The Senate

Legal and Constitutional Affairs Legislation Committee

Migration Amendment (Offshore Resources Activity) Repeal Bill 2014 [Provisions]

June 2014

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CHAPTER 1

Introduction

1.1 On 27 March 2014, the Minister for Immigration and Border Protection, the Hon Scott Morrison MP, introduced the Migration Amendment (Offshore Resources Activity) Repeal Bill 2014 (the Bill) into the House of Representatives.[1] On 27 March 2014, pursuant to a Selection of Bills Committee report, the Senate referred the provisions of the Bill to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 6 June 2014.[2]

Background to the Bill

1.2 The Bill seeks to repeal the *Migration Amendment (Offshore Resources Activity) Act 2013* (ORA Act), which received the Royal Assent on 29 June 2013. The operative provisions of the Act, however, had not commenced at the time of writing. This Act amended the *Migration Act 1958* (Migration Act) to deem persons working in Australian offshore resource installations to be in the Australian migration zone and therefore required to hold an appropriate visa.[3]

1.3 The ORA Act was introduced as a response to the decision of the Federal Court of Australia in the case of *Allseas Construction SA v Minister for Immigration and Citizenship* (*Allseas*).[4] This case found that non-citizen crew on certain vessels falling within an exemption in subsection 5(13) of the Migration Act were not working within the migration zone and therefore did not require an Australia visa. At the time, the government considered that the *Allseas* decision exposed a gap in the Migration Act, which 'undermine[d] the integrity of Australia's migration program and the visa regime regulating work entitlements'.[5]

1.4 The ORA Bill was referred to this committee on 18 June 2013, and the committee presented its report for the inquiry on 25 June 2013.[6] The majority report recommended that the ORA Bill be passed without amendment. The dissenting report from Coalition Senators, however, raised a number of concerns with the ORA Bill, including that the Bill created uncertainty for industry, that the wide and uncertain

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1 House of Representatives, *Votes and Proceedings*, No. 34—27 March 2014, pp 436-437.

2 *Journals of the Senate*, No. 26—27 March 2014, p. 741.

3 The Hon Chris Bowen MP, Minister for Immigration and Citizenship, 'Government to legislate on visa status of offshore workers', Media Release, 15 October 2012.

4 [2012] FCA 529.

5 The Hon Brendan O'Connor MP, Minister for Immigration and Citizenship, Second Reading Speech, *House of Representatives Hansard*, 30 May 2013, p. 4526.

6 Senate Legal and Constitutional Affairs Legislation Committee, *Migration Amendment (Offshore Resources Activity) Bill 2013 [Provisions]*, June 2013.

scope of the Bill may breach international obligations, and that the Bill would unnecessarily increase the regulatory burden on industry.[7] The dissenting report recommended that the Bill not be passed.[8]

Purpose of the Bill

1.5 As noted, the Migration Amendment (Offshore Resources Activity) Repeal Bill 2014 seeks to repeal the *Migration Amendment (Offshore Resources Activity) Act 2013*. As the operative provisions of the ORA Act have not yet commenced, the Bill effectively seeks to maintain the existing arrangements in this area.[9]

1.6 The minister explained in his second reading speech that the government does not consider that there is a gap in the coverage of the Migration Act over workers in the offshore resources industry:

> Repealing this legislation does not mean that the industry is, or will be, in any way "unregulated". For example, non-citizens working on resource installations will still be required to hold valid visas. They will also still be required to hold the appropriate visa if they wish to come to the Australian mainland.[10]

1.7 The minister also highlighted the value of the offshore resources industry to the Australian economy, and the importance of ensuring that the industry is able to remain internationally competitive, noting that:

> The (offshore resources) industry should not be expected to operate under an increased regulatory burden, or additional cost pressures that would put the viability of current and future projects at risk.[11]

1.8 The Explanatory Memorandum to the Bill stated that:

> The Government intends to repeal the Offshore Resources Activity Act as it will increase the regulatory burden on the resources industry and will have significant impacts for businesses and investors.[12]

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7 Senate Legal and Constitutional Affairs Legislation Committee, *Migration Amendment (Offshore Resources Activity) Bill 2013 [Provisions]*, June 2013, pp 19-20.

8 Senate Legal and Constitutional Affairs Legislation Committee, *Migration Amendment (Offshore Resources Activity) Bill 2013 [Provisions]*, June 2013, p. 20.

9 Regulation Impact Statement, Migration Amendment (Offshore Resources Activity) Repeal Bill 2014, p. 5, Attachment A to Explanatory Memorandum.

10 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, Second Reading Speech, *House of Representatives Hansard*, 27 March 2014, p. 9.

11 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, Second Reading Speech, *House of Representatives Hansard*, 27 March 2014, p. 9.

12 Explanatory Memorandum, p. 2.

Conduct of the inquiry

1.9 The committee wrote to 51 organisations, inviting submissions by 28 April 2014. Details of the inquiry, including the Bill and associated documents, were made available of the committee's website at www.aph.gov.au/senate_legalcon.

1.10 The committee received 8 submissions, which are listed at Appendix 1. The committee thanks those organisations and individuals who made submissions.

CHAPTER 2

Key provisions of the Bill and issues raised

2.1 The Bill contains one schedule, consisting of a single item providing for the repeal of the *Migration Amendment (Offshore Resources Activity) Act 2013* (ORA Act).

Key provisions of the *Migration Amendment (Offshore Resources Activity) Act 2013*

2.2 The ORA Act contains one schedule comprised of two parts. The operative provisions of the Act are set out in Part 1 of Schedule 1, while Part 2 deals with the application of the amendments.

2.3 As set out in this committee's report of June 2013 on the ORA Bill, section 9A of the ORA Act creates:

> a new framework to provide that persons in an area who participate in, or support, an 'offshore resources activity' are taken to be in the migration zone… The intended effect of proposed new section 9A is to bring persons participating in, or supporting, an 'offshore resources activity' within the ambit of the Migration Act, thereby requiring these persons to hold visas.[1]

2.4 Subsections 9A(1) and (3) set out the circumstances in which a person is deemed to be in the migration zone. Subsection 9A(4) defines 'offshore resources activity', and subsection 9A(6) provides for the minister to make determinations in relation to this definition. New subsections 41(2B) and 41(2C) provide that a person must hold either a permanent or prescribed visa to lawfully participate in, or support an offshore resources activity.

2.5 While the Explanatory Memorandum for the ORA Bill made reference to a 'new visa product' for this purpose to be prescribed in the *Migration Regulations 1994*, the committee understands that this new visa has not been developed.[2] As set out in the commencement table, Schedule 1 of the Act is scheduled to commence 12 months after Royal Assent, in June 2014. The Explanatory Memorandum noted that this was to allow:

> adequate time for the Department to develop a specifically tailored visa pathway for offshore resource workers in consultation with key

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1 Senate Legal and Constitutional Affairs Legislation Committee, *Migration Amendment (Offshore Resources Activity) Bill 2013 [Provisions]*, June 2013, p. 4.

2 Migration Amendment (Offshore Resources Activity) Bill 2013, Explanatory Memorandum, p. 22.

> stakeholders which would commence on the same day as the operative provisions of this Bill.[3]

Issues raised during the inquiry

2.6 Issues raised by stakeholders focused on the Bill's potential impact on jobs and security, as well as the impact of technological advances in the offshore resources sector.

Employment conditions

2.7 The Australian Institute of Marine Power Engineers (AIMPE), the Australian Maritime Officers Union (AMOU) and the Maritime Union of Australia (MUA) were concerned that repealing the ORA Act would enable employers to bypass Australian wages and conditions when employing foreign workers, which would 'jeopardise the employment opportunities for Australian seafarers working in the offshore oil and gas industry.'[4]

2.8 The MUA argued that foreign workers should only be brought into the offshore resources industry through a visa program 'to protect Australian employment and training opportunities and to ensure fair rates of pay and conditions for overseas workers',[5] and that:

> Without amending legislation enacted by the Parliament there [is] a real risk overseas workers in the exploration of Australia's natural resources, who therefore form part of the Australian employment sector, would be working under conditions and receiving wages below Australian standards.[6]

2.9 Concerns were raised around the loss of training opportunities,[7] and ensuring that foreign workers involved in extracting Australian resources would pay tax in Australia.[8] There was also concern that a lack of regulation of non-citizen workers on offshore resources installations would lead to increased health and security risks, as the checks that are usually performed when granting a visa would not apply.[9]

2.10 The Australian Mines & Metals Association (AMMA), however, disputed the Bill's negative impact employment opportunities:

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3 Migration Amendment (Offshore Resources Activity) Bill 2013, Explanatory Memorandum, p. 6.

4 *Submission 4*, p. 6.

5 *Submission 7*, p. 3.

6 *Submission 7*, p. 3.

7 *Submission 3*, p. 4.

8 *Submission 4*, p. 1.

9 *Submission 3*, p. 5.

> It is not accurate to say the jobs being affected are Australian jobs…The fact is that local companies and projects often need to engage international contractors or source vessels from within their international fleets for short periods to perform critical work associated with major resource projects. This is internationally unique work requiring vessel-specific skills.[10]

2.11 The Department of Industry also argued that:

> The sector has a strong international focus and relies on a highly mobile and often specialised workforce. Specialised technical skills and industry experience will be in greater demand as the sector moves from construction to an operational phase. In order to not exacerbate skills shortages and to maintain project efficiencies and global competitiveness of the sector, the Department supports flexibility and timeliness in terms of visa processing and pre approval.[11]

2.12 The committee was also informed by industry and the government that the number of non-citizens working in the offshore resources industry who are not currently required to hold visas is relatively small. The Department of Immigration and Border Protection (DIBP) and the Australian Customs and Border Protection Service (Customs) noted that:

> While the precise number of non-citizens working in the industry who are not currently required to hold visas is unknown, indications are that it is relatively small. One estimate has put the total at approximately 2000 per year (by comparison 68 000 subclass 457 visas were granted in 2012-13), while others have put the number at considerably less than this. The prevalence of fly-in fly-out arrangements mean that overseas workers generally remain in Australia for relatively short periods of time, meaning that only a proportion of the estimated 2000 would actually be in the migration zone at any given time.[12]

2.13 Government and industry submissions argued that current arrangements in the sector provide sufficient protections for workers and immigration controls. DIPB and Customs noted:

> Terms and conditions of employment will continue to be protected and enforced under domestic laws or under international convention through the International Labour Organisation's Maritime Labour Convention. As the workplace relations and migration systems are subject to separate legislative frameworks, non-citizens' terms and conditions of employment are subject to regulation domestically or under international law regardless of whether they are prescribed in sponsorship obligations or visa criteria.
>
> Non-citizens working on resource installations, or who come to the Australian mainland to work, are already required to hold work visas. Non-

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10 *Submission 2*, p. 3.

11 *Submission 8*, p. 1.

12 *Submission 6*, p. 3.

> citizens must also hold valid visas to be immigration cleared when they transit through an Australian port on their way to and from resource installations and vessels – hence they are still subject to immigration controls, even if they are not required to hold a visa for the activity they are undertaking on the resource installation or vessel.[13]

2.14 The continuing lack of certainty around the operation of the ORA Act was also raised by stakeholders. The Department of Industry, the Business Council of Australia (BCA) and AMMA highlighted the broad discretion granted to the minister to make determinations under the Act as an area of particular concern.[14]

2.15 DIBP and Customs considered that repealing the ORA Act would lead to greater certainty for industry, and noted that the Act did not fully address the 'complexity of operations in the offshore environment', stating 'on an operational level, the ORA Act will not regulate the employment conditions of the range of occupations of workers on offshore resources vessels'.[15]

Technological advances

2.16 Stakeholders who did not support the Bill argued that the amendments introducing the original offshore resources provisions had not been drafted to accommodate advances in technology, leading to a perceived gap in the Migration Act's visa regime.[16] In particular, they argued that some newer vessels no longer need to be 'attached to the seabed', and therefore fall outside the operation of the Migration Act.[17] AIMPE argued that regulation of workers involved in exploiting Australian resources should no longer be limited by this concept, as it is outdated.[18] The AMOU argued that:

> At the time of the amending of the original *Migration Act 1958*, in the early 1970s, the concept of exploring natural resources without being attached to the seabed would not have even been contemplated by industry, let alone the legislators.[19]

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13 *Submission 6*, p. 3.

14 *Submission 8*, p. 2; *Submission 1*, p. 1; *Submission 2*, p. 9.

15 *Submission 6*, p. 2.

16 *Submission 4*, p. 6. These amendments were included in the *Off-shore Installations (Miscellaneous Amendments) Act 1982*.

17 'Attachment to the seabed' is a key concept in the current scheme for determining whether a resources installation is in the migration zone, and therefore whether workers on a resources installation require a visa. See subsections 5(6) to (21) and section 8 of the *Migration Act 1958*, which provide for certain resource installations for be considered part of Australia if they are attached to the Australian seabed.

18 *Submission 3*, p. 5.

19 *Submission 4*, p. 7.

2.17 The AMOU also noted that one of the two vessels that were the subject of dispute in *Allseas Construction S.A. v Minister for Immigration and Citizenship*[20] (*Allseas*), the *Lorelay*, used this new technology.

> The *Lorelay* for example was the world's first pipelay vessel to operate on full dynamic positioning (DP), this represented a new generation of offshore pipelaying vessels.[21]

2.18 The MUA identified Floating Liquid Natural Gas (FLNG) projects as a recent development in the area, and wanted to ensure that employment opportunities on these projects should benefit Australian workers:

> FLNG technology offloads LNG to large LNG ships and removes the need for long pipelines to land-based LNG processing plants…
>
> Employment on FLNG operations…must in the first instance go to Australian workers and a strict regulatory system must be in place to ensure that overseas workers are only brought in under very strict safeguards.[22]

2.19 In its submission on the previous Bill, however, AMMA argued that the amendments to the Migration Act in 1982 'made express provision for resource installations and vessels'[23] and pointed to the examination of the provisions by McKerracher J in *Allseas*:

> …there does not appear to have been anything in any of [the extrinsic materials to the 1982 amending bill] to suggest that the provisions in the Act relating to "resources installations" were intended to apply to pipe lay vessels. The Second Reading Speeches suggest that the provisions in the Act relating to "resources installations" were intended to apply to drilling platforms and rigs and that Parliament did not contemplate that the provisions would apply to pipe lay vessels. It is arguable that the inclusion in the Bill of the exception which is now s 5(13) of the Act suggests that Parliament was mindful to ensure that the new provisions would not apply to such vessels.[24]

2.20 The committee understands that the perceived gap in the Migration Act, as identified in the *Allseas* case, remains quite narrow, despite technological developments in the area. Until the ORA Act comes into force on 30 June 2014, it appears that the exemption from visa requirements is confined to vessels 'used wholly or principally in transporting persons or goods to or from a resources installation,

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20 [2012] FCA 529.

21 *Submission 4*, p. 6.

22 *Submission 7*, pp 4-5.

23 AMMA, Submission to the Migration Amendment (Offshore Resources Activity) Bill 2013 [Provisions] Inquiry, June 2013, p. 5.

24 AMMA, Submission to the Migration Amendment (Offshore Resources Activity) Bill 2013 [Provisions] Inquiry, June 2013, pp 5-6, citing *Allseas Construction S.A. v Minister for Immigration and Citizenship* [2012] FCA 529 at [82].

manoeuvring a resources installation, or in operations relating to the attachment of a resources installation to the Australian seabed' as provided for in section 5(13) of the Migration Act. Non-citizens working on 'resources installations' which do not fall under the exemption, appear to remain subject to visa requirements. Therefore, if the Bill is passed the exemption from visa requirements will remain confined to the vessels that come under the exemptions in section 5(13) of the Migration Act.

Committee view

2.21 The committee notes the value of the offshore oil and gas industry to the Australian economy, and the importance of continued investment in the sector.[25] The committee recognises that the industry operates in an international environment, and that the vessels that currently fall under the exemption in the Migration Act require flexibility to retain crew members with the appropriate skills as they move from project to project around the world. The minister noted this in his second reading speech to the Bill:

> This means that our migration arrangements must be relatively flexible, and not impose an undue administrative burden on industry, or create unnecessary barriers for overseas workers when they are genuinely needed, especially when their skills are unavailable in Australia.[26]

2.22 The committee considers that, rather than falling through a loophole, non-citizen workers on these vessels are adequately covered by existing immigration controls under the *Migration Act 1958*, while international conventions and foreign domestic laws operate to protect workers' wages and conditions. As such, and given the committee understands that the number of workers in this space is relatively small, the committee does not consider that further regulation is warranted.

2.23 As mentioned at paragraph 2.5 of this report, there was reference in the EM to the ORA Bill to a new visa product. The committee sought advice from DIBP about whether a specific visa had been developed by the department, and raised the question of whether a specific visa pathway would be ready to be implemented if the Bill failed to pass before the commencement of the ORA Act. The department advised that the government has no plans to develop a new visa specifically for the offshore resources industry but, in the circumstance that the Bill does not pass prior to commencement of the ORA Act, the department will implement a visa pathway. DIBP also advised that it has developed a communications strategy to raise awareness of the visa

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25 The Department of Industry noted that, 'In 2012-13, Australia exported 23.9 million tonnes (mt) of LNG, valued at around A$14 billion, an increase in value of 17 per cent from the previous year. The Australian Bureau of Resources and Energy Economics (BREE) forecasts the value of the LNG exports for 2013-14 will increase to A$16 billion.' *Submission 8*, p. 1.

26 The Hon Scott Morrison MP, Minister for Immigration and Border Protection, Second Reading Speech, *House of Representatives Hansard*, 27 March 2014, p. 9.

arrangements in the relevant industry, should the Bill fail to pass prior to the commencement of the ORA Act.[27]

2.24 Finally, the committee notes that the ORA Act not only increases the regulatory burden for industry, it's administration will also demand significant Commonwealth resources, as described by Customs:

> While the ORA Act addresses visa requirements, it does not cover obligations regarding notification that those visa holders will be in the offshore environment. Because the current pre-arrival requirements are linked to a vessel arriving in a port, there is currently no provision that can be used to require a vessel to report when it arrives into an offshore installation not attached to the seabed. Accordingly, the opportunity exists for enhanced legislative alignment through repeal of the ORA Act.
>
> Administration of the ORA Act would have a significant impact on the ACBPS' border management resources and systems, given the ACBPS administers immigration clearance on behalf of the Department of Immigration and Border Protection. Managing border clearance on vessels that travel to remote offshore infrastructure would be resource intensive and expensive.[28]

2.25 For these reasons, the committee recommends that the Bill be passed.

Recommendation 1

2.26 The committee recommends that the Bill be passed.

Senator the Hon Ian Macdonald

Chair

27 DIBP and Customs, *answers to written questions on notice*, 23 May 2014 (received 3 June 2014), available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Migration_Offshore_Resources_Activity/Additional_Documents).

28 *Submission 6*, p. 3.

DISSENTING REPORT

The Migration Amendment (Offshore Resources Activity) Repeal Bill 2014

Introduction

The Migration Amendment (Offshore Resources Activity) Repeal Bill 2014 repeals the *Migration Amendment (Offshore Resources Activity) Act 2013* ("Offshore Resources Activity Act"), which received Royal Assent on 29 June 2013. It is important to note the operative provisions have not yet commenced.

The Offshore Resources Activity Act was introduced by the Labor Government last year to clarify the status of persons working in offshore marine zones in response to the case *Allseas Construction SA v Minister for Immigration and Citizenship* [2012] FCA 259 (*Allseas*).

In *Allseas*, the Federal Court found that pipe-laying vessels and non-citizens working on those vessels were not within or working within the migration zone as defined in section 5 of the *Migration Act 1958*. This meant anyone working on board those vessels did not require a visa.

Labor's *Offshore Resources Activity Act* sought to ensure that persons who participate in or support an 'offshore resources activity' were deemed to be in the migration zone, thereby requiring all non-citizens engaged in an 'offshore resources activity' to hold either a specific or permanent visa.

The then Minister for Immigration and Citizenship, Chris Bowen, announced the Government would legislate to amend the *Migration Act 1958* and clarify the situation regarding workers in Australia's offshore maritime zones by expanding the scope of the migration zone.

The Department commenced a review and established the Migration Maritime Taskforce to inform the best way to address the situation. The Senate Legal and Constitutional Affairs Committee also examined the Bill, noting that it complied with Australia's obligations under the United Nations Convention on the Law of the Sea (UNCLOS) and recommended it be passed.

The purpose of the Bill

This Act seeks to repeal the reforms of the Labor Government and return to a situation where people working on offshore resources projects do not require a visa.

Australia's offshore resources industry

When the Bill was introduced by then Minister for Immigration and Citizenship the Hon Brendan O'Connor MP, it was acknowledged that there was a need to strike a balance between encouraging investment in our offshore environments and the need to ensure that jobs associated with Australia's offshore environment are regulated by Australian laws.

Labor remains committed to ensuring that Australia maintains a healthy investment environment in offshore projects.

According to the Bureau of Resources and Energy Economics, at the end of October 2013 there were 63 projects at the committed stage representing a combined value of $240 billion.[1] Australian Bureau of Statistics Labour Force Statistics in November indicated there are 273,300 people employed in mining, oil and gas projects.[2]

These statistics demonstrate the importance of ensuring regulation in this industry is done with economic and safety considerations in mind. The reforms introduced by the Labor Government in the Offshore Resources Activity Act 2013 adequately balanced these competing considerations.

Labor understands that this demand-driven industry will from time to time require skills and expertise that is not available in the Australian labour market. As the MUA explains:

> Where a case can be made by offshore operators that there is a skills shortage and a need to bring in overseas workers, there must be a legal instrument, in this case an Offshore Resources Worker Visa, under the Migration Amendment (Offshore Resources Activity) Act 2013, with the necessary safeguards, to protect Australian employment and training opportunities, and to ensure fair rates of pay and conditions for overseas workers.[3]

Impact of the Bill

The Bill will reopen a significant loop hole in Australia's ability to regulate the conditions of our offshore resources industry and to regulate and protect the workers who are employed on these valuable national assets.

This may lead to situations where people working on these projects are working under conditions that do not adhere to Australian standards. This in turn reduces work

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1 Bureau of Resources and Energy Economics, Resources and Energy Major Projects October 2013.

2 Australian Bureau of Statistics, Labour Force Statistics November 2013.

3 Maritime Union of Australia, Submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the Migration Amendment (Offshore Resources Activity) Repeal Bill 2014.

opportunities for Australian citizens and permanent residents and puts businesses that only engage workers who hold valid visas at a competitive disadvantage.

An unintended consequence of a return to the absence of a regulated visa scheme in offshore resources projects also poses potential security risks. In the absence of visa character tests, the government has little or no information on some of the workers engaged on these offshore projects.

The effect of this repeal will result in the Government returning to a situation that undermines the integrity of Australia's migration framework.

Senator the Hon Lisa Singh
Deputy Chair
Labor Senator for Tasmania

DISSENTING REPORT

Australian Greens

The Australian Greens oppose the Migration Amendment (Offshore Resources Activity) Repeal Bill 2014 (the Bill).

The legislation which this Bill seeks to repeal – the *Migration Amendment (Offshore Resources Activity) Act 2013* – was enacted in June 2013 to overcome the risk that foreign workers involved in the exploration and exploitation of Australia's natural resources, and who therefore form part of the Australian employment sector, are working under conditions and receiving wages that are below Australian standards.

A failure to regulate this risk would result in a reduction in work opportunities for Australian citizens and permanent residents, as well as non-citizens who hold relevant visas which permit work. A further consequence would be that businesses that only engage workers who hold valid visas, would be placed at a competitive disadvantage.

In submissions to this inquiry, the Australian Maritime Officers Union (AMOU), and the Maritime Union of Australia (MUA), have each made cogent arguments as to the vital importance of the legislation this Bill seeks to repeal.

The MUA points out the *Migration Amendment (Offshore Resources Activity) Act 2013* is necessary to protect Australian jobs from exploitation by offshore resources companies, and to ensure overseas workers receive Australian wages and employment conditions.

The AMOU argue that it is important to ensure that the workers engaged on facilities in the 'Exclusive Economic Zone' enjoy protections consistent with workers across Australia.

The AMOU further notes there is concern about the abuse of the 457 visa in the offshore oil and gas industry. It states the decision to issue 457 visas does not have sufficient regard to the availability of Australians seeking work. It states that, while there are many Australian workers who are available for the jobs, some vessels are almost completely staffed with foreign workers.

The AMOU cites the irony that many of its unemployed members are recent immigrants under the skills shortage visa program, who are now subsisting on unemployment benefits because roles are filled by 457 visa workers.

It cites anecdotal evidence that 457 visa holders engaged in the offshore oil and gas industry are not being paid the same conditions of employment as Australian seafarers.

The MUA notes that the government's rationale for this legislation is specious. When introducing this Bill, the Minister for Immigration and Border Protection stated it is

necessary to remove the requirement for overseas workers to hold a visa when working in the offshore resources industry within the migration zone. Despite his assertions that the Act should be repealed because it is unnecessary 'red tape', it increases the regulatory burden on offshore operators and it significantly impacts businesses and investors, there is no evidence to suggest that any of these grounds is correct.

As with much policy, it is important to strike a careful balance. In this case it is between supporting businesses and supporting and protecting workers. The Australian Greens believe that this Bill, in repealing the previous legislation, would not confer benefits which would outweigh the risks the original legislation was enacted to overcome.

Recommendation 1

The Australian Greens recommend that the Senate rejects this Bill.

Senator Penny Wright
Senator for South Australia

Appendix 1

Public submissions

1	Business Council of Australia
2	Australian Mines and Metals Association (AMMA)
3	The Australian Institute of Marine and Power Engineers
4	Australian Maritime Officers Union (AMOU)
5	The Australian Petroleum Production & Exploration (APPEA)
6	Department of Immigration and Border Protection and the Australian Customs and Border Protection Service
7	Maritime Union of Australia
8	Department of Industry

Appendix 2

Tabled documents, answers to questions on notice and additional information

Answers to written questions on notice

1 Department of Immigration and Border protection and Australian Customs and Border Protection Service - answers to written questions taken on notice (received 3 June 2014)