



Answer to question:

PARLIAMENTARY JOINT STANDING COMMITTEE ON MIGRATION

MIGRATION, PATHWAY TO NATION BUILDING INQUIRY

QUESTION: "...we would welcome any further thoughts that you may have on that [Talent Beyond Boundaries Refugee Labour Agreement program], even in relation to forming a proposal, if you wish to come back to us on some of that."

ANSWER: Please refer to *attached* Fragomen submission dated 9 June 2023.

Teresa Liu
Managing Partner
Direct: +61 2 8224 8518
TLiu@fragomen.com

Fragomen (Australia) Pty Ltd.
Level 7
179 Elizabeth Street
Sydney, NSW 2000, Australia

O + 61 2 8224 8555
F + 61 2 8224 8500
sydneyinfo@fragomen.com

www.fragomen.com

09 June 2023

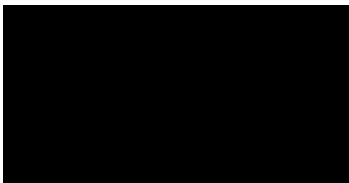
By email: migration@aph.gov.au

Second Submission to Joint Standing Committee on Migration following Public Hearing on Migration, Pathway to Nation Building Inquiry

Thank you for the opportunity to provide this further submission, in response to the Committee Chair's invitation to provide further comments on how the Refugee Labour Agreement program settings can be improved to increase the level of engagement from employers.

If we can assist with policy development in this area in any other way, please do not hesitate to contact me on (02) 8224 8518 or by email to tliu@fragomen.com.

Yours sincerely



Teresa Liu

**Managing Partner- Australia and New Zealand
Solicitor**

1. SUMMARY OF POSITION

Fragomen welcomes the opportunity to make further submissions following our submission to the Committee and the public hearing, to which Mr Charles Johanes and Ms Rebecca Baggiano provided evidence on Wednesday, 16 May 2023.

In this submission, we expand on our points on the Refugee Labour Agreement program, which is currently operating through Talent Beyond Boundaries (“TBB”). It was noted by the Committee that the Refugee Labour Agreement was a program that was of particular interest to the Committee for its innovative nature.

Fragomen acknowledges the importance of a program such as the Refugee Labour Agreement. The program recognises the skills and experience refugees bring to the Australian community, which was also acknowledged by the Committee. A 2019 report by Oxfam Australia titled “*Stronger Together: The impact of family separation on refugees and humanitarian migrants in Australia*” revealed that increasing Australia’s humanitarian migrant intake could increase economic output by \$37.7 billion in net present value terms over the next 50 years and sustain an average of 35,000 additional jobs every year for the next 50 years.

The additional humanitarian migrants lift aggregate demand for goods and services and increase the labour supply, leading to job creation and growth in the Australian economy. In terms of social impact, increasing Australia’s humanitarian migrant intake will have a significant social impact, as humanitarian migrants actively contribute to the multicultural and diverse fabric of Australian society.

The current Humanitarian Program is limited, and falls short of recognising the positive contributions that refugees bring to the Australian community, particularly in relation to the skills and experiences they bring to various professions. Applicants are subject to protracted processing times as they are required to meet higher identity and character/security thresholds, particularly if they are not able to provide identity documents due to displacement.

The Skilled Migration Program also has its own limitations; it does not provide a secure pathway for skilled refugees to stay in Australia permanently due to limited occupations on the Medium Long-Term Strategic Skills List (“MLTSSL”) or administrative burdens placed on the employer as part of the nomination (such as Labour Market Testing). This leaves skilled refugees falling into a gap between two Migration programs.

Many refugees arrive with significant skills, qualifications, and overseas work experience relevant to the Australian labour market, including as medical professionals, tradespeople, engineers, business owners, educators, and carers. Despite this, data reveals they are employed well below their education levels or struggle to find work at all¹. In 2017, the Australian Institute of Family Studies released a report as part of their project following the journeys of 2,400 refugees and asylum seekers over a three-year period and found that 6% of 18 to 64-year-olds were in paid employment within the first 3-6 months of arrival². Within the same cohort, 56% were in paid employment at some point before arriving in

¹ <https://www.abc.net.au/news/2022-10-24/higher-education-with-worse-job-outcomes-is-the-reality-for-many/101542354>

² https://aifs.gov.au/sites/default/files/publication-documents/bnla-researchsummary-eees-oct17_0.pdf

Australia. By 2018, 32% of the cohort had found employment but still had difficulty in being employed in a role that matches their skills and qualifications³.

The benefit of the Refugee Labour Agreement being under the Skilled Migration Program is that it is being led by employers seeking skills to fill demand and shortages immediately by tapping into a relatively untouched talent pool. As noted by the TBB Founder John Cameron during the public hearing on 26 April 2023, the employer should be determining the skills needed to fill the demand. Employers are interested in hiring refugees and formerly displaced persons but are reluctant to do so as they perceive that the process is “cumbersome”, an administrative burden and costly, and are unaware of the supports that are available⁴. The Refugee Labour Agreement and TBB offer this opportunity to Australian employers to employ skilled refugees by streamlining the process and removing administrative burdens/costs displaced to fill acute skills shortages.

2. FRAGOMEN'S RECOMMENDATIONS

In our written and oral submissions to the Committee, Fragomen noted the significance of the Refugee Labour Agreement program under the wider Australian Migration program. As the first of its kind, it brings a rare opportunity to offer skilled visas to refugees in recognition of the skills and expertise they bring to the Australian community.

However, the lack of visibility of the program as well as various unnecessary and costly administrative burdens on the employer have prevented this program from reaching its full potential.

Fragomen made the following recommendations in our original submissions to the Committee:

1. Increase promotion of the availability of this agreement by the Australian government to businesses;
2. Creation of an official visa stream/product for the Skilled Refugee Labour Agreement program within the Permanent Skilled Migration Program;
3. Remove the requirement for employers to nominate the name of nominees included in the labour agreement as part of the sponsorship application. Currently, employers are required to lodge a Deed of Variation if they hire a new candidate after initial approval of the labour agreement. By removing this requirement, this would reduce the administrative process on employers as well as ensure faster processing times of these applications;
4. Remove the SAF levy requirement for sponsoring employers under this program, mirroring the concession available to Ministers of Religion and Religious Assistants in the Labour Agreement stream;

³ <https://bnla.aifs.gov.au/research-findings>

⁴ Betina Szkudlarek, Eun Su Lee and Fiorella Jansen-Nicorescu, “Bridging the Gap between Intention and Action: Employing people from a refugee background”, 2022, University of Sydney Business School, page 6.

5. Increase the applicants' age requirement from 50 years to 55 years, as recognition that many skilled refugees have had to pause their careers for a period due to displacement or other barriers;
6. Expand the definition of "member of the family unit" for applicants under the Skilled Refugee Labour Agreement to include "relative" of the main applicant or a spouse/de facto partner who are dependent on the main applicant, are usually resident in their household and do not have a spouse or de facto partner, as defined in the existing concessions under the Humanitarian Program;
7. Adopt the health examination processes for applications under the Humanitarian Program. For these applications, the concessions include no fee for the health examinations, access to more health examination clinics through the International Health and Medical Services (IHMS) and access to the waiver under Public Interest Criteria 4007. In policy, if the Medical Officer of the Commonwealth (MOC) determines that the applicant is a threat to public health in Australia, they may request the applicant to complete a health undertaking before the visa is finalised.
8. Accept online English testing options from a broader range of English language testing providers for main applicants under this program and remove the English language requirement for secondary applicants.

Following the announcements made by Minister O'Neil on the scheduled increase to the Temporary Skilled Migration Income Threshold ("TSMIT") from \$53,900 to \$70,000 set to commence on 1 July 2023, we support the concerns raised by TBB in their oral submissions to the public hearing that this will disintegrate the program itself. A key component of the program is the ability for the nominee to be sponsored under any occupation on the Skilled Occupations List (i.e., the Medium and Long-term Strategic Skills List, Short-Term Skilled Occupation List and Regional Occupation List), as well as 33 additional ANZSCO and non-ANZSCO occupations. Furthermore, there is a reduction of the TSMIT requirement by 10% for certain occupations.

These concessions have opened pathways to permanent residency for applicants who may have not been able to obtain permanent residency through the standard existing pathways for various reasons, such as their occupation not being listed or their nominated salary not meeting TSMIT requirements or being subject to extensive processing times.

Fragomen has an ongoing partnership with TBB where we assist employers and skilled refugee applicants with the immigration process under this program. In our experience, most nominees were either nominated in occupations that were not on the MLTSSL or in low-skilled occupations that had a salary of less than \$60,000, sometimes lower than the current TSMIT of \$53,900. Example occupations include Environmental Consultant, Camera Operator (Film, Television or Video) and General Clerk.

Our experience is reflected in the numbers from the February 2023 Labour Market Update by the newly created Jobs and Skills Australia. The Update identified that more than half of the occupations where there are significant shortages (i.e., few qualified applicants per vacancy) were Skill Level 3 occupations, rather than highly skilled professional occupations⁵.

⁵ Jobs and Skills Australia, "Labour Market Update", February 2023, page 25.

One of the true benefits of the Refugee Labour Agreement is that it includes occupations that are semi- or lower-skilled (such as Truck Driver – 733111, Forklift Driver – 712311, Payroll Clerk – 551311), as well as highly skilled occupations. Other jurisdictions such as Canada⁶ and Japan⁷ have either introduced new pathways or expanded their existing programs to include applicants with semi/lower-skilled occupations.

Within the space of employing refugees, the Canadian equivalent to the Refugee Labour Agreement (the Economic Mobility Pathways Pilot) is expanding to a wider range of occupations that are in-demand. This includes semi/low-skilled occupations such as tourism and hospitality workers, and truck and delivery service drivers⁸.

Fragomen is of the view that if the Skilled Refugee Labour Agreement were to be subject to the new increase in TSMIT, it would reduce the number of applicants who would be eligible under the program, creating a missed opportunity for the migration program to engage with a particularly vulnerable group. It would also undermine the purpose of the Refugee Labour Agreement program, which is to recognise the skills and experiences that refugees bring when they come into a new community.

Fragomen acknowledges that the purpose of the TSMIT increase is to assist with the adjustment of the market salary for the long-term and, on the more serious end, avoid the exploitation of sponsored workers from being underpaid. However, the benefit of the Refugee Labour Agreement program is the ability to sponsor employees under low-skilled or entry-level occupations, which generally attract lower salaries below \$70,000. Removing this benefit would significantly reduce the size and potential benefit of such an impactful program to the Australian community.

Fragomen supports consultation with businesses and industries, particularly in key sectors such as aged care, child care and personal services, and other priority sectors on an approach that will meet both immediate skill/labour shortages and market conditions for both employees and business, as well as longer-term impacts within these areas.

3. ACCESS TO SETTLEMENT SERVICES

While Refugee Labour Agreement candidates arrive in Australia as skilled migrants, they are nonetheless displaced persons who may face a range of complex issues relating to their experience and personal circumstances, including social and economic integration. The needs and barriers faced by refugees upon arrival vary and require a range of targeted settlement support services in the areas of housing, language services, health and

⁶ Canada has introduced various measures to provide visa pathways for semi/low-skilled occupations. From 30 April 2023, Canada increased the hiring cap for all low-wage employers to 20% of full-time equivalent position at an employer's work site, with employers in certain sectors with demonstrated labour shortages increased to 30%. Canada has also expanded visas under the Express Entry Pathway to in-demand lower-skilled occupations, such as truck drivers.

⁷ Japan has recently introduced more industries to the Specified Skilled Worker (SSW) visa to include lower-skilled occupations in industries such as the Food Service Industry, Accommodation industry, Aviation industry, the Manufacture of Food and Beverages and Machine Parts and Tooling Industries.

⁸ <https://www.canada.ca/en/immigration-refugees-citizenship/news/2023/03/tackling-the-labour-shortage-by-helping-more-skilled-refugees-and-other-displaced-people-build-their-careers-in-canada.html>

wellbeing, family and social support, and justice, amongst others⁹. These support services should be accessible, available, culturally appropriate, and specific to their needs. As such, ensuring that an effective and sustainable model to support settlement and integration is imperative to enable refugees, particularly those arriving through the Refugee Labour Agreement, to meaningfully and autonomously participate in their local communities and nationally.

In Australia, there is a network of organisations and groups that carry out dedicated support services to newly arrived refugees, such as the Humanitarian Settlement Program (“HSP”), the Settlement Engagement and Transition Support (“SETS”), and more recently, the Community Refugee Integration and Settlement Pilot (“CRISP”), a partnership between the Federal Government and the Community Refugee Sponsorship Australia (“CRSA”). While these programs are currently available, these services are limited to only certain visas in the Humanitarian Program and not to visas under the Refugee Labour Agreement, which sits under the Skills Migration Program.

For example, the HSP is generally only available to holders of series 200 visas, while other refugees holding a different visa subclass with complex settlement needs can only access the Specialised and Intensive Services (“SIS”) component of the HSP program¹⁰. The SETS program is available to a wider range of individuals, including those who hold family and partner visas and dependent visa holders in rural and regional areas with low English proficiency, but services are limited to clients who are in their first five years of life in Australia. Given that settlement is non-linear, and refugees do not necessarily progress through support services immediately upon arrival, and may access services and then reengage later, this five-year limitation may be perceived as too restrictive.

There is, at the time of writing, no organisation or group dedicated to providing support to refugees who arrived in Australia under the Refugee Labour Agreement. As noted above, settlement services programs cater to specific visa subclass holders, and so far, none have been created with the Refugee Labour Agreement applicants specifically in mind.

Most programs available place the onus on visa holders to search for accessible and appropriate support services providers upon their arrival in Australia. There is no centralised information hub or website, at a national level, that consolidates and streamlines the various non-government and government-funded organisations, groups, and support services available for refugees to access before and upon their arrival to Australia. Current information online is scattered, difficult to navigate, and predominantly available only in English.

The majority of settlement support services available are structured and prescriptive, with help being provided within working hours by a professional case manager. It lacks the flexible, holistic, and organic support that a local community group can provide to refugees. Refugee populations are not homogenous and will have different support needs at various times after resettling.

⁹ Claire Higgins, Sally Baker, Stephanie Cousins, Ben Zhe Wang, Zhiming CHeng, Massimiliano Tani, Victoria Jack, “Refugees as Skilled Migrants: Insights from Australia’s 2018 Employer-Sponsored Refugee Migration Pilot”, 13 May 2023, page 11.

¹⁰ <https://immi.homeaffairs.gov.au/settling-in-australia/humanitarian-settlement-program/about-the-program>

Other countries who have been more successful with their refugee labour mobility programs have more robust and well-established settlement services:

1. In Canada, applicants under their refugee labour mobility program, Economic Mobility Pathways Pilot (“EMPP”), are connected to local settlement services provider **before** they arrive in Canada via the Canadian Orientation Abroad (“COA”) program¹¹. These providers help newcomers learn or improve their English or French language abilities, give them information about life in Canada, connect with their new communities and present information on key support services such as education, transportation, health practitioners, financial services, employment, and housing. This community-based approach to settlement allows migrants to establish connections with the communities they seek to enter, even before their arrival.
2. In the United Kingdom, a similar community-based resettlement scheme called The Community Sponsorship Scheme is available to refugees and enables community groups to directly welcome and support a resettled family into their local community¹². The Scheme was established in response to a community desire to support refugees and is a good example of what effective collaboration between government and local communities can achieve. However, this is only available for visas under the humanitarian visa program.

Fragomen acknowledges the Australian Government’s establishment of the Community Refugee Integration and Settlement Pilot (“CRISP”) Program, a new community-based settlement program that utilises the help of Australian community members to help refugees settle into life in Australia. We note that this pilot program is currently available until 30 June 2025 and only available to a limited number of refugees in the humanitarian space¹³, not for visa holders under the Refugee Labour Agreement.

To better support refugees, Fragomen is of the view that there would be benefit in making CRISP a permanent settlement support program and widening the cohort of individuals able to access the program to include those entering Australia via the Refugee Labour Agreement. In addition, we recommend extending the Settlement Engagement and Transition Support (“SETS”) program to accommodate skilled workers under the Refugee Labour Agreement as well.

To ensure that new and emerging communities are safe, can make informed decisions about their options and have a proper understanding of their entitlements, rights and responsibilities, community engagement and targeted provision of information is essential. Along with the government, non-governmental organisations have a vital role to play in supporting refugees, as governments need strong and creative implementing partners to collaborate with.

While some employers may be willing to contribute to settlement costs and searching for appropriate support services, we would be supportive of government taking a more active role in coordinating business and community support arrangements for incoming refugees, which would help to promote the view of the Refugee Labour Agreement

¹¹ <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/economic-mobility-pathways-pilot/immigrate/arrive.html>

¹² Home Office, “UK Refugee Resettlement: Policy Guidance”, August 2021, page 6.

¹³ <https://immi.homeaffairs.gov.au/settling-in-australia/helping-refugees/get-involved/community-refugee-integration-settlement>

program as a viable option for employers to bring skilled employers to Australia and further entice their uptake of the program.

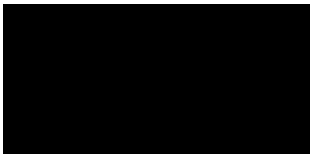
The responsibility of paying the government lodgement fees and SAF levy costs already rest with employers. As an example, under the Employer Nomination Scheme subclass 186 visa, a family of four would be subject to government lodgement fees amounting to close to \$10,000 AUD. In addition, employers with an annual turnover of \$10 million or more are liable to pay a SAF levy fee of \$5,000 AUD. On top of these government fees, employers' often shoulder relocation costs, which on average range between \$19,309 to \$24,216¹⁴. If they are further burdened by having to search and pay for the appropriate settlement services costs to support skilled refugees, this added cost disincentivises employers from accessing the program and will contribute to the view that hiring skilled refugees is expensive, onerous, and time-consuming.

In conclusion, Fragomen is of the view that fine-tuning the current settings of the Refugee Labour Agreement and establishing a proactive and well-supported network of settlement support services will place the Refugee Labour Agreement program in a good position to be a permanent fixture under Australia's Skilled Migration program. Fragomen is optimistic that the Refugee Labour Agreement will be able to play a genuine role in alleviating severe skills shortages the country is currently facing and provide skilled refugees with the best opportunities to contribute to community and nation building.

CONTACT

If we can assist with policy development in this area or you have any questions or comments, please do not hesitate to contact me on (02) 8224 8518 or by email to tliu@fragomen.com.

Yours sincerely



Teresa Liu
Fragomen
Managing Partner- Australia and New Zealand
Solicitor

¹⁴ <https://www.businessnewsdaily.com/15842-costs-of-employee-relocation.html>