ACTU Submission to the Committee on Education and Employment Inquiry into the MIGRATION AMENDMENT (SKILLING AUSTRALIANS FUND) BILL 2017, and the MIGRATION (SKILLING AUSTRALIANS FUND) CHARGES BILL 2017 [PROVISIONS]

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ACTU Submission to the Committee on Education and Employment Inquiry into the MIGRATION AMENDMENT (SKILLING AUSTRALIANS FUND) BILL 2017, AND THE MIGRATION (SKILLING AUSTRALIANS FUND) CHARGES BILL 2017 [PROVISIONS].

D154/2017.

The ACTU welcomes the opportunity to make a submission to this inquiry. As the peak body for Australian Unions, the ACTU represents the more than 1.6 million union members in Australia as well as speaking out for the rights of all workers. As the representative of Australian workers, the union movement has long warned about the over-reliance on 457 workers, the poor labour market testing standards that has facilitated the wide-spread use of 457 visas and the real harm done to many temporary visa workers through exploitation and wage theft. Now it appears the Turnbull government has at last begun to realise that there is a problem.

The ACTU fully supports the concept of an employer-paid levy for 457 visas, although we have a number of concerns about the precise wording of the legislation being proposed. However, the ACTU views the use of money raised through such a levy as the only funding for vocational education and training (VET) initiatives as deeply inappropriate. Australian unions have significant concerns about the stability of this fund, how its projected size was arrived at and the uses to which the fund may be put. Additionally, we do not believe that the fund will begin to address the significant issues within the VET system which must be addressed.

In short, while the ACTU supports a proposed levy on 457 visas, we believe significant changes are needed before we can recommend that the bill be passed by the Senate.

Temporary Worker Visas and a proposed levy

One of the key prerequisites for the skilled migration program must be that skilled migration complements domestic vocational training. It should not be used as a substitute for training Australian workers, graduates and apprenticeships. The temporary work visa programs should not be having a negative impact on the training opportunities for Australians, particularly young Australians. There is considerable evidence that indicates our current visa programs have undermined the incentive for employers to train Australian workers. It is a clear indication that the temporary visa system is not being used as intended when employers have taken the cheaper route of using and exploiting temporary visa workers rather than training Australian workers.

Employers that sponsor a temporary visa worker should be required to make a quantifiable commitment to training Australian apprentices in the same occupations where temporary visa holders are being employed. As such the ACTU supports the concept of an employer-paid levy for 457 visas. However the migration system needs greater reform and fundamental change. We are also of the view that where an employer has hired a temporary visa worker, the employer should be required to employ a graduate or apprentice in the same enterprise/location on a one to one basis.

We outline some of the problems of the current migration system and the need for reform below;

Reform of the Visa system

Australian Unions have a longstanding view that the migration system should preference permanent, rather than temporary migration to Australia. We believe the current trend towards temporary employer-sponsored migration is effectively outsourcing decisions about our national migration intake to employers and their short-term needs over the national interest and a long-term vision for Australia's economy and society. This shift should not be blindly accepted as an inevitable, inexorable trend that must continue. Instead, it should be subject to critical questioning and debate.

Australian unions have well-documented concerns with the operation of our temporary visa program, but it is clear to us that the problems extend to a range of different visa types where overseas workers can find themselves in vulnerable situations.

There are currently more than 1.8 million temporary visa holders in Australia, including New Zealanders, and up to 1.4 million of these visa holders have work rights. This equates to around 10% of the total Australian labour force of over 12.4 million.

At a time when unemployment remains close to 6 per cent, there are over 1 million underemployed workers and youth unemployment is in double digits, the Australian community needs to have confidence that such a large and growing temporary work visa program is not having adverse impacts on employment and training opportunities for Australians, particularly young people.

Equally, the community needs to be assured that employers and others are not exploiting vulnerable temporary overseas workers who are unaware of their rights or not in a position where they feel able to exercise those rights.

Unfortunately, the evidence available from our affiliated unions and other sources is that both Australian and overseas workers are being disadvantaged and exploited on a regular basis under the current policy and program settings that govern temporary work visas.

This has been happening far too often and for far too long for it to be dismissed as a few isolated cases in an otherwise well-functioning program. It is time now for a fundamental reassessment of a skilled migration program that places such emphasis on temporary and employer-sponsored forms of migration without due recognition of the inherent flaws and dangers in doing so. While a proposed levy is a step in the right direction, more fundamental reform of the migration system is needed. The following principles and considerations should apply to reforming our migration system;

The interest of local workers must be paramount

The interests of local workers should be paramount. Temporary work visas, and the debate that surrounds them, should be driven by three key, interrelated, priorities.

1. The first is to maximise jobs and training opportunities for Australians - that is, citizens and permanent residents of Australia, regardless of their background and country of origin – and ensure they have the first right to access local jobs.

2. The second is to ensure that the overseas workers who are employed under temporary visas do not have inferior rights to their Australian counterparts, either in law or in practice. They must be treated well, paid their full and proper entitlements, and they must be safe in the workplace. They must be able to seek a remedy just as Australian workers can do, and they must have unhindered access to the benefits of union membership and representation.

3. The third is to ensure that employers are not able to take an easy option and employ temporary overseas workers, without first investing in training and looking to the local labour market. Temporary work visas should only be used in cases of a genuine short-term skills shortage while local workers are being trained. This is also about ensuring those employers who do the right thing are not undercut by those employers who exploit and abuse the temporary work visa program and the workers under it.

Vigorous safeguards need to be in place to protect the interests of overseas workers on temporary visas. These workers are often vulnerable to exploitation by virtue of being dependent on their employer for their ongoing prospects in Australia, including, in many cases, their desire for sponsorship and permanent residency.

The shift away from permanent, independent migration

The size of the temporary visa workforce must be viewed in the context of the changing balance of the overall skilled migration program away from permanent migration.

Permanent migration has very much been the basis for the success story of immigration in Australia over a number of decades. As is well known, the Australian labour market absorbed large numbers of immigrants from the end of the Second World War onward, and these formed the basis for a major expansion in the manufacturing sector, as well as large-scale construction projects, such as the Snowy Mountains hydro-electricity scheme. The distinctive feature of this program of immigration, in contrast to the European experience of guest workers, was permanent settlement. In other words, these immigrants became Australian citizens and their families were raised in Australia.

As a consequence, the occupational trajectories of second-generation immigrants have shown marked differences to those of their parents, with the scenario of the children of factory workers becoming professionals not being uncommon. In terms of the macro-economy, immigration to Australia since the 1940s has generally been regarded as positive because it increases aggregate demand and it lowers the age profile of the workforce.

However, as the Department of Immigration and Border Protection (DIBP) itself has noted, in more recent years the focus has shifted markedly, with ‘demand-driven’ employer-sponsored migration increasingly holding sway under successive governments of both persuasions. The bulk of Australia’s migrant workforce now comes from employer-sponsored and temporary migration, with a large component of

'guest workers' now in the Australian labour market in the form of visitors on temporary visas with work rights.

As we outlined above, this has included specific skills-based visas (457s and the new Temporary Skills Shortage visa), working holiday visas, student visas, and New Zealand citizen visas, with full working rights (though limited social security entitlements). The growth of these categories since the early 2000's has been dramatic: the first two categories each now almost match permanent skilled arrivals in terms of their magnitude and together far exceed permanent arrivals. The rise in student visas has been remarkable, as was the sudden drop when various restrictions were imposed to prevent rorting and the use of these visas as a backdoor into permanent residency.

Unions continue to have concerns with a skilled migration program that relies excessively on employer-sponsored migration. This is a concern that applies particularly to the temporary, employer-sponsored temporary Skills shortage visa (457) program, but it applies also to the permanent, employer-sponsored programs; the Employer Nomination Scheme (ENS) and the Regional Sponsored Migration Scheme (RSMS). This concern plays out in different ways.

At the individual level, employer-sponsored visas, where workers are dependent on their employer for their ongoing visa status, increases the risk of exploitation as workers are less prepared to speak out if they are underpaid, denied their entitlements, or otherwise treated poorly. For example, this is one of the continuing objections that unions have to the RSMS visa because it virtually bonds the visa holder to the same employer for two years. If the visa holder leaves the employer within 2 years, the Department can cancel the visa. Regardless of how often the Department exercises its discretion to cancel the visa, the fact that it has the power to do so leaves a cloud hanging over those visa holders.

The now well-worn pathway from a temporary 457 visa to a permanent employer-sponsored visa creates the same kind of problems in that temporary overseas workers with the goal of employer-sponsored permanent residency have their future prospects tied to a single employer. 457 visa workers must stay with their 457 sponsor for a minimum period of 3 years before becoming eligible for an employer-sponsored permanent residency visa with that employer.

Again, this makes them much more susceptible to exploitation and far less prepared to report problems of poor treatment in the workplace for fear of jeopardising that goal. This was a core problem identified during the Deegan review in 2008 and in subsequent reports.

By contrast, the DIBP appears to see employer-sponsorship only in a positive light, citing the benefits for the visa holder of guaranteed employment and arguing that it serves to protect the rights of employees and decreases the likelihood of exploitation. There is no recognition of the many problems associated with employer-sponsorship and dependence on a sponsoring employer that are played out on a regular basis. This includes a number of recent reported cases of visa holders and visa applicants being forced to pay their sponsors large sums of money in return for promises of future employment and sponsorship.

At a broader level, the concern referred to above is that the trend to 'demand-driven', employer-sponsored and temporary work visa programs effectively outsources decisions over an ever-increasing part of the migration intake to employers.

The risk here is that the migration program will increasingly be responding to what the DIBP itself describes as employers' 'immediate business needs', rather than being structured in a rational and coherent way that allows for longer-term skill needs of the Australian workforce and economy to be addressed.

The increasing shift to a more 'demand driven' skilled migration program, appears to rest on an assumption that the short term interests of employers are consistent with, and reflect, the long term interests of the Australian economy, Australian workers and the migrant workers themselves. This is not necessarily the case. As Professor Sue Richardson has observed, "it is in the employers' interests to have more of a given skill available at all times: they do not consider the personal and social costs of oversupply of specific skills."

The OECD has also emphasised the risks associated with an excessive reliance on employer preferences:

> 'A regulated labour migration regime would, in the first instance, need to incorporate a means to identify labour needs which are not being met in the domestic labour market and ensure that there are sufficient entry possibilities to satisfy those needs. In theory, employers could be considered the group of reference for determining this, but historically, requests by employers have not been considered a fully reliable guide in this regard, at least not without some verification by public authorities to ensure that the requests represent actual labour needs that cannot be filled from domestic sources.1'

This demonstrates again the need for all forms of employer-sponsored migration to be underpinned by rigorous labour market testing, monitored and enforced by the Department with independent, tripartite oversight.

The growing trend towards temporary and employer-sponsored migration, rather than permanent, independent, migration represents a major shift in how the migration program has traditionally operated, and it has occurred without any real debate. The ACTU position is that the current weighting of Australia's skilled migration program towards employer-sponsored pathways should be re-evaluated, with greater emphasis given to the permanent, independent stream as the 'mainstay' of the skilled migration program.

Our preference for permanent over temporary migration recognises that permanent migrants provide a more stable source of skilled workers with a greater stake in Australia's future and in integrating into all aspects of Australian community life. With permanent residency, migrants have a secure visa status. This makes them less susceptible (though not immune) to exploitation and less likely to generate negative impacts on other Australian workers in terms of wages, employment conditions and job and training opportunities.

Our preference is for independent over employer-sponsored migration.

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[1] OECD, *International Migration Outlook 2009*, 134

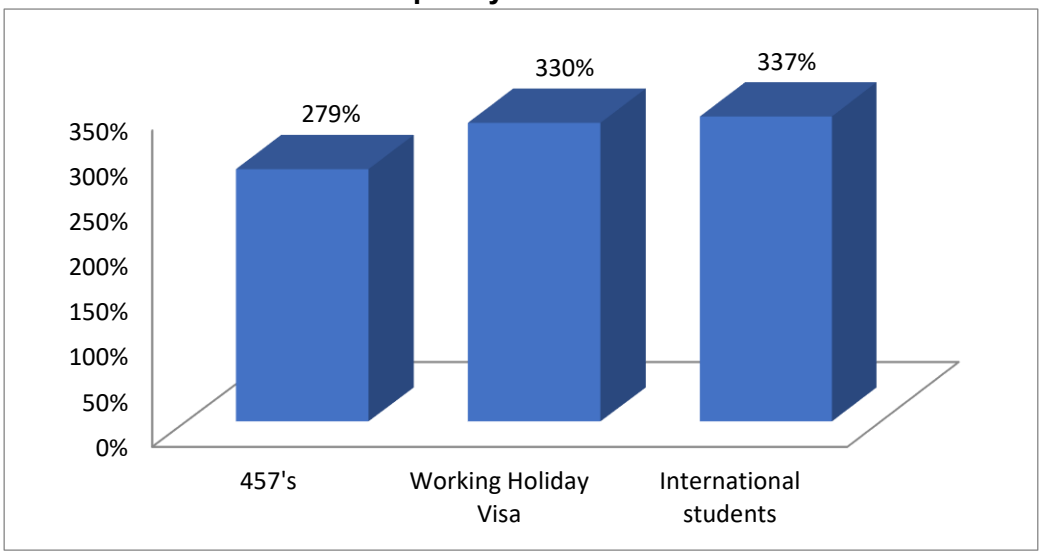
The migration system is currently employer driven rather than in the interests of working people and the country as a whole

Over one million people live and work in Australia on a 'long-term temporary' basis. They are obliged to pay tax and abide by and receive the protection of Australian laws.

The shift to admit large numbers of long-term temporary migrants was not the result of any democratic policy discussion, but rather has occurred incrementally, through the aggregate impact of myriad visa programs which cumulatively created a system of two-step (temporary, followed by permanent) migration, largely driven by the demands of employers.

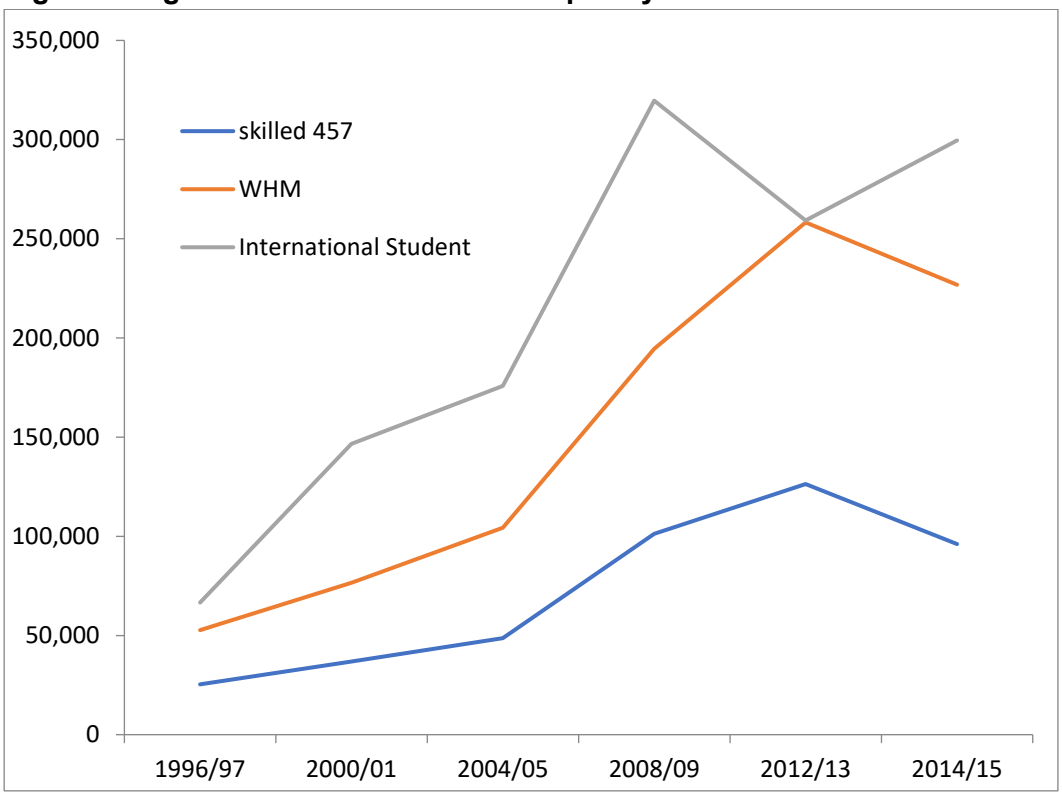
There has been significant growth in the current number of temporary visa holders. We can clearly see below the shift to admit large numbers of long-term temporary migrants;

Growth in the number of Temporary Visa's 1996 - 2015



Source: Department of Immigration and Border Protection (various sources)

Significant growth in the number of Temporary Visa's 1996 - 2015



Source: Department of Immigration and Border Protection (various sources)

Employers are not using the migration system to fill skilled shortages but actually want to avoid raising wages and training Australian workers

There is a difference between a recruitment difficulty, which can be resolved through training local workers or raising wages, and a genuine skill shortage. The ACTU fears employers are claiming skills shortages when in fact the situation more truly reflects a short term recruitment difficulty. There is an incentive for employers to do this because employers want to avoid paying proper wages or training local workers.

Wages need to rise to stimulate increased labour supply before a skills shortage can be deemed to exist. Situations where employers are not willing to raise wages in order to attract more potential candidates should not be regarded as a true labour shortage.

A recent report by Dr. Chris F. Wright and Dr. Andreea Constantin University of Sydney Business School "*An analysis of employers' use of temporary skilled visas in Australia*" surveyed employers that use temporary skilled visa holders. The report highlighted the following;

> '*Only a very small proportion of employer respondents claim that they would seek to address skilled vacancies by increasing the salary being offered, which is generally considered a necessary*

precondition for a skills shortage to exist. Therefore, even where employers are using the 457 visa scheme because of skills shortages, the shortages that exist do not appear to be acute.[2]'

In fact the report highlighted that:-

- 14% of employer sponsors using the 457 scheme claim not to have difficulties recruiting from the local labour market (which begs the question why they are using the 457 visa system),
- only 11% of employer respondents said that training existing employees is the strategy most preferred when they have difficulties recruiting skilled workers; and
- Less than 1% were prepared to increase wages or offer incentives to prospective candidates in order to address their recruitment problems.

The report came to the following conclusion;

"…….The problem of the 457 visa not fulfilling its stated objective …….These employers should be encouraged to utilise alternative strategies to address their recruitment difficulties before using the 457 visa. Improving job quality to attract a wider pool of candidates, greater investment in structured training to facilitate career development opportunities for existing and prospective employees, and other measures likely to engender long term workforce commitment and retention are likely to be more effective than the 457 visa scheme for helping these employers to alleviate their recruitment problems in a more systematic manner.[3]"

The new TSS visa does nothing to overcome this systematic use of temporary workers by employers as a means of avoiding wage increases.

Problems in the Australian Labour Market demand that growing temporary work visa program is not having adverse impacts on Australian Workers

There are currently more than 1.8 million temporary visa holders in Australia, including New Zealanders, and up to 1.4 million of these visa holders have work rights. This equates to around 10% of the total Australian labour force of over 12.4 million.

At a time when unemployment remains close to 6 per cent, there are over 1 million workers underemployed, youth unemployment is in double digits and we have the lowest wage growth on record, the Australian community needs to have confidence that such a large and growing temporary work visa program is not having adverse impacts on employment and training opportunities for Australians, particularly young people. Australia currently has record low wage growth.

Economic decisions which normalize large numbers of workers being paid below the legal minimums will drag down wage growth in the rest of the labour market. The RBA and other respected institutions have noted our low wage crisis is a significant economic problem facing Australia.

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[2] *Dr Chris F. Wright and Dr Andreea Constantin University of Sydney Business School "An analysis of employers' use of temporary skilled visas in Australia" 2015*
[3] *Ibid*

Issues with the legislative language

In addition to the broader concerns the ACTU has about the proposed legislation, we have a number of concerns about specific elements of the language used in the bills as they stand. They are:

- The bill amends the Act to provide that the minister may prescribe the manner in which labour market testing (LMT) must be conducted. The act requires that evidence of LMT must be provided with a nomination by a standard business sponsor unless:
    - an exemption applies due to a major disaster;
    - an exemption applies on the basis of the required skill level and occupation for a nominated position; or
    - It would be inconsistent with Australia's international trade obligations.

The second exemption should be removed. The Minister has previously made public commitments to implement labour market testing in ***all*** cases except where it would be inconsistent with Australia's international trade obligations. This must be enshrined in the legislation. Alternatively, if the intention is to exempt high-paid visa nominations, the legislation must specify the exemption in terms of a particular salary or total remuneration level. Additionally, the legislated labour market testing obligation must apply to all temporary working visa sponsors not just 'a standard business sponsor'. This includes labour agreement sponsors (of concessional visas in sub-trade occupations and with concessional English requirements, salary etc.); and sponsors of employer-sponsored permanent residency visas.

- The bill amends the Act to provide that the minister may, by legislative instrument, determine the manner in which labour market testing in relation to a nominated position must be undertaken and may determine the kinds of evidence of LMT that must accompany a nomination. The matters to be prescribed in an instrument are expected to include the language in which a job advertisement must be written, the method of advertisement, the period the advertisement occurs in, and the period the advertisement must run for.

The Bill proposes some significant changes to the existing provisions relating to labour market testing (LMT). Under the current s. 140GBA(3), (5) and (6) the LMT condition is only satisfied if the approved sponsor provides certain evidence about their attempts to recruit suitably qualified and experienced Australian citizens or Australian permanent residents to the relevant position. This includes, as a minimum, details of any advertising (paid or unpaid) of the position, and any similar positions, commissioned or authorised by the approved sponsor; and fees and other expenses paid (or payable) for that advertising (s 140GBA(6)(a)). Other material may also be provided by the approved sponsor such as copies of, or references to, any research released in the previous 4 months relating to labour market trends generally and in relation to the nominated occupation (ss. (5)(b)(i)) and details of any other fees and expenses paid (or payable) for any recruitment attempts referred to in s 140GBA(5)(a) (see ss. (6)(b)(ii)).

That mandatory statutory mechanism for satisfying the LMT condition is to be repealed and replaced under this Bill. The proposed mechanism places the requirements for satisfying the LMT condition almost entirely in the hands of the relevant Minister by providing that the Minister may, by legislative instrument, 'determine the manner in which labour market testing in relation to a nominated position must be undertaken.'(See proposed s. 140GBA(5)).

The Explanatory Memorandum to the Migration Amendment Bill rather misleadingly characterises these amendments as being designed to fill a gap in the existing legislation in that it does not 'provide any power to prescribe how labour market testing should be conducted' (at 54). As described above, the existing sections do require information about attempts at local recruitment, including details of advertising and advertising costs. Under the proposed provisions, the Minister is able to prescribe virtually all aspects of the advertising for positions, including language, method of advertising, period and duration (ss(6)) together with any other kinds of evidence that is to accompany a nomination (ss(6A)).

The extent to which, if at all, such a system will establish a rigorous LMT process will of course depend on the content of any legislative instrument/s that the Minister chooses to issue or indeed whether the Minister elects to issue such instruments at all. The Government's record on the LMT issue gives no cause for confidence that the LMT process under these amendments would retain any real integrity or provide any real protection or priority for Australian job seekers.

Two recent actions by the Turnbull Government show why the ACTU's skepticism is justified. First, the Turnbull Government announced in April 2017 its intention to expand LMT from the narrow group of occupations LMT currently applies to (trades, engineering and nursing - around 25% of all 457s) to the entire temporary skilled visa program, except where Australia has an international trade obligation *not* to apply LMT. But instead of implementing this universal LMT obligation from April 2017, the Coalition has delayed imposing this LMT obligation until March 2018, nearly a full year later. This delay was unnecessary because the Immigration Minister already has the power to immediately change the occupations exempted from 457 LMT on occupation or skill grounds by issuing a new legislative instrument under section 140GBC(4).

Second, while trumpeting its new-found 'commitment' to LMT in the temporary skilled visa program, the Coalition is continuing with its policy of trading away the Australian Government's right to apply LMT in exchange for dubious (and transitory) market access benefits under free trade agreements. The Coalition has done this in the TPP Mark 1 and 2, and has told Senate Estimates that all existing Australian LMT waiver offers in FTA negotiations (made before the April 2017 457 'reset' announcement) remain on the negotiating table and further, that the LMT waiver option is available for future FTA deals.

Evidence of an inability to fill a position with a suitably qualified and experienced Australian worker must be assessed by the Department of Immigration and Border Protection, or some other agency. This requirement is unclear both in the current version of the Act and in the proposed amendments. It must be clarified to ensure genuine labour market testing is occurring. Once again, the Minister has made public statements to this effect which must be reflected in this legislation. This can be achieved by including an additional paragraph (6)(a)(iii) to the existing section 140GBA or by mandating, by modification of the proposed new sections (5), (6) and (6A), that the evidence accompanying any nomination must include information as to the number of Australian citizens and permanent residents who applied for the nominated positions and the reason(s) why they were considered not suitably qualified and/or experienced for the position.

We also suggest that the bill has language added, for example as a new subsection (6D) to section 140GBA, to require that sponsor claims of inability to locate suitable Australian workers be made publicly available on the Department of Immigration and Border Protection's website, organised by occupation, industry and location. This requirement should be put in place for all visa nominations, including those rejected by the Department. Such a requirement would foster community support for the TSS visa program and help guide spending priorities for the Skilling Australians Training Fund.

Finally, we urge that consideration be given to the repeal of section 140GBC which provides for skill and occupational exemptions from LMT requirements. Both the Prime Minister and Minister for Immigration and Border Protection, have said that the LMT obligation will apply to all nominations under the TSS visa program as from March 2018, except where Australia has an international obligation not to apply LMT. This commitment is repeated in the Explanatory Memorandum for this Bill. On that basis there is no longer any requirement for any provision permitting LMT exemptions on occupation or skill grounds.

Repeal of 140GBC would therefore be a sign of good faith on the part of the Coalition Government reflecting its public commitment to apply the LMT obligation in all cases except where Australia has a clear international obligation not to apply LMT.

Issues with the VET sector

Unfortunately, the ACTU's support for the levy on 457 visas, outlined above, does not equate to our support for this legislation. It is our opinion that the VET funding model outlined in this proposal fundamentally fails to address the real weaknesses in our current VET system. A relatively small, unstable funding source is not an effective remedy for a system in which few of the current issues can be considered to be caused by a lack of funding. The VET system is currently experiencing a number of significant non-funding related issues, they can be broadly summarised as:

- Access to public funding has attracted a number of unscrupulous providers motivated by the opportunity to make money, rather than any genuine focus on education and skills development. In some reported cases, these marketing efforts become predatory behaviour targeting vulnerable students.[4]
- Many for-profit providers are poor employers, under-paying staff who are asked to work in conditions where there are insufficient resources or time to provide a quality education. This puts the professional educators they employ in impossible positions and means they are forced to provide extra assistance to students in their own time. These providers also often go out of business with no warning and with no effort made to pay workers what they are owed or ensure their entitlements are paid out.
- Costs to students have risen significantly. There are regular reports of courses being offered up to five times more the cost of equivalent courses at TAFE.[5] Between 2012 and 2014 VET student fees and charges increased by 14.3 per cent. Moreover, evidence from organisations like the Consumer Action Law Centre is that students are not being properly informed about the debt they would incur or about the course they are being sold.[6]
- Quality issues are endemic. Many courses are clearly too short, being delivered in a fraction of the time they are delivered by reputable providers. Investigations of training in the construction and aged care sectors particularly found egregiously high levels of shoddy, too-short training. Quality issues are not confined to single qualification or area however. The 2013-14 ASQA annual report

[4] See for example, evidence from the 2014 House of Representatives Inquiry – *TAFE: an Australian Asset*, pp. 126-130,133; and Bita, N., *Carpetbaggers targeted by private training probe*, The Australian, 26 November 2014, p. 5, *Bachelard, Michael Dodgy vocational colleges using laptop lure despite government crackdown*, Sydney Morning Herald, 22 November 2015

[5] Ross, J., and Loussikian, K., "Vocational loans go through the roof", The Australian , 1 October 2014, p. 31, see also evidence from the 2014 House of Representatives Inquiry – TAFE: an Australian Asset, pp. 126-130,133

[6] Jacks, T, "Concern at online course dropouts", The Saturday Age, 17 January 2015, p. 17.

provides further evidence of poor quality provision. It found that three out of four training colleges have given students sub-standard training or questionable.[7]

- Costs to government have increased markedly. In 2009, $25 million was spent on VET Fee-Help payments across 37 providers; by 2014, that figure had blown out to $770 million across 194 providers eligible to offer VET Fee-Help. The recent government decision to write-off nearly $2 billion in VET FEE HELP loans as unrecoverable indicates the level of cost this program represented to government.[8] While it is unclear what effect the recent switch to the marginally more stringent VET Student Loans program has had on these numbers, it is unlikely that costs have reduced significantly.

These issues indicate that what the VET system needs is not an unstable and fluctuating funding mechanism which will most likely end up largely being distributed to private providers. While increased funding for the VET sector is needed, particularly in light of the Government's recent funding cuts[9], a significant wholesale reform of the VET sector is necessary to ensure the VET system can reliably deliver quality training for the jobs of the future. Throwing money at the problem, without addressing these underlying failures, is not a sensible approach to achieving the effective operation of this vital sector.

Design and use of the VET fund

Even without considering these system issues within the VET sector, the funding mechanism outlined in this bill leaves much to be desired, both practically and in terms of its design. Firstly, there are some serious issues with the basis of the fund. Tying funding for any government initiative, but particularly badly-needed VET funding, to a cyclical and insecure funding source is a recipe for instability. 457 visa requests tend to follow business cycles, which peak and trough throughout the financial year. This means that the funding for the initiatives funded through this new source will be equally fluctuating. This will put these initiatives at the mercy of the business cycle and ensure that the public servants administering them will be unable to undertake long-term planning. New initiatives need reliable, predictable funding in order to deliver positive and effective outcomes – which this fund is fundamentally incapable of delivering.

Questions must also be asked about the reported size of the fund. When announced in the budget, the fund was projected to provide $1.5 billion over the forward estimates, varying each year throughout the period. What is not clear is how this figure was arrived at and, as a consequence, how many 457 visa applications the Government intends to approve in the next 4 years. Nor has the Government provided any firm commitment to topping up the fund if there is a shortfall on current projections. Clear and accurate information about the size of the proposed fund is critical, both for planning purposes going forward and in terms of allowing stakeholders to provide properly-considered input to the Committee. Until the Government can provide the costings for the fund, and the modelling which underpins those costings, we are forced to question the credibility of the budget figures and the adequacy of the fund. One measure that could be taken to ensure the adequacy of the fund in the long term and combat the instability outlined

[7] Australian Skills Quality Authority Annual Report 2013-14, pp 26-28
[8] The Australian, *$2bn in Student Debts Written Off in VET Disaster,* Accessed December 2017 http://www.theaustralian.com.au/higher-education/2bn-in-student-debts-written-off-in-vet-disaster/news-story/7be6224ccc9030785ded81abbb39bdb2
[9] Robinson, Natasha, *VET funding slashed; Government says reforms to curb cost blow-outs working,* ABC online, Accessed December 2017 http://www.abc.net.au/news/2017-11-30/vet-funding-slashed-fed-govt-says-loan-reforms-working/9212012

above would be to introduce other sources of funding. Measures such as a dedicated training levy, paid by employers and required to be spent on training for Australian workers, should be explored as an alternative source of additional VET funding.

Finally, the ACTU has some concerns about the rhetoric we have already begun to see from government about the likely uses to which this funding will be put. We note the example given in the Budget papers of '300,000 new apprentices' and have seen similar statements made in the recent months. While the ACTU fully supports the funding of new apprentices, especially in light of the precipitous drops in overall and particularly female apprenticeship commencements under this government, our knowledge of the VET system as it currently stands means we must be concerned about such a plan. Strong measures will need to be taken to ensure this new funding is not gifted wholesale to private providers. We have already seen cases where, when new money enters the sector, poor quality fly-by-night providers appear to take advantage of the influx of funding and students. This must be strenuously avoided in this case as undermining the quality of apprenticeships, the cornerstone of many sections of our economy, would be disastrous. Additionally, as important as apprenticeships undeniably are, we must caution against an all-consuming focussing of this funding on that one facet of the VET system. We have seen no mention from the Government of other sectors of the economy which are suffering significant shortages of trained staff but which do not operate an apprenticeship system. Sectors such as aged and disability care, healthcare and education & training must not be excluded from training funding because the Government is more interested in headline numbers than real outcomes for workers.

In summary, while the ACTU fully supports the introduction of a levy for 457 visas, we feel that the amount must be increased such that the cost of a 457 workers is commensurate with the cost of hiring and training a local worker. We believe that any lesser amount will leave in place an incentive for employers to use temporary workers instead of training and employing local workers. Additionally, wholesale reform of the VET sector must be begun as a priority to ensure that the system is fit for purpose and able to deliver the high quality training that Australians workers need. Finally, changes must be made to the funding mechanism outlined in the proposed legislation to reduce its instability, ensure its long-term adequacy and to ensure it is spent appropriately and effectively. It is only with these changes in place that the ACTU can recommend the passage of these bills.

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