

Tony Sheldon National Secretary

Friday 21 June 2013

The Committee Secretary
Senate Committee on Legal and Constitutional Affairs
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Australia

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Migration Amendment (Temporary Sponsored Visas) Bill 2013

Dear Sir/Madam

The Transport Workers' Union of Australia is writing to the Committee to support the Australian Council of Trade Unions submission.

We have never opposed the use of 457 to fill genuine shortages. But we oppose unscrupulous employers taking advantage of loopholes in the system to exploit foreign workers and evade their responsibility to educate and train local workers.

We have genuine concern that currently no labour market testing is required by employers to prove they have sought to fill the position with a local residents. At present, all that employers are required to do to gain access to overseas workers under the 457 program is attest to the fact that they have a strong record of, or a demonstrated commitment to, employing local labour.

We want to maximise the job opportunities and training opportunities for all Australian residents. We want to ensure that the employers are not able to take the easy option and go down the 457 route without investing in training and undertaking genuine testing of the local labour market.

For example adding flight attendants to the Consolidated Sponsored Occupation List (CSOL) with no consultation with industry, employee representatives in the industry or the broader market. We have discovered numerous examples where small numbers of flight attendant positions have been made available or advertised and literally thousands of Australians have made applications for those jobs. There is no shortage of people wanting to be flight attendants. The decision to put flight attendant on the CSOL without it being reflective of actual industry shortages is why labour market testing needs to be included to the *Migration Act*.

Further the Australian Workforce and Productivity Agency (AWPA) should be given responsibility for compiling and maintaining the CSOL so that there is a more rigorous and targeted approach to identifying Australia's skill needs now and into the future.

We strongly support the increase in the period that 457 visa holders have to find a new sponsoring employer from 28 to 90 days. It will go some way towards addressing the fear and concern that 457 visa holders have about speaking out against their current employer for fear that if they lose their job they can be deported if they don't find a new employer within 28 days.

Many of these vulnerable individuals fear losing their jobs to which they are reliant upon to stay in Australia. The threat of deportation within 28 days if they speak out against exploitation and bullying in the workplace is real and at the heart of the problem. Many of these individuals have sought employment in Australia to improve the lives of family members back in their home country.

Only last week a Vietnamese worker on a 457 confirmed that a locally based migration agent requested \$20,000 in consultancy fees to process the visa, find the individual a job and a further \$10,000 when the individual is granted permanent residency. This fee is evidence that unscrupulous behaviour exists today in our local communities.

We also welcome the provision that will enable 300 plus Fair Work inspectors to exercise powers under the *Migration Act*. This is an important measure that will help address the chronic under-resourcing of compliance and enforcement activities under the 457 visa program.

It is no surprise that the number of prosecutions to date have been so low. The Department of Immigration and Citizenship has 38 inspectors to monitor more than 22,000 employers. With only 861 employers receiving a site visit that is less than 4 per cent of all 457 employers being actively monitored.

Employers need to know there is at least some chance they will be subject to some form of scrutiny. Giving powers to the Fair Work Ombudsman to monitor and enforce compliance with 457 visa conditions, will no doubt prove the point that we have been making that unscrupulous employers exist and have been taking advantage of the loopholes.

We are pleased to support the ACTU submission to this inquiry and would be pleased to respond to any questions arising out of this letter.

Yours sincerely,

Tony Sheldon
National Secretary