

News from the High Court of Australia leads the February issue. General Skilled Migration in its many forms is featured together with current and upcoming changes to Priority Processing, Assessment Levels and time changes for various visa holders.

Parish Patience in the High Court - Ministerial Intervention Requests

Parish Patience's legal team and their barristers appeared in Canberra for two days in early February this year before the seven judges of the Full High Court of Australia.

They were there to argue using four representative cases from our pool of over 125 cases that procedural fairness (sometimes known as Natural Justice) is a conditional requirement at law in the exercise by the Minister and his delegates (Ministerial Intervention Unit (MIU)) in assessing requests for ministerial intervention by an applicant.

Under various statutory provisions of the Migration Act statutory provisions (ss 417, 351, 48B and 195A) the minister can on request but is not required to, make a decision, and a decision in favour of the applicant. Opposed to our submissions before the court was the Solicitor-General for Australia and his Commonwealth legal team as well as the Solicitor-General for South Australia and his legal team.

Many clients over the years have sought ministerial intervention and been declined particularly in recent years and without explanation.

We have on numerous occasions since commencing this High Court pool of cases in December 2010 discovered under the Commonwealth Law of Freedom of Information Act (FOI), numerous examples where the MIU on a case by case basis has either unreasonably misconstrued and misinterpreted information, and or not included it and or omitted contemporary country information and or the applicant has not been invited to comment on other sourced information, and where MIU has formed an adverse view.

We believe our four representative High Court cases may well be a watershed in Australian administrative legal history and that a judgment may not be handed down for another three to six months.

In the meantime, we are still taking on new cases to join our pool of High Court cases where applicant's Ministerial Intervention requests have been unsuccessful. Not all FOI we undertake for applicants will reveal a lack of procedural fairness but where they do a favourable outcome in the four representative cases by the High Court may permit applicants to be re-assessed by the MIU but this time according to law. Again, depending on the peculiar circumstances of the applicant such a review according to law could still unfortunately, be unfavourable.

Our pool of cases remains open if you have previously been unsuccessful in seeking Ministerial Intervention. If you want further information on your prospects and merits of your case please contact our office and ask to speak to either Shan or Tina or Asha. They will be able to provide details to you and qualify you if you are seeking to join the pool of Parish Patience High Court cases.

The Editor

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Allocation dates for General Skilled Migration applications

Due to the strong demand for places in the General Skilled Migration (GSM) program the department is unable to immediately allocate all GSM applications to a case officer for consideration. When an application is allocated to a case officer depends on a number of factors, including the Priority Group of the application and the visa subclass applied for.

The tables below list lodgement dates of applications that have been allocated to case officers. These tables were last updated on 17 February 2012 and will be updated fortnightly.

Priority processing

Applicants who lodged a GSM application **before** the following dates have been contacted by a case officer.

Visa Subclass	Priority Group 1	Priority Group 2	Priority Group 3	Priority Group 4	Priority Group 5
Skilled – Regional subclass 887 online	Within 4 weeks of lodgement	N/A	N/A	N/A	**
Skilled – Regional subclass 887 paper	Within 4 weeks of lodgement	N/A	N/A	N/A	**
Skilled – Independent (Migrant) subclass 175 online	N/A	N/A	N/A	3 June 2011	**
Skilled – Independent (Migrant) subclass 175 paper	N/A	N/A	N/A	3 June 2011	**
Skilled – Sponsored (Migrant) subclass 176 online	N/A	N/A	Within 4 weeks of lodgement	3 June 2011	**
Skilled – Sponsored (Migrant) subclass 176 paper	N/A	N/A	Within 4 weeks of lodgement	3 June 2011	**
Skilled – Regional Sponsored (Provisional) subclass 475 online	N/A	N/A	Within 4 weeks of lodgement	3 June 2011	**
Skilled – Regional Sponsored (Provisional) subclass 475 paper	N/A	N/A	Within 4 weeks of lodgement	3 June 2011	**
Skilled – Independent Regional (Provisional) subclass 495	N/A	N/A	N/A	All applications allocated	**
Skilled – Designated Area Sponsored subclass 496	N/A	N/A	N/A	All applications allocated	**
Skilled – Independent Overseas Student subclass 880	N/A	N/A	All applications allocated	All applications allocated	All applications allocated
Skilled – Australian-sponsored Overseas Student subclass 881	N/A	N/A	All applications allocated	All applications allocated	All applications allocated

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Skilled – Designated Area-sponsored Overseas Student subclass 882	N/A	N/A	All applications allocated	All applications allocated	All applications allocated
Skilled – Onshore Australian-sponsored New Zealand Citizen subclass 862	N/A	N/A	All applications allocated	All applications allocated	All applications allocated
Skilled – Independent (Residence) subclass 885 online	N/A	N/A	N/A	Within 4 weeks of lodgement	1 Aug 2008
Skilled – Independent (Residence) subclass 885 paper	N/A	N/A	N/A	Within 4 weeks of lodgement	1 Aug 2008
Skilled – Sponsored (Residence) subclass 886 online	N/A	N/A	Within 4 weeks of lodgement	Within 4 weeks of lodgement	1 Aug 2008
Skilled – Sponsored (Residence) subclass 886 paper	N/A	N/A	Within 4 weeks of lodgement	Within 4 weeks of lodgement	1 Aug 2008
Skilled – Regional Sponsored (Provisional) subclass 487 online	N/A	N/A	Within 4 weeks of lodgement	Within 4 weeks of lodgement	1 Aug 2008
Skilled – Regional Sponsored (Provisional) subclass 487 paper	N/A	N/A	Within 4 weeks of lodgement	Within 4 weeks of lodgement	1 Aug 2008

Important note:

N/A denotes 'Not Applicable'. There are no GSM visa subclasses within these priority groups.

** Not currently allocating.

For further information see:

<http://www.immi.gov.au/skilled/general-skilled-migration/estimated-allocation-times.htm>

Student visa reduction in Assessment Levels for 29 countries from 24 March - Simplifying student visas

The Minister for Immigration and Citizenship, Chris Bowen MP, has announced the Government will make the visa application process easier for students from 29 countries by reducing assessment levels across a range of student visa subclasses from 24 March 2012.

This will lower the evidentiary requirements (eg, English language, financial capacity, academic qualifications) for the grants of student visas for many applicants, especially in the Post Graduate Research, ELICOS and VET sectors.

The changes are in response to the Department of Immigration and Citizenship's (DIAC) 2011 review of student visa assessment level settings, which recommended that a number of assessment levels be changed.

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'While it was recommended that some assessment levels be increased, I have decided to only implement the reductions in order to best support Australia's international education sector,' Mr Bowen said.

'Lowering the minimum evidentiary requirement for the grant of a student visa for selected countries and visa subclasses is expected to help around 10 500 prospective students.

'These changes will particularly benefit the postgraduate research sector, English Language Intensive Courses for Overseas Students (ELICOS) and vocational education and training (VET) providers.'

For example, South Koreans studying VET and ELICOS courses and postgraduate research students from China, India and Indonesia will now find it easier to apply for visas.

For more information on the reductions to student visa assessment levels. See: Student Visa Assessment Levels at <http://www.minister.immi.gov.au/media/cb/2012/cb182559.htm>

Migration Institute of Australia Notice – 17 February 2012

Return Resident (Subclass 155) visa - Changes to Validity Period

From 15 February 2012, applicants for Resident Return (Subclass 155) visas (RRV) who have spent less than two out of five years in Australia before making their application will be granted visas valid for only one year.

Such applicants still have to meet the “close ties to Australia” criteria.

As part of the 2011-12 Mid-year Economic and Fiscal Outlook, the Australian Government announced that the validity period for Resident Return Visas will be reduced from five years to one year where the applicant has not lived in Australia for more than two of the last five years.

DIAC policy now is:

For 155.212, the applicant satisfies one of the following:

- to obtain a five year visa, physical presence in Australia - the applicant has been physically present in Australia for a total of at least two years in the last five years and during that time was a permanent resident or Australian citizen who did not hold a temporary visa (other than a border visa or an ETA) or a bridging visa - see section 8 Lawful presence in Australia - 155.212(2); or
- to obtain a one year visa, substantial ties with Australia - the applicant has substantial, business, cultural, employment or personal ties which are of benefit to Australia and has not been absent from Australia for five years or more unless there are compelling reasons (see 155.212(3)(a) and (b) for offshore requirements and 155.212(3A) for onshore applicants) - see section 9 Substantial ties with Australia - 155.212(3) & (3A); or
- member of the family unit - the applicant is a member of the family unit of a person who has met/meets 155.212(2), (3) or (3A). The applicant is to be granted an RRV with the same validity as the RRV held by their family head (regulation 1.12 refers). See also section 10.5 Member of the family unit.

Migration Institute of Australia Notice – 29 February 2012

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Resources

APB Education

Employer Sponsored Workers - Labour Agreements

Labour Agreements are formal arrangements to recruit a number of overseas skilled workers. Both temporary and permanent visas can be granted under the agreement. Agreements are generally effective for two to three years.

Situations where an employer may consider accessing a Labour Agreement include:

- occupations that are not on the list of approved occupations for the Temporary Business (Long Stay) subclass 457 visa, permanent Employer Nomination Scheme (ENS) or Regional Sponsored Migration Scheme yet a genuine skills shortage exists or occupations are not covered under the Australian and New Zealand Standard Classification of Occupations (ANZSCO)
- where a business recruits labour for the supply to an unrelated business and/or the hiring of labour to unrelated businesses
See: Labour agreement arrangements for the on-hire industry
- meat companies - there are special arrangements for sponsoring skilled meat workers including for permanent residence.
See: Subclass 855 – Labour Agreement Visa

With this program an employer can employ a number of overseas workers on **temporary and/or permanent visas**.

With the **temporary visa** people employed from overseas can:

- work in Australia for up to four years
- bring any eligible secondary applicants with them to Australia - secondary applicants can work and study
- after entering Australia, have no limit on the number of times they travel in and out of Australia.

With the **permanent visa** people employed from overseas, and any dependent family members included in their visa application, can live as permanent residents in Australia.

Australian permanent residents can:

- live and work in Australia on a permanent basis
- study in Australia at school or university
- receive subsidised healthcare through Medicare and the Pharmaceutical Benefits Scheme (PBS)
- access certain social security payments (subject to waiting periods)
- be eligible for Australian citizenship (subject to the residency eligibility criteria)
- sponsor people for permanent residence.

For more information see our Resources section on page 12.

<http://www.immi.gov.au/skilled/skilled-workers/la/>

New Labour Agreement to help tourism employers

A template Labour Agreement for the tourism and hospitality industry which will help to attract skilled workers from overseas is now open for comment.

The proposed template agreement establishes a common set of requirements tailored specifically for tourism and hospitality businesses recruiting skilled overseas workers, and follows discussions with industry at the Tourism Employment Roundtable hosted by Minister for Tourism Martin Ferguson in August 2011.

The development of a template labour agreement will help to ease labour and skills pressures by improving the tourism and hospitality industry's ability to attract and retain labour in some of the occupations identified by the industry as being in critical shortage.

Mr Bowen said this would cover experienced waiters, chefs, bar attendants, hotel managers and other occupations, which can be hard to fill locally or may be ineligible under other migration programs.

"This template seeks a balance between upholding the standards of the visa system while giving employers easier access to workers whose skills are hard to find in Australia," Mr Bowen said.

"Approved employers could nominate workers for temporary skilled subclass 457 visas using the template, enabling workers to be granted visas where they meet the requirements.

"Research has found that there are already 36,000 vacancies in this industry and by 2015 another 56,000 workers will be required, particularly in regional areas," Minister Ferguson said.

Comments are invited from industry, in particular on the list of eligible occupations, salary, skill level and English language requirements.

<http://minister.ret.gov.au/mediacentre/mediareleases/pages/newlabouragreement.aspx>

Miners let skills gap packages gather dust

An estimated 70,000 workers will be needed to build new mining projects over the next few years.

Measures in the federal budget to tackle the skills shortage by helping big mining companies hire more foreign workers are yet to be used, a Senate committee has heard.

Eight months after the scheme was announced, only one company has applied for an Enterprise Migration Agreement (EMA).

EMAs are a custom-designed, project-wide migration agreement suited to the resource sector. It ensures that skill shortages do not create constraints on major projects and jeopardise Australian jobs. Through EMAs, major resource projects are able to access overseas labour for genuine skill vacancies that cannot be filled from the Australian labour market.

The agreements are aimed at big resource projects with a capital expenditure of \$2 billion and plans to hire an overall workforce of more than 1500 people.

Meanwhile, the Regional Migration Agreement scheme, which was announced at the same time, is yet to publish the guidelines under which regional communities can apply for more lenient rules to hire semi-skilled workers from overseas.

The Immigration Minister, Chris Bowen, approved the regional guidelines on January 31.

The Immigration Department first assistant secretary, Kruno Kukoc, said he believed the slow uptake of the Enterprise Migration Agreement was because companies needed time to get information on the process.

www.smh.com.au/opinion/political-news/miners-let-skills-gap-packages-gather-dust-20120213-1t279.html

<http://www.immi.gov.au/media/fact-sheets/48a-enterprise.htm>

Australia's engineering shortage will get worse

Most engineers are too polite to tell you this but our country has a real problem on its hands. It affects you now but it is about to get a lot worse.

The problem is we just don't have enough engineers to maintain our renowned high standard of living. Engineers quietly solve the impossibly hard problems that the rest of us don't even know exist. They are also Australia's great innovators.

If we are going to have a smart high-end manufacturing sector like Germany we need lots of engineers. If we want to solve problems like tapping into geothermal energy we need engineers and if we want to solve the big problems of the future - including ones have not even come across yet - we need engineers.

When the federal government puts out a report saying that we have a record skills crisis in engineering because we have failed to produce enough engineers over the past 20 years they are saying that our economy is going to be hurt by it.

Australia's workforce is ageing and the development of technical skills is not keeping pace with the retirements. Many engineers also leave the profession altogether because they are recruited to more rewarding jobs. On top of this we have a static rate of graduates, high dropout rates and lower and lower numbers of secondary students interested in completing the required maths and science to enter engineering. And the proportion of women engineers is appallingly low at less than 10 per cent.

The situation is critical. Demand from the resources sector is putting enormous pressures on the supply of suitably skilled engineers, while population growth means demand for basic infrastructure continues to rise.

<http://www.canberratimes.com.au/action/printArticle?id=3077515>

Be sure you can return — for Bridging visa A holders

Bridging visas and your application for skilled migration

If you hold a Bridging Visa A and want to leave Australia, you should apply for a Bridging Visa B before you leave.

This is because a Bridging visa A (which you may hold as a result of applying onshore for another substantive visa) will cease when you leave Australia— even if you hold another visa that allows you to travel and return to Australia.

If you apply for and are granted a Bridging visa B, it won't cease when you leave Australia. However, it will cease if you remain overseas beyond the travel period expiry date. When you are granted a Bridging visa B, it ceases your Bridging visa A.

Depending on your situation, a Bridging visa B can be granted with a travel period of up to 12 months, and will let you depart and re-enter Australia as often as you wish within that time.

You must return to Australia before your Bridging visa B ceases. If you don't, you need to apply for and be granted another substantive visa to allow you to return to Australia. You would need to meet the separate requirements for this visa for it to be granted. If you can't, you will have to remain outside of Australia until your skilled visa application is ready to be decided.

More information about bridging visas in relation to general skilled migration applications, including how to apply, is on the DIAC website:

<http://www.immi.gov.au/skilled/general-skilled-migration/bridging-visas.htm>

<http://migrationblog.immi.gov.au/>

A third of asylum seekers to live outside detention

A third of asylum seekers arriving by boat will be living in the community on bridging visas next year under a policy shift, the Immigration Department has revealed to a Senate hearing.

The department expects to save \$400 million by moving asylum seekers out of detention centres and into the community, where bridging visas will require them to find accommodation and seek work.

To date, just 257 bridging visas have been issued because the program only ramped up in December and January.

The Immigration Department's deputy secretary, Jackie Wilson, said it was expected 6 per cent of asylum seekers would be released on bridging visas this year.

Ms Wilson said the department expected that by 2012-13, 20 per cent of asylum seekers would be in community detention, where the department provides housing and support, and 30 per cent would be released on bridging visas, leaving just half of boat arrivals in detention facilities.

Asylum seekers on bridging visas would have work rights and "the bulk of the group will be able to sustain themselves over time", Ms Wilson said.

www.smh.com.au/opinion/political-news/a-third-of-asylum-seekers-to-live-outside-detention-20120213-1t299.html

Amnesty calls for more bridging visas

The government has released 257 boat arrivals on bridging visas since its policy shift on detention, but in that time 1078 more asylum seekers have come ashore at Christmas Island.

Bridging visas, requiring asylum seekers to find accommodation and seek work to pay their way as they wait for the outcome of refugee claims, are seen as a way to relieve pressure on the detention network and lower costs in the wake of the collapse of the Malaysia agreement.

The Amnesty International spokesman Graham Thom, on an inspection tour of remote detention centres, has urged the government to speed up its bridging visa releases. "It has started to happen, but it is very small numbers so far," he said.

The Red Cross, which has a two-year contract to run bridging visa support services, said it had taken three months to put staff in place to step up the program, but it was now "on the launch pad". Seventy-five visas had been issued in the past fortnight.

Of the arrivals released so far, most were finding accommodation with community groups or family, the Red Cross director of services, Michael Raper, said. But it was unlikely the asylum seekers would find work quickly and would instead access a payment of 89 per cent of the welfare benefit.

www.theage.com.au/opinion/political-news/amnesty-calls-for-more-bridging-visas-as-boats-keep-coming-20120209-1rxa5.html?skin=text-only

For the term of their natural life – refugees and ASIO assessments

Right now, more than 50 recognised refugees face spending the rest of their lives in immigration detention because ASIO considers them a security risk.

These are people who the Australian Government believes are entitled to our protection under the Refugee Convention.

Yet their freedom is denied because they have received an adverse security assessment.

Refugees with adverse ASIO findings have no legal recourse and ASIO is under no obligation to explain the reasons behind their assessments.

They don't know why their freedom has been denied. They don't know if or when they will be released from detention.

RCOA has written to Federal Attorney-General Nicola Roxon, urging the new Minister to explore changes to:

- Advise refugees of the reasons for security refusals;
- Provide a mechanism to challenge findings;
- Pursue alternatives to detention.

A Just Australia, Newsletter of the Refugee Council of Australia, 25 January 2012

www.ajustaustralia.com/

Refugee obsession 'out of proportion'

It has taken a visit by the United Nations High Commissioner for Refugees, Antonio Guterres, to give us a lesson in commonsense and decency. Guterres, a former prime minister of Portugal, points out that the 6000 or so asylum seekers arriving directly by boat are a minuscule problem compared with the human tide in many other countries, such as the European nations around the Mediterranean Sea. The debate in Australia is overly politicised and out of proportion, he says.

He told a Sydney audience that people smuggling had become "a nasty business" linked to organised crime and it was important for governments to crack down on human trafficking. But, he said, protection also had to be offered to the victims of the trade, who often had no legal way to escape their situation.

Last year 1500 asylum seekers died in the Mediterranean Sea, as 57,000 people reached Malta and Italy by boat. Another 100,000 asylum seekers reached Yemen by boat.

"It is very difficult for me as High Commissioner, who has to deal with the whole world, to be convinced that 6000 is a very important problem," Mr Guterres said of boat arrivals to Christmas Island.

He called for moral leadership and warned the risk of a populist approach by politicians was that overblown fears "all too easily manifest into statements and acts of xenophobia against foreigners - be they refugees, migrants or others".

In meetings with the Immigration Minister, Chris Bowen, Mr Guterres said he had raised the UNHCR's concerns about Australia's mandatory detention of asylum seekers, the need for faster security assessments by ASIO and the introduction of "checks and balances" in the security assessment process.

Against the high costs of trial and imprisonment, there is little sign of any deterrent effect. The main function, it seems, is to satisfy a thirst for punishment in our collective psyche. As a District Court judge, Brian Knox, observed in sentencing an Indonesian, Asse Ambo, for a trip that earned him only \$217, it was difficult to see how mandatory sentencing could be reconciled "with the duty imposed by the Crimes Act to deliver a sentence which is 'of a severity appropriate in all the circumstances of the offence'." There is an ugly face in the mirror held up to us.

www.smh.com.au/opinion/political-news/refugee-obsession-out-of-proportion-20120214-1t49w.html
<http://www.smh.com.au/opinion/editorial/scapegoats-for-our-fears-20120214-1t46j.html>

Visa places slashed for persecuted families

Tens of thousands of residents trying to bring persecuted family members to Australia on special humanitarian visas face little chance of success this year, with the program cut to just 750 places.

Only 149 places are left for the next six months, despite a backlog of 20,500 people with family links to Australia, including 12,000 husbands, wives or children seeking resettlement.

The dramatic cut in special humanitarian places, compared with 3000 visas granted last year and 9000 in 2003, has been linked by the federal government to the increase in boat arrivals.

The Refugee Council of Australia has called for the government to scrap its linking of the two programs, whereby each visa granted to a boat arrival causes a place to be lost from the special humanitarian program.

In a submission to a government review of the refugee intake, the council said drastic cuts to the visa designed to bring close family members of refugees to Australia is creating increased "tensions and frustrations" between community groups, and hostility towards boat arrivals. The council has documented separated families facing financial and mental health distress and, in some cases, encouraging family members to join the flood of boat arrivals.

The Immigration Department, in a briefing paper, warned that the special humanitarian program "is facing the greatest pressure since its inception".

The federal government is considering introducing private sponsorship to increase the number of places available without hitting the federal budget.

www.smh.com.au/national/visa-places-slashed-for-persecuted-families-20120131-1qrha.html

Search for missing refugee boat

An asylum-seeker boat that is believed to have sunk, drowning 105 Hazaras on board, was left floundering and "taking on water" for almost four hours before Australian authorities activated a rescue mission.

Customs and Border Protection officials admitted in a Senate estimates hearing that red tape was the reason for the delay in relaying the distressed boat's co-ordinates to Australia's sea rescue agency.

The boat carrying men, women and children went missing on October 3, 2009, on its way from Indonesia to Christmas Island, after Australian authorities learnt it was in distress. Those on board have vanished and relatives fear they have all drowned.

Details about the ill-fated boat trip only came to light in early 2010, after relatives of the missing contacted Australian authorities asking for information.

They had also told the Afghan community leader Hassan Ghulam that the last time they had heard from their relatives - all Persian-speaking Hazaras from Afghanistan - was in telephone calls from the missing boat saying that they were in international waters.

The federal government initially denied any knowledge of the boat. However, after a review of government files, the former minister for home affairs Brendan O'Connor admitted the government had received a distress call from the boat but also that it had received "credible information" the boat had overcome those difficulties.

But a new timeline of events obtained by the *Herald* under freedom of information laws revealed that was not the case.

The deputy chief executive of Border Enforcement, Marion Grant, corrected the parliamentary record when she revealed the agency had not acted immediately to send help to the boat. She revealed the

reason for the long delay had been because Border Protection officers did not know how to deal with classified information.

www.smh.com.au/national/red-tape-delayed-search-for-missing-refugee-boat-20120215-1t6s4.html

How Immigration lost 17 boys

Seventeen asylum-seeker children suspected of being trafficked from Vietnam have vanished from immigration centres across the country.

The boys, mainly Catholics from the north of Vietnam, arrived by boat on Christmas Island between June 2010 and May last year. The Vietnamese embassy in Canberra has been kept in the dark about their disappearance.

Before the boys, the youngest of whom is said to be 15, disappeared they told advocates their parents had been tricked into giving them into the custody of an older Vietnamese man promising them work and education in Australia.

Serious concerns have been raised about the sudden arrival of dozens of unaccompanied Vietnamese children as young as six. There are fears they may have been trafficked to Australia for illegal labour or for prostitution.

The president of the Vietnamese Community in Australia, Phong Nguyen, said the Department of Immigration had been trying to keep the disappearance quiet.

"It is quite alarming that children can disappear like that," he said. "We don't know what is their situation and, if they are living underground, then other adults might abuse them."

A refugee advocate, Pamela Kerr, said the boys' parents appeared to have been duped and exploited.

"These are simple parents who have been misled," Ms Kerr said. "They have been convinced to pay money for their children to travel in the belief that they will be taken care of and allowed to work and study in Australia. When they get here they find that is not the case."

The Sun-Herald has been told the man who sent the children, including his own daughter, by boat is already well known to authorities. He arrived by boat in 2009, was rejected as a refugee and went back to Vietnam.

Mr Nguyen said the Vietnamese community had tried to find out more about the missing children but authorities were reluctant to reveal anything.

The boys must have had outside connections or help to leave, Mr Nguyen said. He called on anyone harbouring the "vulnerable" children to tell the Vietnamese community.

"We want to know they are safe and not being abused," he said

www.smh.com.au/national/how-immigration-lost-17-boys-20120128-1qn0z.html

Child asylum seekers get payout in UK

The British government has paid compensation of more than STG1 million (\$A1.4 million), plus STG1 million costs, in a case involving 40 child asylum seekers who were wrongly detained as adults, a newspaper has reported.

It's thought to be the first case of its kind and the largest immigration detention payout for a single case, according to Saturday's edition of *The Guardian*.

Government officials accepted that the policy was unlawful and changed it as a result of this case, the newspaper said.

The case that resulted in the payout involved girls and boys, including 25 aged 14 to 16, from countries including Afghanistan, Iran, Sri Lanka, Nigeria, Eritrea, Uganda, Somalia and China, the newspaper said.

A UK Border Agency spokesman said: "We take the welfare of young people exceptionally seriously."

<http://news.smh.com.au/breaking-news-world/child-asylum-seekers-get-payout-in-uk-20120218-1tfkf.html>

Court backs migrants who were forcibly returned

Italy violated international human rights laws when it intercepted migrants adrift in the Mediterranean in 2009 and returned them to Libya, the European Court of Human Rights has ruled.

This ruling is likely to play a role in shaping future European Union immigration policy at a time of political and economic upheaval in north Africa.

"It is the first time a court has recognised the unlawfulness of the push-back operations with regard to international law and human rights," one of the Italian lawyers representing the migrants, Andrea Saccucci, said. "We are very satisfied and hope it will prevent similar actions in the future."

The 11 Somalis and 13 Eritreans represented in the complaint were part of a group of 200 migrants, including children and pregnant women, who left Libya in 2009 on board three boats bound for Italy. Their boats ran into trouble 56 kilometres south of the Italian island of Lampedusa, just 110 kilometres off the coast of north Africa. They were eventually rescued by Italian customs and coastguard vessels.

Italian authorities returned them by ship to Tripoli, where they were handed over to Libyan authorities without efforts to identify them, screen them or offer them asylum procedures.

Each of the 22 migrants represented was awarded €15,000 (\$18,670) compensation.

The United Nations estimates that more than 1000 migrants were intercepted by the Italian coastguard and returned to Libya while the policy was in place.

www.smh.com.au/world/court-backs-migrants-who-were-forcibly-returned-20120224-1ttlc.html

Australian immigration tribunal appeals on the rise

Foreign citizens desperate to live in Australia are swamping refugee and immigration tribunals by appealing against orders to leave.

While much of the national attention has focused on boat arrivals, many thousands more arrive by plane and are fighting to stay. Thousands of extra appeals are being lodged by plane arrivals each year, leading to a cost blowout for taxpayers and long delays for applicants.

Frustrated tribunal members are finding some claims are blatantly faked, including a Chinese asylum seeker who said he was Catholic but didn't know who the Pope was. Other men lied about being gay or about being pursued by criminal gangs, ex-partners or corrupt officials in an attempt to gain asylum.

Visa overstayers, including students, are also faking it or taking advantage of appeal delays to buy time in Australia at the expense of a clogged system.

The Refugee Review Tribunal, which handles only plane arrivals, had 2966 appeals lodged last year - a 31 per cent jump.

The Migration Review Tribunal, which handles student, spouse, business and bridging visas, had 10,315 appeals last year - up 24 per cent.

www.heraldsun.com.au/news/more-news/australian-immigration-tribunal-appeals-on-the-rise/story-fn7x8me2-1226256226781

Exempt labour at embassy

Australia and China have negotiated a deal to exempt labourers constructing a new embassy in Canberra from Australian workplace laws.

Under the deal, the site is covered by diplomatic status - even though the embassy is not complete - making the construction site in effect Chinese soil.

That status means that Australian authorities have no jurisdiction to assist anyone injured or killed on the construction site. Nor can they enforce local safety standards.

The department says all workers are Chinese citizens, who have been granted diplomatic visas to travel to Australia and work on the project. China has forbidden Australians from working on the site.

www.smh.com.au/national/china-employs-exempt-labour-at-embassy-20120203-1qxo9.html

Resources

Booklet 5, *Employer Sponsored Migration*

This Booklet published by the Department of Immigration and Citizenship is designed so that you can understand the steps for applying for Employer Sponsored Migration to Australia. It has detailed information about migration procedures for the:

- Employer Nomination Scheme (ENS)
- Regional Sponsored Migration Scheme (RSMS)
- Labour Agreements (LAs), or
- Invest Australia Supported Skills (IASS) Agreements

A copy of the free online booklet is available at:

<http://www.immi.gov.au/allforms/booklets/books5.htm>

A.P.B. Education Specialist IELTS Test Training and Coaching

Passing an IELTS test is now an essential requirement for all applicants for General Skills 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
- Writing
- Speaking
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