, and documents containing significant personal information about the health, character, employment history and qualifications of sponsored workers. In some cases it requires English assessment tests and medicals. A requirement for that same amount of information would be excessive for temporary skilled workers who would remain in Australia for less than six months under the proposed SSAV.

AMMA therefore proposes that the documentation required for the SSAV be less onerous than that currently required for assessing a 457 (long stay) visa. For instance, the documentation required for a SSAV should be limited to a letter from the employer detailing the reasons and the need for the applicant's skills for specific work purposes, and evidence by the applicant that their background is relevant to the nature of the proposed work in Australia (this could be by way of a letter from their current employer, or certificates). A SSAV lasting up to six months, and processed and assessed in the same manner as a 456 visa, would be of great assistance to employers in the resource industry.

ATTACHMENT A
2010 SURVEY OF AMMA MEMBERS

Feedback sought by AMMA from its members via a survey conducted in 2010-11 indicates that around 90 per cent of AMMA members are currently experiencing a skills and/or labour shortage, with this situation expected to deteriorate in the next 12 months.

Of AMMA members that are currently experiencing a skills shortage:

- 93.3 per cent said they had a shortage of professionals;
- 66.7 per cent said they had a shortage of trades workers;
- 13.3 per cent said they had a shortage of graduates; and
- 6.7 per cent said they had a shortage of unskilled workers.

While feedback from AMMA members indicates there is some level of skills/labour shortage in most occupations in the resource industry, specific and dramatic shortfalls are currently being experienced for the following occupations:

- Professional engineers;
- Geologists;
- Surveyors;
- OHS professionals;
- Machinery operators and drivers;
- Seafarers;
- Labourers;
- Project managers;
- Upper and middle managers;
- HR/IR professionals;
- Specialist construction trades;
- Quality assurance professionals; and
- Electricians.

The respondents to the AMMA survey said the above listed occupations were difficult to fill because:

- Of competition with other industries (93.3%);
- There were not enough applicants (73.3%);
- Applicants lacked the specialised skills the company needed (60.0%);
- Of difficulties associated with recruiting from overseas (26.7%);
- Of an ageing workforce (20.0%);
- There was a lack of local training for local people to build the skills needed by the industry in the local area (13.3%); and
- Applicants did not have the general skills required (6.7%).

Professionals in highest demand

Professional or degree-qualified employees are the number one occupational group that AMMA's members are expecting to have to recruit from overseas in the near future, with 100 per cent of respondents to the 2010-11 AMMA survey saying they would have to recruit professionals from overseas within the next five years.

Specific occupations within the professional ranks that will need to be recruited from overseas during that time include:

- Professional engineers, including mineral processing and geotechnical engineers;
- Mining and mechanical engineers;
- Surveyors and survey technicians;
- LNG professionals;
- Project delivery professionals; and
- Electricians.

Asked if they expected any difficulties with recruiting the above occupations internationally, 33.3% of relevant respondents expected to face difficulties such as:

- People not being willing to relocate;
- Global demand being high in many areas, especially in the mining industry;
- The logistics involved in travelling overseas to recruit;
- Occupations not being listed on the ANZSCO list;
- Overseas candidates not having the right mix of skills; and
- The onerous assessment of skills from overseas and licensing trades.

Training of overseas workers

The AMMA survey revealed that its members already heavily invest in training the skilled workers they recruit from overseas, with 60 per cent of respondents saying overseas workers would require further training once they were in Australia in areas including:

- Job specific training;
- Occupational health and safety standards;
- Cultural factors;
- English language proficiency;
- Australian workplace norms;
- Conditions of employment; and
- All relevant industry related (and technical/legal) requirements.

It is important to note that the survey reinforced the fact that skilled labour from overseas is only used by the resource industry to fill a temporary shortfall of very specific and highly in demand skills. In the AMMA survey, members were asked how many workers they would sponsor from overseas in 2011, with numbers ranging from 'nil' to '75 plus'.