

Table of Contents

Business and Investment migration changes announced.....

Cautious backing for Abbot’s plan B.....

Stripping citizenship won’t hurt IS, but it might help it.....

Priority Group 5 Cases in the Skilled Migration Programme.....

Magna Carta 800th Anniversary Celebration.....

Assistant Minister – Taskforce Cadena commences work.....

Backpackers turn back on Australia after budget increase working holiday taxation.....

Visa Application Charges increases 1 July 2015.....

Visa Application Charges – Fact Sheet & System Outages.....

Changes to Australian Citizenship laws.....

Minister – Immigration and Human Services crack down on fake couples.....

Tony Abbott rebuffs Indonesian questions on alleged payments to people smugglers.....

Department of Immigration and Border Protection

Business and Investment migration changes announced

Changes have been announced to the Business Innovation and Investment Programme (BIIP)

The Premium Investor Visa (PIV)

The PIV will be available from 1 July 2015, with Austrade the sole nominator for this visa.

Significant Investor Visas (SIV)

The Complying Investment Framework was announced on 15 May 2015. Under these arrangements the following investment are required:

At least \$500,000 in eligible Australian venture Capital or growth private equity fund(s) investing in start-up and small private companies. The Government expects to increase this to \$1.5 million for new applications within two years as the market responds;

At least \$1.5 million in an eligible managed fund(s) or Listed Investment Companies (LICs) that invest in emerging companies listed on the Australia Securities Exchange (ASX); and

A 'balancing investment' of up to \$3 million in managed fund(s) or LICs that invest in a combination of eligible assets that include other ASX listed companies, eligible corporate bonds or notes, annuities and real property (subject to the 10 percent limit on residential real estate).

Flexible residency arrangements for SIV

From 1 July, eligibility for the permanent SIV will require either the primary applicant to reside in Australia for 40 days per year OR the secondary application (spouse or de facto partner) to reside in Australia for 180 days per year.

This residency requirement will be per year and calculated cumulatively over the period of the provisional visa. For example, 160 days over four years for a primary applicant or 720 days over four years for the secondary applicant (spouse or de facto partner).

Investor and Business Innovation stream changes

Changes have been announced for the Investor and Business Innovation stream visas only:

Role swapping has been reintroduced, allowing a secondary applicant to apply to fulfil the primary criteria for the permanent visa on behalf of the primary applicant.

For more information contact [Jia Li](#).

Cautious backing for Abbott's plan B

Top legal experts have given cautious backing to the constitutionality of the Abbott government's latest proposal to strip dual national terrorists of their citizenship.

The government is understood to have largely ditched previous plans to give Immigration Minister Peter Dutton the power to revoke citizenship, which were roundly attacked by many top lawyers.

Instead it is expected to expand an existing law that automatically cancels the citizenship – subject to judicial review – of dual nationals who fight with foreign militaries against Australia, under plans to be unveiled to Coalition MPs in a party room meeting on Tuesday.

Critically the compromise is much more likely to win Labor's backing and restore bipartisanship after a fortnight in which national security became the subject of a political slanging match. Labor has previously expressed in-principle support for such an approach.

The proposal, which is also expected to assuage concerns of Coalition figures such as Malcolm Turnbull, is tipped to extend section 35 of the Citizenship Act to non-state groups such as the Islamic State.

Greg Craven, vice-chancellor of the Australian Catholic University who strongly attacked the government's previous proposal, said that the new option was much less likely to fall foul of the High Court.

"You'd have to see the draft but, on the face of it, if it's a careful draft and they don't do anything silly, it should work," he said.

The major issue with the previous proposal was that it gave powers to the minister that should be only wielded by courts, making it unconstitutional, he said.

Section 35, however, works automatically - the law itself strips the citizenship from the person deemed to have fought with a foreign military or, under the proposed extension, a terrorist group.

Problems would arise if the law limited the scope of judicial review or gave too much power to the minister to decide whether or not someone was a terrorist, Professor Craven said.

While the minister will have to issue the cancellation, security and intelligence agencies will likely make the call that a person is fighting with a terrorist group against Australia and its interests.

George Williams, a law professor at the University of NSW, also said the proposal was less likely to be struck down by the High Court, though he said he remained "very concerned" about it.

He said he would prefer to see an option where the minister could revoke citizenship only after a criminal conviction.

Don Rothwell, an international law professor at the Australian National University, stressed the new proposal could still be unconstitutional, depending on who determined the loss of citizenship and how the review process worked.

"Will there be a capacity for just an administrative appeal, as has been floated? Or will there be the capacity for an appeal on the merits?" he said. "That goes back to the constitutional question."

Labor leader Bill Shorten branded the latest move a "significant backdown from the Prime Minister". But he reiterated a strong support in principle for revoking citizenship of terrorist fighters without making them stateless.

"Any dual citizen taking arms against Australia should be stripped of their citizenship."

<http://www.smh.com.au/federal-politics/political-news/tony-abbotts-latest-citizenship-plan-gets-cautious-backing-from-legal-experts-20150622-ghuqja.html>

Stripping citizenship won't hurt IS, but it might help it

New powers to strip citizenship from dual national jihadis have little value as national security policy and risk damaging the campaign to combat violent extremism.

The government's policy rationale for the measure is that it will stop hardened fighters, experienced from the battlefields of Syria and Iraq, from returning home to plot terrorist attacks and inspire others to follow the extremist doctrine of Islamic State and like-minded groups.

But the government, with its existing powers to cancel the passports of Australian fighters in Syria and Iraq, already has tools to prevent the return of jihadists to Australia.

So what will the policy achieve, other than giving Prime Minister Tony Abbott the opportunity to play partisan politics and accuse the Opposition of rolling out the red carpet to terrorists?

According to James Brown, the security analyst and former army officer now working at the US Studies Centre at the University of Sydney, not much.

"This won't have a meaningful impact on IS," he says.

Indeed, the citizenship crackdown could help the terrorist group.

With the possibility of homegrown extremists facing the Australian justice system being removed, those left without Australian citizenship will continue to wreak havoc across the Middle East in pursuit of IS' twisted vision of a caliphate.

Alternatively, the former dual nationals will become the problem of the country for which they still hold citizenship. In most cases, those will be countries such as Lebanon and Turkey, fragile states dealing with millions of refugees pouring in from the conflict and not as well as equipped as Australia to defuse the threat.

The government maintains that Australia's courts are "toothless" at securing convictions of terrorists.

The contention is puzzling given that the government introduced a raft of legislation creating new offences for those who travel to Syria and Iraq and other measures that make it easier for evidence gleaned overseas to be used in Australian trials.

The danger of stripping citizenship is that it will further fray the bonds of trust between the Islamic community and the rest of Australia.

As Monash University terrorism expert Greg Barton observes, community harmony is "not just about doing something nice, something that makes you feel good". Rather, it is central to the nation's security.

Racial and religious divisions in society make recruiting easier for IS but also make members of the Islamic community reluctant to inform authorities about people of concern.

"With encryption and the sophisticated online recruiting strategies of Islamic State, it is hard to keep track of those who are being radicalised," Dr Barton said. "Security agencies rely heavily on tip-offs from members of the Islamic community."

"I fear there will be a decline in willingness of people coming forward."

<http://www.smh.com.au/federal-politics/political-opinion/stripping-citizenship-wont-hurt-islamic-state-and-may-just-help-them-20150622-ghuptl.html>

Priority Group 5 Cases in the Skilled Migration Programme

Australia's skilled migration programme aims to respond to the current and emerging skill needs of the Australian labour market. The skilled migration programme is designed to respond to Australia's economic needs. Skilled migration is therefore a selective process, seeking to fill the places on offer with migrants most likely to succeed in Australia's labour market and contribute to the economy.

The Department is aware that priority processing impacts on many applicants who will have a longer wait for their visas to be processed however security clearances and other checks cannot be commenced until such a time as an application has been allocated to a processing officer.

We are aware the Department in May 2015 resumed processing the 886 and 885 case load although this is not given publicity on the DIBP website.

Priority 5 Applications by Subclass and Location (Onshore/Offshore) as at 30/04/2015

Client Location	Subclass	Onhand (Principal)
Offshore	175	218
Offshore	176	4,431
Offshore	475	1,917
Offshore	496	103
Onshore	487	534
Onshore	885	184
Onshore	886	1,523
TOTAL		8910

Source: Letter from Director of Skilled Migration Programme Management Section to PPI- 9 June 2015.

Magna Carta 800th Anniversary Celebration

On 15 June 1215 at Runnymede, outside London King John agreed, under oath, to the Magna Carta, the Great Charter, and sometimes also called the Magna Carta libertatum, the Great Charter of Liberties. It was first sealed on 19 June 1215 and then distributed widely.

This massive document was revised several times - reissued in 1216, revised in 1217 and 1225, and a 1297 version was brought into English law virtually unchanged from the 1225 version. One of only four of the authentic copies of the 1297 version remains in the custody of the Australian Parliament. This copy is on display to the public with an excellent series of information and education panels.

The importance of the principles enunciated in the Magna Carta cannot be underestimated. Magna Carta has influenced common and constitutional law as well as political representation and the development of Parliament.

The original charter embodies the principles underpinning the emergence of parliamentary democracy and the legal system in the UK, in the free world more generally, and especially in Australia: limiting arbitrary power, curbing the right to levy taxation without consent, holding the Executive to account, and affirming the rule of law.

In our Australian democracy these are principles are too often taken for granted, and often not fully understood. They are the foundation stones of our major institutions, notably our Parliament and our Courts. Magna Carta and the freedoms it espouses are also fundamental to the values we have cherished for centuries. And they are values that should unite us all, especially as these days they are being challenged by those opposed to the rule of law.

Australia's Human Rights Commissioner Tim Wilson has launched new interactive educational resources to explain the importance of the Magna Carta on its 800th anniversary.

The new resources were unveiled to students and staff at Red Hill Primary School in Canberra this morning. Commissioner Wilson was joined by Senator the Hon Scott Ryan, Parliamentary Secretary to the Minister for Education and Training.

"Magna Carta has had an enduring legacy in shaping and advancing the principles of freedom, justice, the rule of law and government by consent," Commissioner Wilson said.

"The sealing of the Magna Carta on 15 June 1215 created a snowball effect that led to the modern idea of human rights."

<https://www.humanrights.gov.au/news/stories/students-celebrate-800th-anniversary-magna-carta>

<http://www.cefa.org.au/magna-carta-800th-anniversary-celebration>

Assistant Minister – Taskforce Cadena commences work

A new dedicated taskforce announced by the Abbott Government to reinforce existing action to tackle allegations of fraud and worker exploitation involving temporary visa holders has commenced work.

Assistant Minister for Immigration and Border Protection, Senator the Hon. Michaelia Cash, said joint Taskforce Cadena, led by the Department of Immigration and Border Protection and the Fair Work Ombudsman will work with relevant agencies including the AFP, ASIC, ATO, and state and territory agencies as required, to ensure incidents of exploitation and visa fraud are appropriately investigated.

The Australian Customs and Border Protection Service, and from 1 July the Australian Border Force, will form the nucleus of the taskforce and look to partner with FWO across their 23 locations nationally to respond quickly to metropolitan and regional locations where exploitation and visa non-compliance are suspected to occur.

“The taskforce’s work will be informed by a newly commissioned comprehensive intelligence assessment. Operations will refocus all agencies on gathering intelligence and ensuring that the law is enforced across the full spectrum of state and territory laws,” Minister Cash said.

“Taskforce Cadena’s important work will reinforce existing efforts to stamp out illegal practices involving foreign workers, particularly in the labour hire industry.”

Labour-hire companies, like all Australian employers, are legally required to treat and remunerate all of their employees, including foreign visa holders, with work rights in accordance with Australian workplace law.

Taskforce Cadena is part of a new visa enforcement strategy which will be mounted by the Australian Border Force, an initiative of the Coalition Government that will commence on 1 July.

“While the taskforce is in its early set-up phases, member agencies are already looking into several allegations of labour hire contractors who may be seeking to exploit non-citizens in their employ - both employers and contractors should be aware that this taskforce will be examining their operations to ensure they are doing the right thing,” Minister Cash said.

“The Department of Immigration and Border Protection and the Fair Work Ombudsman are active in ongoing compliance campaigns to ensure that temporary visa holders are being paid in accordance with Australian pay and conditions. This taskforce will greatly complement those existing efforts.”

“Organised criminal networks and unscrupulous labour hire contractors seeking to profit by exploiting both illegal and legitimate workers and the taxpayer should be under no illusion; Taskforce Cadena is targeting you.”

<http://www.minister.immi.gov.au/michaeliacash/2015/Pages/taskforce-cadena-commences-work.aspx>

Backpackers turn back on Australia after federal budget changes increase working holiday taxation

A labour hire operator says backpackers and international workers are already turning their backs on Australia due to the Federal Government’s budget changes.

The federal budget proposed removing the tax-free threshold for those on working holiday visas, forcing them to pay at least \$32.5 per cent tax on every dollar then earned.

Matthew Simpson, owner of a labour hire company at Mildura in north-west Victoria, said the local farming industry relied on thousands of these workers to pick and prune fruit properties each year, but travellers, on seeing what was proposed, were now planning to go to places like Canada and New Zealand instead.

MIA Newsletter

Visa Application Charges increases 1 July 2015

Notice of changes to Visa Application Charges

As part of the 2015-16 Commonwealth Budget, the Government is introducing an increase, effective from 1 July 2015, to a number of Visa Application Charges (VACs).

The proposed adjustments to the VACs, which come into effect on 1 July 2015, include:

A price increase in line with inflation (2.3 percent) to specific visas within the Permanent Migration Skill Stream, Skilled Graduate, Temporary Long Stay Business (Subclass 457), Visitor and Student visa streams.

A 5 percent increase to specific visas within the Temporary Resident Short Term Business and Entertainment visas, Working Holiday visas, Resident Return and Retirement Investor visas, and Contributory Parent visa streams.

A 10 percent price increase on specific visas within the Other Family (Remaining Relative, Carer an Aged Dependant Relative) visas, and (non-contributory) Parent visa streams where the underlying demand is not expected to be impacted by the price increase.

A 50 percent increase to the Significant Investor Visa (SIV) stream in the permanent migration skill stream category where the VAC is a very small component of the minimum \$5 million of investments required under the visa regulation. An alignment of VAC prices where a differential currently exists for lodging an onshore and offshore applications for specific visa subclasses.

MIA Notice – 28 May 2015

Visa Application Charges – Fact Sheet

The Department has provided a detailed summary of all the price changes on its website.

From 1 July 2015, departmental systems will automatically calculate any new visa application charge as an application is receipted. Clients will have access to a visa pricing table that details master fees and charges on the department's website. If clients are lodging their visa application online through the department's eVisa service, the online application tool will calculate the total charges for them.

The Department has also warned that there will be significant system outages in the period leading up to 1 July and advise that both online and paper applications be lodged with plenty of time to be receipted before 1 July.

Paper applications received post 1 July 2015 will incur the new VACs.

MIA Notice – 28 May 2015

Minister – Immigration and Human Services crack down on fake couples

Fake couples who are fraudulently claiming social security payments, or committing migration fraud, are under the Australian Government's microscope thanks to a new data-matching programme.

Minister for Immigration and Border Protection Peter Dutton and Minister for Human Services Senator the Hon Marise Payne recently announced the programme will target welfare recipients who are on single payments but have declared sponsorship of a partner for immigration purposes.

Mr Dutton said the joint operation will enable the Department to identify people suspected of being involved in migration fraud through the partner visa programme.

"Last year, my Department identified an increase in the number of allegations relating to the facilitating of contrived marriages," Mr Dutton said.

"This data-matching programme is part of a whole-of-government approach to fraud detection and prevention. People who deliberately take advantage of Australia's welfare and migration system will be caught.

"If a member of the community suspects that a person is unlawfully in Australia, committing migration fraud, or working in breach of their visa conditions, then they should contact the Immigration dob-in service on 1800 009 623.

"The consequences are serious – people may be forced to repay the benefits they were not entitled to, have their visa application refused, or face criminal charges."

Minister Payne said the programme may also identify people who are fraudulently claiming higher-paying welfare payments for singles, when they are a member of a couple.

"The Government is committed to protecting taxpayers' money and the integrity of Australia's social security system by ensuring people receive the right payment at the right time," Minister Payne said.

"People who receive a Centrelink payment and deliberately fail to declare their correct relationship status to the Department of Human Services are breaking the law.

"Last financial year, data-matching activities conducted by my Department returned \$132.7 million in nett benefits to government.

"This programme is a win-win for taxpayers as it strengthens our ability to prevent, detect and investigate fraud matters which impact both Departments."

The partner visa data-matching programme will begin in mid-2015 and initially run for a year, conducted in line with privacy legislation and guidelines set by the Privacy Commissioner. Suspected welfare or migration fraud will be investigated by the relevant Departments.

<http://www.minister.immi.gov.au/peterdutton/2015/Pages/Immigration-and-Human-Services-crack-down-on-fake-couples.aspx>

Tony Abbott rebuffs Indonesian questions on alleged cash payments to people smugglers

Prime Minister Tony Abbott has rebuffed Indonesia's request for a response to claims Australian officials paid a people-smuggling crew money to turn back to Indonesia.

Indonesia launched its own investigation into the claims, and its foreign minister, Retno Marsudi, said she asked Australia's ambassador in Jakarta about the matter.

Mr Abbott again dodged questions on the claim, after refusing to confirm or deny the allegations last week.

"There's really only one thing to say here and that is that we have stopped the boats," he said.

"That's good for Australia, it's good for Indonesia and it's particularly good for all of those who want to see a better world."

His comments came as Labor immigration spokesman Richard Marles warned the allegations were affecting diplomatic relations with Indonesia.

Mr Marles told the ABC's Insiders program he "would have thought it was a clear matter to deny the proposition that we would not be paying people smugglers".

"It is no small matter here — this is clearly now having an impact on our relationship with Indonesia," he said.

"That the foreign minister of Indonesia has raised this with our ambassador to Indonesia just highlights the fact it is on their mind.

"But we shouldn't be waiting for the Indonesians to do this investigation, we should be hearing from our own government about what exactly happened.

"Why on earth you would be trying to create a pull factor of this kind, giving people smugglers the sense that if they turn up next to an Australian Navy vessel there is half a chance they're going to be given some Australian taxpayer-funded money? This is ridiculous if that's what's ultimately occurred.

"What is utterly amazing here is the Prime Minister repeatedly, repeatedly on Friday, has invited us to believe that's exactly what occurred."

Dutton vows to provide details 'when operationally appropriate'

Immigration Minister Peter Dutton also refused to comment on the claims after denying the allegations last week.

"The Government will always do the right thing by the Australian people," he said.

"We will act within the law, we will act within our international obligations, but from day one we have not commented on specific operations.

"We provide details at a time which is operationally appropriate."

Crew members on a boat which ran aground on an Indonesian reef with 65 asylum seekers on board have told local police Australian authorities paid them \$US5,000 in cash to turn round.

Foreign Minister Julie Bishop rejected the claim, and MP Philip Ruddock said the allegations had not been proven.

Finance Minister Mathias Cormann told Sky News the Prime Minister's refusal to comment had been misinterpreted.

"Questions in relation to specific operational matters are answered as appropriate by the Minister for Immigration, Minister Dutton, and he of course has done so on this occasion," Senator Cormann said.

"I mean this proposition that somehow the Prime Minister has refused to deny and that somehow this is translated into payments have been made is just wrong."

Government backbencher Ian McDonald said he was not concerned if the claims turned out to be true.

"They may have done something else naughty last night in their own lives — who knows," he told ABC Breakfast.

"That doesn't concern me at all. I think we have a policy, it's worked. We have stopped the boats. I think we should continue with the things that we do that we know work and are correct.

"This is all hypothetical and we have had these sort of issues raised from day one.

"I have every confidence in the people who I know lead these operations and I'm very, very confident that everything they do is focused towards stopping the trade and making sure it never comes back to Australian waters."

<http://www.abc.net.au/news/2015-06-14/abbott-dodges-questions-again-about-boat-turn-back-claims/6544558>

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