



21 June 2013

Mr Tim Bryant  
Inquiry Secretary  
The Senate Standing Committee On Legal And Constitutional Affairs  
PO Box 6100, Parliament House  
CANBERRA ACT 2600

By email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Mr Bryant,

**Inquiry into the Migration Amendment (Temporary Sponsored Visas) Bill 2013**

This morning Mr Dave Noonan Assistant National Secretary CFMEU and I gave evidence to the Committee.

This submission expands briefly on the central issue of the need for the Labour Market Testing (LMT) provisions in the Bill; and why these should be strengthened, as per the amendments outlined in the ACTU submission to the Committee.

Effective LMT in the 457 visa program is essential:

- to ensure qualified Australian workers are employed when available, and also
- to minimise the risk of 457 worker exploitation, when employers are able to choose temporary 457 workers even when qualified Australians are available.

The Department of Immigration acknowledges one reason why LMT is now needed, namely:

We have a very large number of temporary visa holders on other visas in the country and they are all eligible to apply for 457 visas if they find an employer who will sponsor them. This is where we have seen the largest growth, when the labour market is softening, in the onshore applications.<sup>1</sup>

At 31 March 2013, there were in fact 1.7 million foreign nationals in Australia and the numbers are growing by around 100,000 each year (DIAC data).

Many want 457 visas, many now obtain 457 visas (50% of all 457 visas now go to persons onshore) and many are already working for their 457 sponsor when they are nominated for the 457 visa.

As a result, many 457 jobs are never advertised – because there is no obligation and no incentive to do so. The CFMEU said in a previous submission to this Committee:

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<sup>1</sup> ACTU submission p5, citing DIAC official Mr Kruno Kukoc, evidence to Senate 457 Inquiry, 27 May 2013.

“This flawed policy accords a higher priority to employer convenience and the interests of other temporary visa holders than to the so-called ‘fundamental tenet’ of the 457 visa program...”, namely

“to enable businesses to sponsor a skilled overseas worker if they cannot find an appropriately skilled Australian citizen or permanent resident to fill a skilled position”

In the 12 months to 31 August 2013, DIAC data shows that 457 visas were granted onshore to over 30,000 foreign nationals already in Australia on other temporary visas.

- In the traditional skilled trades (including construction trades), **6,919** 457 visas were granted to persons already onshore, mainly on Working Holiday Visas, many already working for their 457 sponsor.

Under current policy settings, the pool of temporary visa holders in Australia already working for employers and seeking 457 visas is bound to grow strongly.

In this environment, without effective LMT in the 457 visa program, even more qualified Australian workers will be passed over by employers in the future than are at present.

The CFMEU submits that effective 457 LMT is in fact a measured and responsible adjustment to the 457 visa program, which takes due account of the changing environment.

Yours sincerely

(Signed)

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