Australian Contract Professions Management Association
Level 1, 104 Mount Street
(PO Box 6138)
NORTH SYDNEY, NSW 2060
AUSTRALIA
Phone +612 99568228
Fax +612 99568499
Mbl 0418403518
Email: colinware@bigpond.com.au

28 October 2008

Australian Contracts Professions Management Association of Australia (ACPMA) welcomes the opportunity to comment on the Bill before parliament. Unfortunately the time frame dictates that the comments will not be comprehensive.

ACPMA is fully supportive of all measures by Government to protect the working conditions of Australians and others working here. However, there must be some recognition that as a worker moves up the skill chain, as evidenced by the relevant ASCO codes, some requirements will become unnecessary. For example a sponsor under a labour agreement who sponsors a senior executive (ASCO 1) who is on hired to a major corporation, should not prescriptively have to provide "local community support contact details".

In general terms, the bill:

1. Does not recognise the substantial changes in the manner in which the Australian corporations now utilise highly skilled labour.
2. Does not recognise the need for modernisation of labour law to recognise the increasingly diverse contractual forms of employment and the movement away from the standard arrangement. This was the subject of a November 2006 European Commission Green Paper, "Modernising labour law to meet the challenges of the 21st Century". The Paper said that the non standard employment status arrangement can differ significantly from the standard contractual model. In a study by the UK Department of Trade and Industry (1999), non-standard forms of employment were identified as "those forms of work which depart from the model of the "permanent" or indeterminate employment relationship constructed around a full-time, continuous work week". This is a major trend being experienced in Australia and any changes to the 457 programme should be cognizant of the trend.
3. Does not differentiate between highly skilled and lower skilled labour and continues the "one size fits all" philosophy.
4. Does not provide for different levels of 457 visas to match the relative skills of the nominees.
5. Continues to have regulations pitched at the lowest common denominator by for example requiring a person earning $150,000 pa to complete timesheets accounting for at least 38 hours per week whereas many of these people are remunerated on a daily basis and are expected to work until the job is done.
6. Further entrenches the extensive use of regulations to prescribe obligations and other matters. A clear example can be found at Item 31 which inter alia says "This definition allows the regulations to prescribe the requirements that

an agreement must satisfy to be a "work agreement"." This process is repeated throughout the Bill and is of great concern.
Unless there is some transparent process by which affected parties are able to be aware of Bills lying on the Table of Parliament, the community learns of substantial changes by way of the distribution of a Regulation by the relevant Minister.

In a recent publication by Robert Half International the following points were made:

a. The world is becoming a smaller place
b. Businesses are going to have to respond to changes in the workforce
c. There is a desire for greater flexibility and an increase in "global roaming" among employees
d. Australia is running the risk of becoming an exporter of knowledge and talent and if current employment practices do not change to address these issues companies may have difficulty in finding high quality employees in the future
e. The world is going to continue to get smaller, with more consistency across borders by regulators, governments and standard setters.

The following brief comments are offered:

Explanatory Note Paragraph No.	**Comment**
70	This is a prime example of no certainty of the "rules" as these may change at any time by the Minister (subject to parliamentary tabling) promulgating a new regulation.
113	"The sponsorship obligations will be prescribed in the regulations, rather than being set out in the Migration Act". The comment goes on to say that flexibility is required but it does not indicate that any limits on changes are envisioned. Again, almost an open opportunity to introduce a wide range of requirements.
127	There is a requirement that an approved sponsor must be the employer. That is the concept of direct employment. This explanatory note appears to contradict this. Can an explanation be given as to how the example is accurate?