

The impact of Australia's temporary work visa programs on the Australian labour market and on the temporary work visa holders
Submission 55

THE AUSTRALASIAN MEAT INDUSTRY EMPLOYEES' UNION

(Queensland Branch)

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Ms Julia Agostino
Secretary
Senate Standing Committee on Education and Employment
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Ms Agostino

Re: Public hearings for the Inquiry into the impact of Australia's temporary work visa program on the Australian labour market and on the temporary work visa holders

I am writing to confirm that representatives of the Australasian Meat Industry Employees' Union, including myself, will be attending the public hearings of the Senate Inquiry into Temporary Work Visas that are being held in Brisbane on Friday 12 June 2015.

I have been asked to provide a broad outline of the principal issues that will be raised by AMIEU representatives at the hearings and provide some basic background detail. This information is set out below.

Temporary Visa Workers in the Meat Industry

Large numbers of temporary visa workers are employed in the meat industry, in both the meat processing sector (beef, sheep, and poultry) and also in the meat manufacturing sector (such as smallgoods establishments).

The various categories of visa holders in the industry include:

- Subclass 457 (primary) visa workers
In the meat processing industry, "skilled meatworkers" are eligible to participate in the 457 visa program, under the aegis of the Meat Industry Labour Agreement. "Skilled meatworkers" for the purposes of the Labour Agreement include slaughters, boners, and slicers. Primary visa holders must be directly employed by their employer sponsor, and cannot be employed through third-part on-hire arrangements.
- Subclass 457 (secondary) visa workers
It is common for the spouse (and sometimes also the older children) of a Subclass 457 primary visa holder to work in the same meat processing establishment as the visa holder.

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There are typically employed to perform unskilled or semi-skilled work at the establishments, such as labouring or packing tasks.

- Subclass 417 visa workers
These are the “working holiday” or “backpacker” visa workers. Large numbers are employed throughout the meat and poultry processing sector, and in the smallgoods sector. They are invariably employed to perform unskilled work. In many establishments, they constitute a significant proportion of the workforce. In most cases, these workers are employed through labour-hire arrangements with third party employers.
- Student visas
There are student visa holders whose visa conditions permit them to work. Such visas typically include conditions restricting the number of hours the student can work in any given week. Such students find employment in the industry through the same labour hire agencies supplying “backpacker” visa workers.
- Refugee visas
It is common for newly arrived refugees in Australia to find employment in the meat industry. Whilst most humanitarian visas in recent years have been permanent visas, the reintroduction of temporary protection visas has meant that some recent arrivals will fall within the ambit of the Senate inquiry.

Main Propositions

The AMIEU representatives will be outlining their experiences of temporary migrant labour in the industry, focussing on two principal themes:

- (1) The way in which the meat industry utilises a combination of unskilled, short-stay (“backpacker visa”) and skilled, long-stay (subclass 457 visa) migrant workers has the effect of prolonging or exacerbating skill shortages in the industry, and is depriving Australian workers of opportunities for employment and training.
- (2) The extensive use third party labour hire arrangements for short-stay temporary migrant workers has facilitated widespread exploitation of migrant workers, including underpayment of wages, failure to observe award conditions, and disregard for workplace health and safety obligations. Such exploitative practices, which have been wilfully ignored by employers in the industry, afford these labour hire companies cost advantages against employers who observe legislative standards. Intimidation of migrant workers hampers efforts to investigate compliance with workplace legislation.

Training in the Meat Processing Sector

There are no formal apprenticeships for meatworkers employed in the meat processing sector. The skilled work of boners, slicers, and slaughterers is taught “on the job.” Historically, candidates for training in skilled roles have been selected from the pool of existing employees performing unskilled roles at the establishment.

The subclass 457 visa scheme was intended to address skill shortages in particular industries. There is a long and complex history to the use of 457 labour in the meat industry, which is well known to both industry stakeholders and to the Department of Immigration and Border Protection. Without recounting that history, issues that arose in the meat industry were redressed through the negotiation of successive meat industry labour agreements (MILA), a process in which the AMIEU participated, and continues to support.

However, one of the underlying principles of the temporary 457 visa program is to allow employers to train and upskill local workers so that reliance on migrant labour can be reduced over time. This principle has been seriously undermined by the practice of hiring large numbers of short-stay temporary visa holders (primarily, 'backpacker visa' workers) in the meat industry. Such backpacker visa workers constitute a significant proportion of the unskilled workforce of most meat processing establishments. This diminishes the opportunities for local workers to obtain unskilled employment in meat processing establishments, and equally reduces the pool of local workers in the workforce who could be trained for skilled positions. Employers do not train 'backpacker visa' workers for skilled roles because of the limited time that the visa worker can remain with any individual employer.

Employer claims that the use of 'backpacker' visa workers is necessitated by lack of available labour would seem to be inconsistent with the significant levels of youth unemployment in the areas in which meat processing establishments are situated.

Employment arrangements for short-stay temporary visa workers

Short stay visa workers, especially those on 'backpacker visas' are employed in large numbers in the meat processing industry. In almost all cases, the direct employer is an on-hire labour company which supplies labour to a meat processing establishment. Such arrangements allow 'backpacker visa' workers to be employed at award rates, rather than the higher enterprise agreement rates which apply to direct employees of the establishment. Despite the advantage which accrue to employers in engaging visa workers on inferior award rates, non-compliance with even minimum safety net entitlements is rampant.

Commonplace features of these arrangements are:

- Underpayment of basic award conditions, often due to blatant disregard of award entitlements
- Attempts by the union to ensure award compliance are hindered by inadequate record keeping by the employers, and intimidation of visa workers
- Many of the labour hire companies operating in this sector are "\$2 companies" with no significant assets or capital, allowing them to go into liquidation if attempts to enforce entitlements are successful
- Inappropriate deductions from workers' wages
- Disregard of workplace health and safety obligations, including instances of failing to ensure workers are vaccinated against Q Fever (which, if contracted, can become a chronic, debilitating condition)
- When exploitative practices by labour suppliers are brought to the attention of meat industry employers, the invariable reaction has been a refusal to investigate or take remedial action. Employers invariably (and often, implausibly) purport to have no knowledge of unlawful activity on the part of the labour hire company, and wilfully ignore any indication to the contrary.

Some labour hire companies purport to operate on the basis that the visa workers are self-employed 'contractors.' Whilst the AMIEU has encountered this in other states, it has not been detected in Queensland. Given the indicia of employment of unskilled workers in a factory environment, it is difficult to conceive that such arrangements can be anything other than 'sham contracting' arrangements.

In the poultry processing sector, there is one major processor (Ingham's Enterprises Pty Ltd) which employs backpacker workers directly; that is, without resort to labour hire companies or other third party intermediaries. Visa workers are employed under the same industrial arrangements as apply to other employees, and the basis for the exploitative practices found in labour hire situations simply does not arise.

Yours faithfully, 

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