CHAMBER OF COMMERCE AND INDUSTRY
WESTERN AUSTRALIA

15 February 2007

Dr Kate Sullivan
The Inquiry Secretary
Joint Standing Committee on Migration
P O Box 6021
Parliament House
CANBERRA ACT 2600

Dear Dr Sullivan

Inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas

The Federal Government's temporary business visa program permitting the entry of overseas workers on temporary and long-stay visas is playing a growing role in meeting Western Australia's substantial skills shortage.

Temporary skilled migration has been important and necessary in helping to bridge the gap between the skills that are available locally and the skills that are actually required.

The Temporary Business (Long Stay) Subclass 457 visa, in particular, has facilitated temporary skilled migration and has proven to be both an essential and effective means for businesses in addressing professional and trade skill shortages across industry.

The Chamber of Commerce and Industry of Western Australia (CCI) welcomes the opportunity to contribute to the Parliamentary inquiry into temporary business visas. I enclose our formal submission to the Joint Standing Committee on Migration.

Yours sincerely

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Parliamentary Inquiry into Temporary Business Visas

February 2007

A submission to the Joint Standing Committee on Migration

CHAMBER OF COMMERCE
AND INDUSTRY
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Overview

About CCI

The Chamber of Commerce and Industry of Western Australia (CCI) is the leading business association in Western Australia.

It is the second-largest organisation of its kind in Australia, with a membership of 5,000 organisations in all sectors including manufacturing, resources, agriculture, transport, communications, retailing, hospitality, building and construction, community services and finance.

Most members are private businesses, but CCI also has representation in the not-for-profit sector and the government sector. About 80 per cent of members are small businesses, and members are located in all geographical regions of WA.

Introduction

On 6 December 2006 the House of Representatives Joint Standing Committee on Migration adopted an inquiry into "Eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas".

The terms of reference of the inquiry are set out below:

- Inquire into the adequacy of the current eligibility requirements (including English language proficiency) and the effectiveness of monitoring, enforcement and reporting arrangements for temporary business visas, particularly Temporary Business (Long Stay) 457 visas and Labour Agreements; and

- Identify areas where procedures can be improved.

CCI welcomes the opportunity to contribute to this inquiry and is pleased to make this submission which is divided into four sections:

(1) An overview of the temporary business visa program;
(2) Eligibility requirements;
(3) Monitoring, enforcement and reporting arrangements; and
(4) Recommendations

An overview of the temporary business visa program

Australia's temporary business visa program which commenced over a decade ago remains an essential part of the immigration system designed to meet business related requirements for both temporary short and long stay.

While the program has typically provided for temporary short stay entry of business people from overseas for business visitation purposes for periods of up to 3 months, existing migration laws permitting the grant of temporary long-stay visas to overseas workers for business employment purposes have been pivotal in meeting skills shortages in key industry sectors.

The Temporary Business (Long Stay) Subclass 457 visa, which provides sponsored overseas employees with temporary residence for periods from 3 months up to 4 years, continues to play an important role in addressing professional and trade skill shortages across industry.

Temporary Business Short Stay Visas

The Temporary Business (Short Stay) Subclass 456 visa, which provides for a stay of up to 3 months, is intended to permit entry to bona fide business persons for the purpose of business meetings, contract negotiations, site visits, exploring business opportunities and attending conferences.

Importantly, Migration Regulations[1] require that the personal attributes and business background of the applicant are relevant to, and consistent with, the nature of the applicant's proposed business in Australia; and also require that the applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents[2].

All 456 visas are imposed with condition 8112 which states that, "The holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident".

While a one-off short-term contract assignment requiring a high level of skill is permissible given its short-term, once-off and specialised nature, abuse of the visa for work purposes through a pattern of brief exits after maximising each 3 month stay and returning to re-enter for a further 3 months of work would be deemed as a breach of visa condition 8112.

The Business Electronic Travel Authorities (ETA) (Short Validity) Subclass 977 and (Long Validity) Subclass 956 visas both have similar characteristics to the Subclass 456 and carry the same 8112 condition.

However while the criteria for grant of these ETA's are relatively less stringent and only requiring that the applicant wishes to enter Australia temporarily for business purposes, application for these electronic visas are restricted to citizens of ETA-Eligible countries[3].

Temporary Business Long Stay Visas

Australian employers seeking to access suitably qualified personnel from overseas for periods of between 3 months and up to four years are required to sponsor their expatriate personnel on the Temporary Business (Long Stay) Subclass 457 visa under the Standard Business Sponsorship arrangement or through a Labour Agreement.

The 457 visa provides for a high degree of flexibility for business employment purposes with a relatively low level of non-compliance from the number of such visas granted nationally.

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[1] Migration Regulations 1994 sub-regulation 456.211(aa)
[2] Migration Regulations 1994 sub-regulation 456.212
[3] ETA Countries include Andorra, Austria, Belgium, Brunei, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong SAR, Iceland, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Malaysia, Malta, Monaco, Netherlands, Norway, Portugal, San Marino, Singapore, South Korea, Spain, Sweden, Switzerland, United Kingdom, United States of America and Vatican City.

Australian employers eligible to sponsor overseas employees on the 457 visa must typically be established as a Standard Business Sponsor (valid for a 2 year duration) and then nominate the positions they intend to fill with expatriate personnel.

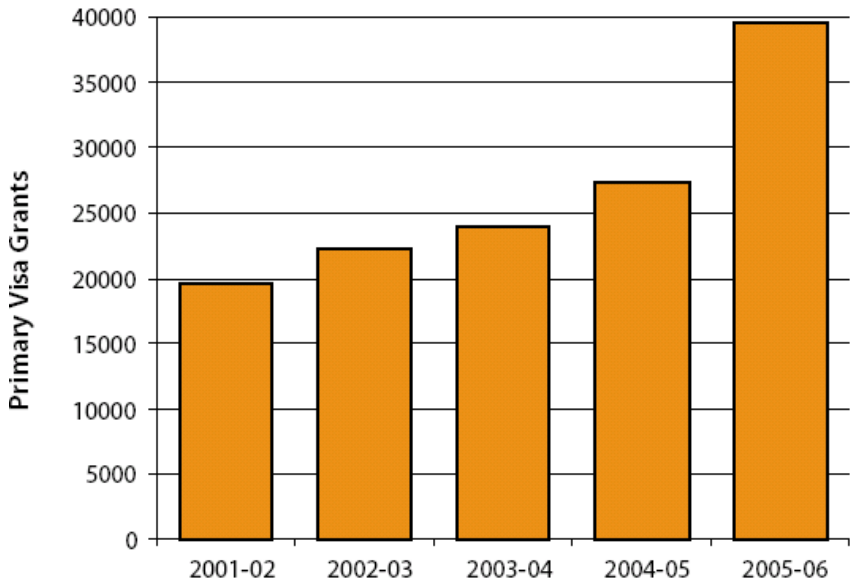
Alternatively, employers may apply for and negotiate to enter into a formal arrangement under a Labour Agreement (valid for between 2 - 3 years, with an annual nomination ceiling) to nominate the positions to be filled by overseas employees entering on the 457 visa.

A mandatory 8107 condition is imposed on the primary 457 visa which states that the holder must not (i) cease to be employed by the employer in relation to which the visa was granted; (ii) work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; or (iii) engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted.

Program Outcomes - 457 visas

The primary objective of the Federal Government's temporary business visa program in relation to 457 visas is to enable Australian firms to compete globally through the efficient and smooth transfer of key skills to Australia, while safeguarding employment and training opportunities for local employees.

According to the Department of Immigration and Citizenship (DIAC), "The number of temporary skilled migrants admitted to Australia has been steadily increasing due to the declining unemployment rate of skilled Australians and the growing realisation by both employers and migrants that they can use temporary skilled migration to 'try before they buy'."



Source: DIAC

The 457 visa has become increasingly important particularly at a time of persisting skill shortages across a wide range of occupations within industry.

In the past financial year, the utilisation of the 457 visa by Australian employers has risen significantly as a result of increased industry demand. A total of 39,500 457 visas were granted in 2005-06 to primary applicants, an increase of 44.55 per cent over the previous year.

Major users of the 457 visa by industry include health and community Services (5,680 visas), property and business services (4,890 visas), manufacturing (4,000 visas), construction (3,490 visas) and communication services (3,280 visas).

In Western Australia, the largest users were the mining (1,680 visas), construction (1,100 visas) and manufacturing (1,000 visas) industries.

Overall, the average salary level of 457 primary visa applicants in 2005-06 was $66,200, compared to the gazetted minimum salary level of $41,850 per annum (non-ICT[4] occupations) which is the set minimum amount payable to 457 visa holders (in non-regional areas).

To date, the 457 visa remains a popular visa option despite its current limitations as it is the most effective means by which employers can fill short-term vacancies that cannot be filled from within the Australian labour market.

Temporary skilled migrants arriving on the 457 visa provide an immediate and positive contribution to local labour supply and help alleviate occupational skill shortages.

It should also be highlighted that a significant proportion (approximately 25 per cent) of 457 visa holders proceed to obtain Australian permanent residency on the basis of their skills and experience, hence contributing to Australia's Skill Stream, which had a migration program outcome of 97,350 visas in 2005-06.

For this reason, greater awareness of the 457 visa program and its benefits is necessary. Temporary skilled migration must be recognised for both its short-term and long-term contribution to addressing skill shortages prevalent within industry.

Program Limitations

A number of limitations exist in respect of the 457 visa program. These limitations as outlined below should be considered as part of any comprehensive review of the 457 visa.

Short-Term Employment

The current temporary business visa program provides for short-stays of less than 3 months for business related purposes, or long-stays from between 3 months and 4 years for employment purposes.

Evidently, a limitation of the program is that it does not provide for short-stays of less than 3 months for employment purposes.

While there has been discussion of revising 457 visas to allow employment for periods of less than 3 months, the current requirements of satisfying the full sponsorship, nomination and visa eligibility requirements, and the associated visa processing times do not make this a realistic option.

Transition of 457 visa holders

Another limitation of the program is that there is presently no requirement for 457 visa holders to stay with their sponsoring employers for any set minimum period of time.

[4] Information and Communications Technology

Notwithstanding the mandatory 8107 condition imposed on the primary 457 visa holder which requires the sponsored employee not to "cease to be employed by the employer in relation to which the visa was granted", he or she can still accept sponsorship from another employer and apply for a new 457 visa in order to work for the new employer.

Therefore the initial employer may invest heavily in the recruitment and sponsorship of an overseas employee only to lose that employee to another employer.

With an increasing stock of 457 visa holders in Australia, the incidence of 'poaching' of sponsored employees is becoming more prevalent. The net gain from the resultant move of the 457 visa holder is nil and the skill vacancy simply transfers from one employer to the next.

Related to the issue of the transition of 457 visa holders from one employer to another, is the serving of the resignation notice period by a sponsored employee.

When the sponsored employee is granted a new visa under sponsorship from the new employer, the mandatory 8107 condition applies to the new visa and requires employment to be with new employer.

This creates a problem as the visa holder is potentially in breach of this visa condition if he or she has yet to resign from the initial employer and is subsequently required to see out a notice period upon resignation as part of the employment agreement.

Preservation of the family unit

Under the current system, children aged 18 years or over will be considered to be dependent only if they are wholly or substantially reliant on the primary applicant of the 457 visa for financial support for their basic needs of food, shelter and clothing.

While this requirement may be satisfied for the grant of their 457 visas and subsequent entry to Australia, these dependent children may not necessarily qualify as dependants at the time an application for permanent residency is lodged by the primary 457 visa holder.

This is a major concern for many sponsored employees from overseas who face the prospect that their older children may have to depart Australia when they are no longer dependent and cannot be considered for permanent residency.

Therefore there is a need to consider how this issue can be adequately addressed to allow for the preservation of the family unit of temporary skilled migrants.

Age limit for Skilled Migration

Under current Migration Regulations, applicants 45 years of age and over do not qualify for Skilled Migration or for Employer Sponsored Migration (unless under exceptional circumstances).

The age limitation does not apply to 457 visas. However 457 visa holders who are 45 years of age and over cannot apply for Skilled Migration and their only option to apply for permanent residency would be normally through Employer Sponsored Migration on the grounds of exceptional circumstances.

This restriction unnecessarily discriminates against older temporary skilled migrants who are already making a contribution to the Australian workplace and prevents them from becoming permanent residents through the Skilled Migration pathway.

A Joint Standing Committee Report on Migration tabled in March 2004 recommended that the age limit of 45 be scrapped. The argument for this recommendation was that the concepts of working life and retirement age were becoming less relevant and therefore an absolute prohibition on skilled migrants aged 45 or more was no longer appropriate.

It could also be argued that in many skilled occupations the peak level of experience and competence is only reached at around the age of 45. In addition, skilled individuals aged 45 and over can be excellent trainers and mentors and removal of the age discrimination could contribute to solutions needed to address current skill shortages.

Eligibility requirements

The Subclass 457 visa is primarily intended to provide streamlined entry arrangements for businesses needing to recruit staff from overseas on a temporary basis.

The two (2) main entry streams under the 457 visa cover:

- Sponsorship for employment by an Australian business; and
- Employment in Australia under a labour agreement.

In reviewing the adequacy of eligibility requirements, the trade-off between the outcomes from current eligibility requirements and those achieved through the tightening of eligibility requirements must first be considered.

Sponsorship by Australian Business

Under existing eligibility requirements for applicants of a 457 visa sponsored by an Australian business[5] the following criteria apply:

- the position in which the applicant will be employed is covered by an approved nomination at the time of visa grant;
- the employer is an approved business sponsor at the time of visa grant;
- the applicant is nominated to the position by the employer;
- the applicant demonstrates that they have the skills necessary to perform the duties of the position;
- the applicant has suitable personal attributes (educational qualifications) and employment background (work experience) for the position;
- the applicant is to be paid at least the minimum gazetted salary that applied when the nomination was approved (and the salary specified in the nomination);
- the position for which they have been nominated to has not been created solely for the purposes of the applicant obtaining a visa for Australia; and
- the applicant is sponsored by an approved sponsor[6]

[5] Migration Regulations 1994, Sub-regulation 457.223(4)

[6] As defined in s140D of the Migration Act 1958

Essentially, the applicant should be able to demonstrate that they have the personal attributes and employment history necessary to perform the activity for which they have been nominated[7].

As most 457 applicants are sponsored to positions consistent with their previous employment history and qualifications, applicants should be able provide details of their employment status and any relevant employment references in order to demonstrate their suitability for the position in which they have been nominated.

Formal qualifications are required only if they would formally be required in Australia (for example, most professional occupations require formal tertiary qualifications) or where they are required for registration or licensing purposes.

Employment under Labour Agreement

Alternatively, an applicant meets the eligibility requirements for a 457 visa under a labour agreement subject to meeting the following criteria:

- the activity they propose to undertake in Australia (as set out in their application) is covered by the terms of a labour agreement;
- a nomination application submitted by a party to the labour agreement has been approved[8];
- a party to the labour agreement has nominated the visa applicant to fill the vacancy;
- the visa applicant has suitable skills and experience for the nominated vacancy; and
- the requirements of the labour agreement itself are met.

Under a labour agreement, applicants must demonstrate that they have qualifications and experience commensurate with those specified in the labour agreement in relation to the nominated position.

Supporting evidence may include formal qualifications, formal and/or on-the-job training, work experience, employment references and the ability to meet any relevant Australian registration or licensing requirements.

Skills Assessment

Under current arrangements, the formal skills assessment and qualification recognition process that is a requirement for Skilled Migration (permanent visa) applications, is not normally required for 457 visa applicants.

A formal skills assessment may be requested in instances where there are bona fide concerns or uncertainty as whether the applicant possesses suitable skills for the position.

Current arrangements which generally exempt applicants from undertaking a formal skills assessment should remain unchanged for the following reasons:

[7] Migration Regulations 1994, Sub-regulation 457.223(4)(d)
[8] Under Migration Regulations 1994, 1.20G in relation to this activity

- Unlike the Skilled Migration program, an employer has nominated the 457 visa applicant for the purpose of full-time employment in a skilled occupation in Australia; and

- Any requirement for the introduction of skills assessment would significantly extend the time taken to approve the 457 visa application and delay the applicant commencing employment in Australia. This essentially defeats the objective of the temporary visa program which is intended for employers to readily access key skills from offshore that are needed locally.

Formal skills assessment should not be introduced for 457 visas as the onus should be on employers at all times to evaluate and determine whether employees have the requisite skills to do the job for which they are to be employed.

A requirement for formal skills assessment by external assessing bodies would be unnecessary and add an extra step in the process. Furthermore, many assessing bodies only assess qualifications with no consideration of practical skills and industry experience.

Classification of Occupations

Applicants for the 457 visa are currently assessed against the position details provided by the nominating employer, including details of the skills required for the position.

To this end, the Australian Standard Classification of Occupations (ASCO)[9] is used by DIAC as the principal source of information for the standard duties and skill requirements in Australia.

The ASCO system was developed by the Australian Bureau of Statistics (ABS) and the Department of Employment and Workplace Relations to provide a classification system that would ensure the comparability of statistics produced by all government departments and agencies.

However with advances in technology, certain occupations have become more diversified and specialised while new occupations have also emerged and evolved.

Reliance on the ASCO classification structure which had its second (latest) edition finalised more than a decade ago (in mid-1996), is no longer plausible as it does not adequately account for certain more specialised occupations within industry.

In September 2006, a new classification system, the Australian New Zealand Classification of Occupations (ANZSCO), was published by the ABS and Statistics New Zealand.

The ANZSCO, which effectively replaces the ASCO, should be adopted by DIAC for occupation assessment purposes with flexibility for employers to clarify the nature of actual occupations and appropriate skill levels required.

[9] ABS Cat 1220, Australian Standard Classification of Occupations (ASCO), Second Edition, 1997.

English Language Requirements

There is currently no English language testing required for entry on a 457 visa with employers deciding what level of English is necessary for the nominated position.

Introduction of inappropriate English language requirements has the potential to compromise the flexibility and defeat the intent of the temporary visa arrangement which is to allow employers to readily access and mobilise offshore skilled labour to meet their immediate short to medium term requirements.

Any English language requirements should be discretionary and appropriate to the specific duties being performed by overseas employees. While employers should facilitate language training, in particular, where it is necessary for occupational health and safety or other workplace performance reasons, they should not have the first or primary responsibility for improving employees' English language skills.

Minimum Salary Levels

Under the current arrangement, an applicant for the 457 visa is to be paid at least the gazetted minimum salary level (MSL) that applied when the nomination was approved (and the salary specified by the employer in the nomination).

This salary is the gross base salary and does not include other components such as superannuation, vehicle or accommodation allowances, living away from home or any other allowances, bonuses, shares, commission, or other incentive scheme payments.

At present, there are four MSLs notably for non-ICT occupations, in non-regional or regional[10] areas and for ICT occupations, in non-regional or regional areas.

The current gazetted MSLs based on a 38-hour week are as follows:

- Non-regional: $41,850 (non-ICT occupations) or $57,300 (ICT Occupations)
- Regional: $37,665 (non-ICT occupations) or $51,570 (ICT Occupations)

To qualify for regional salary concessions, a Regional Certifying Body (RCB) must certify that the nominated salary is at least the regional minimum salary level that applied at the time the nomination was made and is not less than the level of remuneration provided for under relevant Australian legislation and awards.

In Western Australia, the State Government currently imposes the requirement for the non-regional MSL to apply as well to all regional positions. Any exemption from the MSL would have to be considered only under "exceptional circumstances".

Some smaller employers, especially in regional areas, find the MSL too high, with it being above market rates in those areas. This can lead to situations where overseas employees are paid considerably more than locals doing the same job.

[10] Nomination of salary is subject to the certification by the relevant Regional Certifying Body (RCB).

An approach based on the "appropriate industrial instrument" should therefore replace the specified absolute dollar amount approach to the MSL, with the "appropriate industrial instrument" specified at the time of nomination.

Labour Market Testing

There is presently no labour market testing requirements for positions to be filled by 457 visa applicants (except where regional concessions are sought).

The review of Australia's temporary entry program, "In Australia's Interest", conducted in 2000-2002, recommended the abolition of labour market testing.

Labour market testing is deemed to be unnecessary as it would simply contribute to further time delays and barriers to the recruitment and employment of employees from overseas.

It is recommended labour market testing should not be introduced as it is an additional imposition and financial burden on employers, and past experience clearly indicates that it is an unwieldy, labour intensive, ineffective and wasteful process.

As evident from the above, any attempt to tighten the eligibility requirements, particularly through the introduction of compulsory English language testing requirements, formal skills assessment or labour market testing, would clearly be inconsistent with the objectives of a streamlined and effective temporary business visa program.

More onerous requirements would simply contribute to further time delays, additional costs to employers, and counter employers' expeditious efforts to address any short term skill shortages through the recruitment and sponsorship of overseas employees.

Current ongoing delays within DIAC to process the 457 visa even without the above measures are already adversely impacting on employers and their existing business operations or project requirements.

Monitoring, enforcement and reporting arrangements

Sponsorship Obligations

Much of the media attention on 'Section 457 visas' and 'overseas worker exploitation' has been generated as a result of an overly narrow but magnified coverage of a relatively small number of employers not abiding by Australian immigration and workplace relations laws.

Lesser known are the large number of employer sponsors of temporary overseas workers who are diligently complying with and upholding their sponsorship obligations as part of the temporary business visa program for 457 visas.

Employers have due responsibilities and obligations that they have to commit to before being approved as business sponsors of temporary overseas employees.

As part of their sponsorship obligations, employers accept responsibility for the cost of return travel of sponsored overseas employees to their home country upon cessation of employment.

This obligation covers the repatriation of accompanying family members as well, whether they are leaving with, or separately from, the sponsored employee and applies irrespective of whether the sponsored person was recruited from offshore or from within Australia.

Employers further undertake not to employ persons without any work rights or whose work conditions would be breached should they be employed by the business (for example, individuals who are in Australia on a 457 visa under the sponsorship of another business).

They are also obliged to comply with Australian immigration and workplace relations laws and/or any workplace agreement, and to ensure that a sponsored person holds any licence, registration or membership that is mandatory for the performance of work, and that he or she is paid at no less than the relevant gazetted minimum salary level based on a 38 hour week.

Employers approved as sponsors after 1 November 2005 undertake to pay all medical and hospital expenses from treatment administered in a public hospital (other than expenses that are met by health insurance or reciprocal health care arrangements) hence protecting Australian taxpayers from being burdened with any unpaid bills.

In addition, employers must make superannuation contributions, deduct tax instalments, and make payments of tax, and pay to the Commonwealth an amount equal to all costs incurred by the Commonwealth in relation to the sponsored person.

Furthermore employers agree to cooperate fully with the immigration authorities in monitoring activities in respect to their business or any sponsored employees, and to duly complete and return monitoring surveys conducted by DIAC as well as to notify DIAC within 5 working days after a sponsored employee ceases employment.

Also, any change in circumstances that may affect an employer's capacity to honour its sponsorship undertakings must be communicated to the immigration authorities.

Major breaches of sponsorship undertakings can result in sanctions being imposed on sponsors and the cancellation of business sponsorship approvals. It is therefore imperative that the respective sponsorship obligations and associated requirements are strictly adhered to by business sponsors.

Raising the awareness of employers on current sponsorship obligations and the sanctions that can be imposed is necessary to provide a clearer understanding of the obligations and the consequences of a breach.

Monitoring and Compliance

A key element of the temporary business visa program in respect of the 457 visa is the monitoring and reporting requirements imposed by DIAC.

Approved business sponsors are subject to monitoring to ensure compliance with sponsorship responsibilities and requirements.

All sponsors are required to complete a monitoring form within six (6) to twelve (12) months of approval of their sponsorship.

The monitoring process requires business sponsors to provide information about their temporary overseas employees, including evidence of the salaries being paid, and information to assess whether sponsorship undertakings, including training commitments, are being met.

The Migration Act 1958[11] allows DIAC to seek information from sponsors in relation to all matters arising from their business sponsorship application and sponsorship approval. Such matters may include the business sponsorship applications, the sponsorship undertakings, the business sponsorship approval, business nomination approvals, and related 457 visa applications and grants.

Should a business sponsor fail to comply with their sponsorship undertakings or to co-operate in monitoring activities, action may be taken by DIAC to cancel the sponsorship approval and/or the visas of any 457 visa holders sponsored by the business.

Failures in compliance are also taken into account in assessing any future sponsorship applications made by the business.

To further strengthen measures to ensure compliance by employers of temporary skilled migrants and build on the current system of targeted site visits and investigations, the Federal Government, on 30 October 2006, announced that $17.6 million in funding (over four years) will be provided for the establishment and training of investigative mobile strike teams.

It is widely recognised and accepted by employers that measures aimed at ensuring that business sponsors are complying with their sponsorship obligations and that 457 visa holders are complying with their visa conditions, are both necessary and essential to ensuing the integrity of the program.

Also, the sanctioning of an employer should occur in instances where an employer deliberately and knowingly breaches its obligations.

However, it is imperative that any measures used to tighten the monitoring and reporting requirements of business sponsors do not significantly increase the compliance burden on employers, especially small to medium enterprises.

Recommendations

- Greater promotion and community awareness of the 457 visa program and its benefits is necessary. Temporary skilled migration must be recognised for both its short-term and long-term contribution to addressing skill shortages prevalent within industry.

- Current limitations of the temporary business visa program must be considered as part of any comprehensive review of the 457 visa.

- Formal skills assessment requirements should not be introduced for 457 visas as the onus should be on employers at all times to evaluate and determine whether employees have the requisite skills to do the job for which they are to be employed.

- The ANZSCO, which effectively replaces the ASCO, should be adopted by DIAC for occupation assessment purposes with flexibility for employers to clarify the nature of actual occupations and appropriate skill levels required.

[11] Migration Act 1958, s137(H)

- English language requirements should be discretionary and appropriate to the specific duties being performed by overseas employees. While employers should facilitate language training, in particular, where it is necessary for occupational health and safety or other workplace performance reasons, they should not have the first or primary responsibility for improving employees' English language skills.

- An approach based on "appropriate industrial instrument" should replace the specified absolute dollar amount approach to the MSL requirement.

- Labour market testing should not be introduced as it is an additional imposition and financial burden on employers, and past experience clearly indicates that it is an unwieldy, labour intensive, ineffective and wasteful process.

- Raising the awareness of employers on current sponsorship obligations and the sanctions that can be imposed is necessary to provide a clearer understanding of the obligations and the consequences of a breach.

- Measures used to tighten the monitoring and reporting requirements of business sponsors should not significantly increase the compliance burden on employers, especially small to medium enterprises.