



14 July 2022

Asmita GHIMIRE
ITAHARI 13 ITAHARI, SUNSARI
ITAHARI KOSI (KOSHI) NEPAL

In reply quote:

Client name	Asmita GHIMIRE
Date of birth	05 October 2000
Date of visa application	24 April 2022
Application ID	135651727
Transaction reference number	EGOT07VLPV
File number	BCC2022/1396958
Visa application charge receipt number	9021098451

Transmission method Email sent to info@ostrichintl.com

Dear Asmita GHIMIRE

Notification of refusal of application for a Student (Temporary) (class TU) Student (subclass 500) visa

Refused applicant

I wish to advise you that the application for this visa has been refused on 14 July 2022 for the following applicant:

Client name	Asmita GHIMIRE
Date of birth	05 October 2000

The applicant did not satisfy the provisions of the *Migration Regulations 1994*.

The attached decision record provides detailed information about this decision as it applies to this applicant.

Review rights

There is no right of merits review for this decision.

Receiving this letter

As this letter was sent to you by email, you are taken to have received it at the end of the day it was transmitted.

Questions about this decision

We cannot consider your visa application any further.

Visa application charge

The visa application charge which has already been paid can only be refunded in limited circumstances, regardless of the application outcome.

A receipt for your payment is available through your ImmiAccount.

Yours sincerely

Madhulika

Position number: 60089148

Department of Home Affairs

The original of this letter including any attachments was sent to:

Hari Chandra KHATIWADA

OSTRICH INTERNATIONAL EDUCATIONAL CONSULTANCY PVT. LTD

info@ostrichintl.com



DECISION RECORD

Application details

Visa class	Student (Temporary) (class TU) Student (subclass 500)
Stream (main applicant only)	Vocational Education and Training Sector
Date of visa application	24 April 2022
Transaction reference number	EGOT07VLPV
Application ID	135651727
File number	BCC2022/1396958
Visa application charge receipt number	9021098451

Client name	Asmita GHIMIRE
Date of birth	05 October 2000
Client ID	16902762118
Visa subclass stream	Vocational Education and Training Sector

The applicant's claims

The applicant applied for a Student (Temporary) (class TU) Student (subclass 500) visa.

Information and evidence considered

I am a delegated decision maker under section 65 of the *Migration Act 1958*. In reaching my decision, I have considered the following:

- relevant legislation contained in the Migration Act and Migration Regulations 1994
- relevant policy and procedural information on LEGEND
- documents and information provided by the applicant(s)

Findings

On the basis of all the information available to me, including the documents and information the applicant provided, I find that the criteria for the grant of a Student visa are not met by the applicant.

Reasons

I have assessed the application and the reasons for my decision are detailed below.

A valid application for a Student visa has been made by the applicant.

A visa cannot be granted unless the relevant criteria set out in the Migration Act and the Migration Regulations are satisfied.

In this case, I am not satisfied that clause 500.212 in Schedule 2 of the Migration Regulations is satisfied. This clause provides that:

500.212

The applicant is a genuine applicant for entry and stay as a student because:

- (a) *the applicant intends genuinely to stay in Australia temporarily, having regard to:*
 - (i) *the applicant's circumstances; and*
 - (ii) *the applicant's immigration history; and*
 - (iii) *if the applicant is a minor—the intentions of a parent, legal guardian or spouse of the applicant; and*
 - (iv) *any other relevant matter; and*
- (b) *the applicant intends to comply with any conditions subject to which the visa is granted, having regard to:*
 - (i) *the applicant's record of compliance with any condition of a visa previously held by the applicant (if any); and*
 - (ii) *the applicant's stated intention to comply with any conditions to which the visa may be subject; and*
- (c) *of any other relevant matter.*

This clause is also known as the genuine temporary entrant criterion.

Ministerial Direction No 69 - *Assessing the genuine temporary entrant criterion for Student and Student Guardian visa applications* sets out the factors that must be taken into account when assessing the genuine temporary entrant criterion for Student visa applications. This Ministerial Direction is made in accordance with section 499 of the Migration Act. Further information is available at: immi.homeaffairs.gov.au/Visa-subsite/files/direction-no-69.pdf

In summary, these factors include:

- the applicant's circumstances in their home country, including the applicant's economic situation, political and civil unrest in the applicant's home country, the extent of the applicant's personal ties to their home country, whether the applicant has sound reasons for not studying in their home country if a similar course is available, and military service commitments that would present as a significant incentive for the applicant not to return to their home country
- the applicant's potential circumstances in Australia, including the extent of the applicant's ties with Australia that present as a strong incentive to remain in Australia, evidence that the student visa program may be used to circumvent the intention of the migration program, whether the Student visa or the Student Guardian is being used to maintain ongoing residence, the applicant's knowledge of living in Australia, and whether the primary and secondary applicants have entered into a relationship of concern
- the value of the course to the applicant's future, including the course's consistency with the applicant's current education level, whether the course will assist the applicant to gain employment in their home country, relevance of the course to the applicant's past or future employment in their home country or a third country, and remuneration and

career prospects in the applicant's home country or a third country to be gained from the course

- the applicant's immigration history, including visa and travel history for Australia and other countries, previous visa applications for Australia or other countries, and previous travels to Australia or other countries
- if the applicant is a minor, the intentions of a parent, legal guardian or spouse of the applicant

Any other matter relevant to the applicant's intention to stay in Australia temporarily must also be considered. These factors have been weighed up to make an overall decision.

In considering whether the applicant met the genuine temporary entry criterion I had regard to the following factors, consistent with clause 500.212 and Ministerial Direction No 69. The factors were used to weigh up the applicant's circumstances as a whole, in reaching a finding about whether they satisfy the genuine temporary entrant criterion.

I have considered the applicant's circumstances in their home country along with the information provided in the application. The applicant intends to pursue Certificate IV in Accounting and Bookkeeping and Diploma of Accounting leading to Advanced Diploma of Accounting.

The applicant has not demonstrated sufficient economic ties to their home country. I have considered the financial capacity of the applicant's family members and I acknowledge that the applicant has personal ties in their home country however I find that these ties do not, of themselves, constitute a strong incentive to return home at the completion of the proposed study. I am therefore not satisfied that the applicant has been able to demonstrate personal or economic ties that would serve as a significant incentive to return to their home country.

I have also considered the applicant's potential circumstance in Australia. I note the applicant's genuine temporary entrant (GTE) statement provides information on the chosen provider in Australia and on the course, they propose to undertake. The applicant's statement outlines the research they have conducted to gather this information. However, when considered holistically against the other aspects of the genuine temporary entrant criteria, I find that this does not outweigh the concerns raised in other factors of my assessment.

I have considered the value of the course to the applicant's future. The applicant has indicated that on completion of the course they will return to their home country and work as a Senior Accountant. The applicant has not provided detailed or convincing testimony or evidence as to how they would achieve this against the prevailing employment circumstances for individuals with their anticipated educational background. Given the applicants individual circumstances, I consider the significant cost of the course is unlikely to be offset by the potential income derived by the applicant in their expected employment field. Accordingly, I am not satisfied the proposed course will add value to the applicant's future

I find that the applicant has not provided any evidence for having conducted cost benefit research for undertaking studies in Australia, which would be expected of a genuine student. I acknowledge the applicants study plan outlining their reasons for undertaking their intended course of study in Australia. However, based on the available information I do not find compelling cause for the applicant to travel to Australia at significant expense to pursue the proposed study when their career goals could be adequately served in their home country.

I have taken into consideration the applicants previous immigration history. As the applicant has no significant immigration history, this factor was not relevant to my assessment.

As the applicant is over 18 years of age, the intention of the applicant's parent, legal guardian or spouse was not relevant to my assessment.

I have considered whether there is any other relevant matter, however in this case I have determined that there are no other relevant matters.

Conclusion

After weighing up these factors as a whole, I am not satisfied that the applicant intends genuinely to stay temporarily in Australia.

Decision

As clause 500.212 is not met by the applicant, I find the criteria for the grant of a Student visa are not met by the applicant. Therefore, I refuse the application by the applicant for a Student visa.

Assessment against the criteria of other subclasses in class TU

As the application was not made on Form 157G (Application for a Student Guardian visa), I have not considered the application against the subclass 590 Student Guardian visa criteria in this visa class.

Yours sincerely

Madhulika
Position Number: 60089148
Department of Home Affairs

14 July 2022