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The Senate
Legal and Constitutional Affairs Legislation Committee
Parliament House Canberra
ACT 2600

Dear Committee Secretary

We make this submission in reference to the Inquiry into the *Migration Amendment (Charging for a Migration Outcome) Bill 2015*.

The intention of the Bill appears to be to target organisations that have been found or alleged to have been 'charging' to sponsor overseas workers on 457 Visas. That is, the sponsor is receiving a benefit in exchange for a visa.

This practice is clearly unacceptable and undermines the integrity of the skilled migration system. However, it is Ai Group's view that the Bill requires amendment to avoid unintended consequences. The Bill, as drafted, would appear to make unlawful various legitimate benefits currently provided by businesses for the benefit of visa holders and their families. It is in everyone's interests that these legitimate benefits are excluded from the legislative amendments because otherwise employers will simply stop providing the benefits and this will disadvantage visa holders and their families.

Some examples of payments from visa holders to sponsors that may be unintentionally captured by the legislative amendments are:

- Reimbursement to the sponsor of an advance on the visa holder's salary to help them pay for accommodation, including bond money, rent and/or short-term accommodation charges. This would be typically deducted from the visa holder's salary at a later date (as authorised by the visa holder).
- Reimbursement to the sponsor of an advance on the visa holder's salary to assist the visa holder with other living expenses.
- Reimbursement to the sponsor of an advance on the primary visa holder's salary to assist the visa holder to meet the cost of adding a dependent to the 457 visa.



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While ss.245AR(3) and 245AS(3) exclude circumstances where *‘the benefit is a payment of a reasonable amount for a professional service that has been provided, or is to be provided, by the first person or a third person’*, this exclusion would not appear to capture the types of payments referred to above.

The definition of ‘benefit’ in the Bill is very broad and includes, for example, *‘a deduction of an amount’*.

The Bill neither defines ‘reasonable amount’ nor ‘professional service’. The Bill should make it clear that the costs incurred by the sponsor with respect to professional services of a migration agent or lawyer would fall within the exclusion, provided the cost is reasonable.

We would be happy to make any further submission that the Committee may require.

Yours sincerely

Stephen Smith
Head of National Workplace Relations Policy