

Table of Contents

Department of Immigration and Border Protection	2
Non-Contributory Parent and Other Family visas have closed to new applications	2
Visa scheme hit by alleged Bank of China money laundering	2
Immigration officer warns on risk to national security.....	3
Afghan applications 90 per cent flawed.....	3
Australasian College under investigation	4
UN agency seeks to advise High Court on treatment of asylum seekers.....	4
Prosecution of unregistered agent for facilitating migration fraud.....	5
Designated area migration agreement.....	5
Migration Institute of Australia has expressed alarm over migration fraud	6
Find a visa – Country Profiles	6
Recent Court Decisions	8
Bhanot v Minister for Immigration and Border Protection [2014] FCA 848 (14 August 2014) – interesting decision on the issue of the term ‘closely related’	8
Manage v Minister for Immigration & Anor [2014] FCCA 1089 (1 July 2014) - Jurisdictional error	8
Plaintiff S297 – 2013 v Minister for Immigration and Border Protection [2014] HCA 24 (20 June 2014)	9
Minister for Immigration and Border Protection v SZOXP & Anor [2014] FCCA 565 (26 March 2014) – MIBP v SZOXP & Anor [2014] FCCA 565	9
Human Rights	10
Safe at last, after a century of conflict	10
Supporting the fight against forced marriage, human trafficking and slavery.....	10
A.P.B. Education.....	12
Specialist IELTS Test Training and Coaching	12
Contact us.....	13

Department of Immigration and Border Protection

Non-Contributory Parent and Other Family visas have closed to new applications

From 2 June 2014, the following visa subclasses in the Family Stream of the Migration Program have been closed to new applications:

- Parent visa (subclass 103)
- Aged Parent visa (subclass 804)
- Aged Dependent Relative visa (subclass 114 and 838)
- Remaining Relative visa (subclasses 115 and 835)
- Carer visa (subclasses 116 and 836)

The government believes the focus of family migration should be on reunion of close family members. The government gives priority in the Family Stream visas are for the partners, children and contributory parents of Australian citizens and permanent residents.

Parents will continue to have the option of applying for a permanent Contributory Parent visa, either Parent visa (subclass 143/173) for parents outside Australia or Aged Parents visa (subclass 864) for parents in Australia. Alternatively parents can apply for a long stay visitor visa which allows eligible parents to visit their children in Australia for regular periods of up to 12 months at a time over an extended validity period. For many families, temporary stay provides greater flexibility without the need to wait in a queue for years for a permanent visa.

The Senate is debating a Motion of Disallowance of the Regulation to abolish these visas later in September.

<http://www.immi.gov.au/Live/Pages/certain-family-visas-closure.aspx>

Visa scheme hit by alleged Bank of China money laundering

The Significant Investor Visa scheme will take a big hit following allegations by China's state broadcaster that a Bank of China branch had engaged in money laundering to get rich mainlanders' cash out of the country, "such abuse of the system is a matter of real concern" said Managing Partner David Bitel, "if the government is to run an investor migration program it should ensure moneys used by applicants is clean".

http://www.afr.com/p/national/visa_scheme_hit_by_alleged_bank_0fUc7vb3EQtZcnnlsGr5HO

Immigration officer warns on risk to national security

An Immigration Department manager has warned agency chiefs in a confidential memo that the collapse of the department's investigations arms has led to the spread of migration fraud and increased the risk to national security.

An internal briefing documents written in early 2013 by immigration official Wayne Sievers and addressed to immigration security Martin Bowles says investigations teams in several state offices were unviable.

The still serving official's report, calls for an independent inquiry into the decline of the risk, fraud and integrity division of the department and outlines the "very real concerns held by present and former staff".

Mr Sievers, who for seven years was assistant director of the department's national investigations services unit has also claimed department executives are more concerned with keeping its deficiencies secret than acting on fraud.

<http://www.smh.com.au/federal-politics/political-news/immigration-officer-warns-on-risk-to-national-security-20140806-3d8yy.html>

Afghan applications 90 per cent flawed

More than 90 per cent of visa applications from Afghanistan reviewed by Immigration Department officials contained "fraud of some type", according to confidential federal government documents.

An Immigration Department integrity review of Afghan visa applications warned the integrity of the Australian immigration system was under threat because many people from Afghanistan lacked identity documents, which made it difficult to "always verify, with certainty, who is entering Australia". "This also has implications for program misuse, security and character checking," the review warned.

"There appears to be little disincentive for Australian resident or citizen sponsors to add non-biologically related family members, change names and dates of birth of applicants or commit otherwise serious breaches of the Migration Act," the report advised.

The report said the flow-on effect into other program areas was now being felt and that clients were beginning to apply for citizenship with questionable identities and bona fides, particularly regarding the identity and custody of children attached to some applications.

Immigration Minister Scott Morrison this year toughened the rules around proof of identity in visa applications. "With the introduction of a new 10 year exclusion period under PIC 4020 for identity fraud, persons who offend against this condition face a significant penalty," noted Managing Partner David Bitel.

<http://www.smh.com.au/federal-politics/political-news/afghan-applications-90-per-cent-flawed-20140806-3d8yz.html>

Australasian College under investigation

A private training college in inner Sydney is under police investigation following allegations of a multimillion-dollar fraud involving hundreds of “phantom students”.

NSW Police and the Department of Education are investigating claims the Australasian College at Broadway used the details of prospective students to make it look as if they had completed courses that attracted a state government subsidy of \$10,000 per head.

The college is under scrutiny by the regulator, the Australian Skills Quality Authority.

The allegations centre on hairdressing and beauty therapy courses which attracted subsidies from \$4500 to \$10,000 under the state government’s now defunct Productivity Places Program.

It is believed the college claimed up to \$4 million for almost 700 students under the scheme but up to half the students may have been bogus. A Bondi hairdresser enrolled in a diploma of hairdressing and salon management in 2010 but withdrew after two weeks. Documents obtained by Fairfax Media show the college made a claim under his name for a Productivity Places program subsidy.

According to the Productivity Place Program price rates card for that time, the subsidy netted \$9000 for the college on condition that the student completed the course.

Under the Productivity Places Program, which ran from 2009 to 2012, registered training organisations on the state government’s approved providers list could apply for funding to run certain courses with a qualification of certificate IV or above.

<http://www.smh.com.au/nsw/australasian-college-under-investigation-over-subsidy-claims-20140405-365pu.html>

UN agency seeks to advise High Court on treatment of asylum seekers

The United Nations Refugee Agency will seek to appear in a High Court challenge to the Abbott government’s power to intercept boats on the high seas, hold asylum seekers indefinitely on customs vessels and seek to return them to third countries. The full court will hear the challenge on October 14 and 15 and rule to the legality of the government’s recent treatment of 157 Tamil asylum seekers who were held in windowless rooms on a customs vessel for almost a month before their transfer to Australia and then Nauru.

The UNHCR plans to apply to appear in the case, not as a litigant but to assist the court on points of international law.

<http://www.smh.com.au/federal-politics/political-news/un-agency-in-high-court-challenge-to-abbott-governments-treatment-of-asylum-seekers-20140821-106li9.html>

Prosecution of unregistered agent for facilitating migration fraud

An unregistered migration agent was sentenced for migration fraud offences in the Magistrates Court of Victoria. The prosecution is the result of an investigation by the Department of Immigration and Border Protection (DIBP) into unlawful migration assistance to visa applicants. Maria Nani was found guilty of providing false documentation to visa applicants in return for money.

Minister Cash said the former migration agent continued to provide unlawful assistance to visa applicants after her registration was cancelled by the Office of Migrations Agents Registration Authority.

Nani was found guilty of having assisted non-genuine applications for skilled and family visas. She lodged a plea of guilty and was convicted and was sentenced to a community corrections order of 300 hours community service over 18 months across all charges, fined \$10,000 and ordered to pay \$113.90 costs and \$4075 in repatriation orders.

Minister Cash said where the department becomes aware of fraud the matters are fully investigated and can result in criminal and administrative penalties.

This story yet again highlights the importance of migration clients, seeking advice from properly licensed migration agents.

<http://www.minister.immi.gov.au/media/mc/2014/mc217039.htm>

Designated area migration agreement

The Federal Government denies its watering down certain requirements for overseas workers with the development of a 'designated area migration agreement' (DAMA).

A pilot DAMA project is set to be launched in Darwin, negotiations are underway for a similar scheme in the Pilbara in north-west Western Australia.

It will allow employers outside of the resources sector to employ semi-skilled workers from overseas for jobs in areas like cooking or truck driving.

The rationale is that the massive LNG project underway in Darwin will attract a large number of these workers away from small business.

Unions claim it's a way for employers to not meet the strict criteria set out in 457 visas, which require employers to prove they can't source workers locally. They also say it undermines the training and salary provisions built into the 457 system.

Assistant Immigration Minister Michaelia Cash denies that's the case and says the agreement was initially launched under the previous government.

<http://www.abc.net.au/news/2014-08-11/minister-cash-defends-foreign-workers-plan/5663272>

Migration Institute of Australia has expressed alarm over migration fraud

National MIA President Angela Chan said in a statement that the report by Fairfax Media highlighted serious concerns. "Unregistered migration advice is illegal but still continues in Australia, and the Department must be given more resources to deal with this unacceptable behaviour," she said.

In its report, Fairfax media cited secret government files that allegedly showed "entrenched immigration department failings". It claimed allegations of fraud and migration scams were not properly investigated because the department did not have enough resources.

"Unfortunately the department's resources do not seem to allow it to properly deal with all of its main functions: dealing with fraud: processing very large numbers of visa applications, dealing with irregular maritime arrivals and controlling unregistered migration practice," she said.

"Each of these functions is vital to Australia's security and economy and the Department should not be placed in the position of having to juggle resources. There has to be a rethink about the level of funding for the Department and the allocation of that funding."

Immigration Minister Scott Morrison said "the government takes its responsibilities to ensure the integrity of our immigration program very seriously,". "Given the government's strong commitment in this area, I have sought an urgent report from my department on these matters and will consider what further action is then necessary after receiving this initial response."

<http://www.sbs.com.au/news/article/2014/08/08/australian-migration-industry-body-alarmed-reports-rampant-visa-fraud>

Find a visa – Country Profiles

These Country Profiles bring together a whole of country perspective on permanent and temporary migrant inflows and outflows and provides relevant information, including key statistical data, on the different types of visa categories. The Country Profiles also include key findings relating to emigration from Australia as well as migrants' occupation and

demographic characteristics. Collectively, the Country Profiles provide information for 14 migrant source countries. These consist of profiles for:

- the top 10 countries providing the most permanent migrants to Australia, with the addition of Indonesia
- Afghanistan, Myanmar and Iraq—the largest source countries of humanitarian entrants to Australia.

Country Profiles available for 2012-13

- Afghanistan
 - [Country profile - Afghanistan](#) (435kB pdf file)
 - [Country profile - Afghanistan](#) (355kB word file)
- Indonesia
 - [Country profile - Indonesia](#) (477kB pdf file)
 - [Country profile - Indonesia](#) (350kB word file)
- Iraq
 - [Country profile - Iraq](#) (412kB pdf file)
 - [Country profile - Iraq](#) (350kB word file)
- Ireland
 - [Country profile - Ireland](#) (461kB pdf file)
 - [Country profile - Ireland](#) (350kB word file)
- India
 - [Country profile - India](#) (445kB pdf file)
 - [Country profile - India](#) (355kB word file)
- Malaysia
 - [Country profile - Malaysia](#) (465kB pdf file)
 - [Country profile - Malaysia](#) (368kB word file)
- Myanmar
 - [Country profile - Myanmar](#) (413kB pdf file)
 - [Country profile - Myanmar](#) (350kB word file)
- People's Republic of China
 - [Country profile - People's Republic of China](#) (460kB pdf file)
 - [Country profile - People's Republic of China](#) (352kB word file)
- Republic of Korea (South)
 - [Country profile - Republic of Korea \(South\)](#) (460kB pdf file)
 - [Country profile - Republic of Korea \(South\)](#) (352kB word file)
- Republic of the Philippines
 - [Country profile - Republic of the Philippines](#) (466kB pdf file)
 - [Country profile - Republic of the Philippines](#) (360kB word file)
- Sri Lanka
 - [Country profile - Sri Lanka](#) (460kB pdf file)
 - [Country profile - Sri Lanka](#) (383kB word file)
- South Africa
 - [Country profile - South Africa](#) (442kB pdf file)
 - [Country profile - South Africa](#) (366kB word file)
- United Kingdom
 - [Country profile - United Kingdom](#) (478kB pdf file)
 - [Country profile - United Kingdom](#) (348kB word file)
- Vietnam

- [Country profile - Vietnam](#) (485kB pdf file)
- [Country profile - Vietnam](#) (356kB word file)

Being among the top 10 does not mean that a country will be in the top 10 across all visa categories. For example the UK which is Australia's third largest provider of both skilled and family migrants, is only ranked 21st as a provider of international students. Current country rankings based on 2012–13 data provide a succinct insight into this issue showing the major source countries for different migration categories.

See:

[Current Country Rankings](#) (169kB pdf file)
[Current Country Rankings](#) (124kB word file)

<http://www.immi.gov.au/media/statistics/country-profiles/>

Recent Court Decisions

Bhanot v Minister for Immigration and Border Protection [2014] FCA 848 (14 August 2014) – interesting decision on the issue of the term ‘closely related’

The applicant successfully argues that when appealing the Tribunal’s decision finding that a ‘closely related’ occupation could not embrace the work duties of the appellant for the reason that the adverb ‘close’ meant that there must be a substantial connection (i.e. sharing of more than one characteristic) between the nominated skilled occupation of Accountant (General) and the closely related occupation, and that no such relationship existed, erred in law by failing to take into account that the ANSZCO definition of Accountant (General) contextually diluted the stricter definition given to that of Accountant and that the actual duties of the appellant or at least some of them fell within the embrace of the definition.

<http://www.austlii.edu.au/au/cases/cth/FCA/2014/848.html>

Manage v Minister for Immigration & Anor [2014] FCCA 1089 (1 July 2014) - Jurisdictional error

Judge McGuire

Counsel for the applicant argue simply that his opponent’s mathematics are in error and that the times provided and limited by the Notice of Intention to Cancel would have given the applicant a small window of opportunity to make his application prior to the cancellation of his visa. I accept the submission of the respondent on the following basis:

- Time starts running from 25 May 2012;
- The applicant is therefore deemed to have received to have received the notice 7 working days later on 5 June 2012;

- c. The 5 working days permitted for a response expired on 12 June 2012;
- d. The potential extension of a further 5 working days expired on 19 June 2012 being after the receipt by the applicant of his CoE on 15 June 2012.

I therefore reject the respondent's argument of it being a futile to remit the matter for consideration on the basis that the applicant had no opportunity to make his application for a visa within the time permitted by the Notice of Intention to Cancel.

In conclusion, therefore, I cannot be satisfied from the reasons of the Tribunal that it addressed and considered the applicant's argument of 'hardship' accorded him by reason of the loss of opportunity to put submissions before the delegate in response to the Notice of Intention to Cancel of his current visa. I am satisfied that this was a material issue before the Tribunal. I am satisfied that the failure constitutes jurisdictional error. The matter will be remitted to the Tribunal.

<http://www.austlii.edu.au/au/cases/cth/FCCA/2014/1089.html>

Plaintiff S297 – 2013 v Minister for Immigration and Border Protection [2014] HCA 24 (20 June 2014)

On 20 June 2014 the High Court unanimously upheld separate challenges by two asylum seekers who questioned the ability of the Minister to limit or cap the number of protection visas that can be granted. On 4 March 2014 Immigration Minister, Scott Morrison, made a determination limiting the number of permanent protection visas that could be granted during the 2013/14 financial year. The limit of 2773 was reached only three weeks after the cap had been set. The principle question before the Court was whether section 85 of the *Migration Act 1958* (the Act), which enables the number of visas to be granted in a financial year to be capped, was capable of applying to protection visas when the Act simultaneously obligated the Minister to make a decision on a protection visa application within 90 days.

http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2014/June/High_Court_ruling_on_capping_visas_for_refugees

Minister for Immigration and Border Protection v SZOXP & Anor [2014] FCCA 565 (26 March 2014) – MIBP v SZOXP & Anor [2014] FCCA 565

The Migration Review Tribunal (MRT) had accepted that a visa applicant and sponsor had been in a de facto relationship, despite the fact that the couple had never lived together and did not intend to do so until they were married.

The Court found that the MRT had erred in finding that the couple were in fact in a de facto relationship, despite having never lived together.

The Court clarified that the legislation plainly considered that couples who are temporarily living apart must have the intention to resume cohabitation, which would require the parties

to have lived together at some time previously (and which was not the case for this visa applicant and sponsor).

The Court found that the MRT erred in finding there was no legal requirement that the couple live together before a de facto relationship can exist.

<http://www.austlii.edu.au/au/cases/cth/FCCA/2014/565.html>

Human Rights

Safe at last, after a century of conflict

She was born before the outbreak of World War I and has spent much of her life in war zones of fleeing conflict. But Yasmi Houmi, who turned 102 this month, has finally found safety.

Escaping the civil war in Syria, she arrived in Sydney in January as part of Australia's humanitarian settlement program. "All my life I feel like I was running away," Mrs Houmi said as a friend translated. "I'm not scared anymore."

One of the oldest people ever granted refugee status in Australia, a frail Mrs Houmi has been in good spirits since she was flown to Sydney with a United Nations escort. Of the overseas residents granted humanitarian visas in 2012/13, only 231 people – less than 2 per cent – were aged 70 or over.

Australia's humanitarian program was set at 20,000 places in 2012-13 up 6259 places on the previous year. More visas were granted to residents of Syria, where 2.8 million refugees are fleeing conflict than any other country.

The president of the Refugee Council of Australia, Phil Glendenning, had called on the Australian government to increase the country's refugee intake. According to the UN refugee agency, the UNHCR, in 2013 Australia hosted 0.2 per cent of the world's 16.7 million refugees ranking 48th out of 187 host countries.

"Lebanon, Turkey, Jordan, Iraq – all of those countries are keeping their borders open because they believe these people need protection but there needs to be a sharing of the burden," he said.

<http://www.smh.com.au/nsw/safe-at-last-after-a-century-of-conflict-20140613-zs5y5.html>

Supporting the fight against forced marriage, human trafficking and slavery

The 2-14 National Roundtable on Human Trafficking and slavery where Ministers, government agencies, non-government organisations and industry bodies discussed the important work being done to combat human trafficking and slavery.

In the decade since the Government launched Australia's strategy to combat human trafficking and slavery there has been more than 450 Australian Federal Police investigations into allegations of trafficking and slavery-related offences where more than 230 victims have been identified. Last year's criminalization of forced marriage in Australia signaled that forced marriage is never acceptable in our country. However, the criminal law must be supported by community measures to detect and prevent forced marriage.

Human trafficking and slavery are insidious crimes and grave abuses of human rights. Globally they are one of the biggest sources of income for organized crime. The work of Non-Government Organisations is crucial to the success of Australia's long term strategy to eradicate these practices.

Forced marriage and human trafficking can be prevented and with the right tools we can empower young men and women to protect themselves and their friends, and get help when needed.

<http://www.ministerjustice.gov.au/Mediareleases/Pages/2014/ThirdQuarter/14July2014Supportingthefightagainstforcedmarriagehumantraffickingandslavery.aspx>

A.P.B. Education

Specialist IELTS Test Training and Coaching

Passing an IELTS test is now an essential requirement for all applicant for General Skilled Migration, student visas, and for many employer sponsored applicants. Adrian Bitel provides individual lessons to assist applicants achieve proficiency to the required levels in:

- Reading
- Speaking
- Writing
- Listening

He gives comprehensive ONE to ONE Personalised Coaching in any or all of the above areas at very competitive rates.

Contact: Adrian Bitel on (02) 9286 8700 or Mobile: 0412 656 026

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