

20 June, 2013

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT

Dear Committee Members

MIGRATION AMENDMENT (TEMPORARY SPONSORED VISAS) BILL 2013

We welcome the opportunity to make this submission to the Inquiry into the *Migration Amendment (Temporary Sponsored Visas) Bill 2013* (“the Bill”), which will create new obligations for sponsors of Subclass 457 visa applicants.

Temporary Sponsored Visas, such as the Subclass 457 visas, are a valuable means of obtaining skilled labour during a time in Australia where specific skills shortages exist. This particular visa scheme provides Australian employers with a mechanism for quickly and efficiently filling gaps caused by a genuine lack of skilled and qualified local workers.

The purpose of the Bill seems to be to deter sponsors who choose to employ foreign skilled workers when Australians are available to fill those positions. We submit however that the provisions concerning Labour Market Testing create an added burden on genuine sponsors without improving the 457 visa process or filtering out any participants misusing the program.

Administrative burden

We believe that the introduction of Labour Market Testing condition will only add another layer of complexity, delay and administrative cost to the 457 visa scheme, without addressing the objective. These amendments are likely to deter employers from pursuing sponsorship altogether. The provisions effectively compel employers to spend more time and money on advertising even where that advertising will be ineffective.

Ineffective

We submit that Labour Market Testing is also too open to manipulation to be effective. The mode, timing and response to advertising vary widely, and businesses who do not want a response to their advertising can manipulate factors to ensure they do not get it. Given this, Labour Market Testing becomes a burden to all businesses participating in the 457 program, but does not weed out those who wish to manipulate the system. If the purpose of these amendments is to reduce misuse of the system, why introduce a process so obviously open to further misuse?

Targeting

We have not seen any specific evidence of the suspected 457 system 'rorting', however we submit that any changes to the current program need to be targeted to address the actual inadequacies of the system.

This submission supports the concept that appropriate legislative tools be available to DIAC to make decisions on 457 applications, however there is significant evidence that those tools already exist. Changes cannot be supported in the absence of any real evidence that the system is not working, as such change has the potential to add extra burden to genuine participants in the 457 program without improving the quality of decision making in the process. The system is sufficiently complex already for employers, applicants and DIAC. It is certainly complex enough to discourage employers from using the scheme in the absence of any urgent need.

The dramatic increases in visa application charges announced this week will significantly increase the costs to business. A 457 application for a worker with a partner will leap from \$455 to \$1800. This will provide additional burdens for employers relying on the scheme.

We appreciate that deterrence of any dishonest behaviour is necessary and important. We commend the Bill's proposed changes to monitoring (through the conferral of power on Fair Work inspectors) and enforcement (through the introduction of enforceable undertakings). We submit that in order to be able to effectively monitor sponsor compliance, inspectors must be specifically trained in the relevant aspects of migration law.

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