



5 May 2015

Committee Secretary  
Senate Education and Employment Committees  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Submitted via email

Dear Sir/Madam

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

The Australian Higher Education Industrial Association is the registered employer association representing Australian universities, and currently has 31 member universities employing in excess of 90,000 employees.

Following are the AHEIA submissions regarding this Senate Inquiry.

- a. *the wages, conditions, safety and entitlements of Australian workers and temporary work visa holders, including:*
  - i. *whether the programs 'carve out' groups of employees from Australian labour and safety laws and, if so, to what extent this threatens the integrity of such laws,*
  - ii. *the employment opportunities for Australians, including:*
    - A. *the effectiveness of the labour market testing provisions (the provisions) of the Migration Act 1958 in protecting employment opportunities for Australian citizens and permanent residents, and*
    - B. *whether the provisions need to be strengthened to improve the protection of employment opportunities for Australian citizens and permanent residents and, if so, how this could be achieved,*
  - iii. *the adequacy of publicly available information about the operation of the provisions, and*
  - iv. *the nature of current exemptions from the provisions and what effect these exemptions have on the reach and coverage of labour market testing obligations and laws regarding wages, conditions and entitlements of Australian workers and temporary work visa holders;*

The current skilled occupation list for subclass 457 visas is not flexible enough to meet the changing needs of the higher education labour market. To enable universities to attract highly skilled individuals who can undertake multiple roles or occupations closely aligned to their profession, the occupation list needs to have an increased level of flexibility.

Flexibility currently exists for medical practitioners (and general managers) to work for an employer other than their sponsor or an associated entity of their sponsor. This flexibility should be extended to enable a medical practitioner to alternatively work for a university as a Clinical Academic performing teaching and research closely aligned to their specified

occupation. Similarly, flexibility should also be provided to enable a Clinical Academic to work for another employer performing work in their specialist medical field. This outcome would pay proper recognition to the fact that Clinical Academics perform clinical duties within the setting of teaching hospitals or medical research institutes associated with the employing university.

The greater number of exemptions available for university related occupations will support Australian universities to compete in the global labour market for the best education resources.

- c. whether temporary work visa holders receive the same wages, conditions, safety and other entitlements as their Australian counterparts or in accordance with the law, including:
  - i. the extent of any exploitation and mistreatment of temporary work visa holders, such as sham contracting or debt bondage with exorbitant interest rate payments,*
  - ii. the role of recruitment agents, and*
  - iii. the adequacy of information provided to temporary work visa holders on their rights and obligations in their workplace and community, and how it can be improved; No. 88—24 March 2015 2375**
- d. whether temporary work visa holders have access to the same benefits and entitlements available to Australian citizens and permanent residents, and whether any differences are justified and consistent with international conventions relating to migrant workers;*

All Australian universities have formal enterprise agreements approved by the Fair Work Commission under the *Fair Work Act 2009*. All university employees, including those on temporary visas, are employed in accordance with those enterprise agreements and are therefore provided with identical work conditions, wages and safety entitlements to an Australian citizen or permanent resident. Accordingly University employees on temporary work visas are not subject to exploitation or mistreatment.

- e. the adequacy of the monitoring and enforcement of the temporary work visa programs and their integrity, including:
  - i. the wages, conditions and entitlements of temporary work visa holders, and*
  - ii. cases of 457 visa fraud, such as workers performing duties outside or below the job classification of the visa;**

Universities welcome the change of the notification period of 457 visas from 10 calendar days to 28 calendar days.

We propose the introduction of incentive and rewards programs for employers who have a strong compliance history. The rewards could be items such as priority visa processing and fee concessions. We also propose the reintroduction of the Department of Immigration and Border Protection (DIBP) Outreach Officers to provide guidance, education, and assistance to industry groups in all areas of compliance.

- f. the role and effect of English language requirements in limited and temporary work visa programs;*

We welcome the changes to the English language requirements, which broadened the number of English language tests which can be used, changed the English language IELTS threshold from 5 in each band to an average of 5 overall (with a minimum of 4.5 in each band) with

different thresholds applying to the other approved English language tests, changed the exemption for demonstrating English language competency from 5 years consecutive study to 5 years cumulative study and the reduction in the market salary to \$180,000.

*i. any related matter.*

Visa fees – we propose the introduction of a group concession on lodgement fees when lodging bulk applications as well as a credit concession when submitting a “decision ready” application.

Yours sincerely

Stuart Andrews  
**Executive Director**