



Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024

29 July 2024

Introduction

The Australian Chamber of Commerce and Industry (ACCI) appreciates the opportunity to comment on the Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024.

ACCI is Australia's largest and most representative peak body for industry. Through our membership network, we represent hundreds of thousands of businesses in every state and territory and across all industries, as well as every type of tertiary education provider.

ACCI strives to make Australia the best place in the world to do business. We know that Australia can't reach those heights without a skilled workforce that is adequately prepared for the challenges our nation will face over the coming decades. This is why we are deeply invested in ensuring that the migration settings in this country are fit-for-purpose and can deliver workers in a timely and efficient manner, while balancing the need to ensure Australian citizens have access to jobs that are appropriate to their skills, qualifications and interests.

The Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill (the Bill) proposes two critical changes to the Migration Act:

- 1) Increasing the period over which labour market testing must be completed from four to six months.
- 2) Removing the Temporary Skilled Migration Income Threshold (TSMIT) and replacing it with a Core Skills Income Threshold (CSIT) of \$73,150, and a Specialist Skills Income Threshold (SSIT) of \$135,000.

There are a range of sub-proposals in this Bill that ACCI supports. For example, the publication of a register of approved standard business sponsors and accredited sponsors who have nominated skilled workers for entry to Australia seems an appropriate and useful response to the exploitation of workers and of the visa system. However, there are three specific areas that we think should be addressed before the Bill passes:

1. An amendment should be made to make all levels of occupation, regardless of the required qualification or experience level, exempt from the labour market testing condition when that occupation is deemed by government/s to be in shortage.
2. An amendment should be made introducing an exemption from the CSIT in areas of skill shortage, where local wages currently sit below the TSMIT, particularly in the absence of the Essential Skills Pathway.
3. An amendment should be made to the formula for indexation, so that indexation is applied based on whichever is lower out of Average Weekly Ordinary Time Earnings (AWOTE) or the Consumer Price Index (CPI).

We lay out the arguments for these three recommendations below.

Labour Market Testing

ACCI supports the government's intent in seeking to combat the scourge of unscrupulous migration agents and organised crime wherever they occur as a result of loopholes in Australia's migration system.

However, in an environment of skills shortages across a wide range of industries, labour market testing is only making it harder for employers to get the workers they need to keep the economy turning.

While we appreciate that extending the testing period from four to six months will provide some additional flexibility, ultimately, labour market testing should not apply in areas of skills shortage.

There are currently exemptions for temporary skilled migrants from the requirement to satisfy the labour market testing condition under the following circumstances:

- a relevant bachelor degree or higher qualification is required;
- a relevant associate degree, advanced diploma or diploma covered by the AQF is required;
- 3 years or more years of relevant experience is required.

The Migration Act also allows for the Minister to specify occupations, rather than just individuals, to be exempt from the labour market testing condition.

ACCI therefore recommends that an amendment is made to make all levels of occupation, regardless of the required qualification or experience level, exempt from the labour market testing condition when that occupation is deemed by government/s to be in shortage.

It will also be important that the determination of which skills are in shortage is applied to local areas, not at a national level. There are many instances where an industry may not be experiencing a shortage on average across the nation, but certain locations, particularly in regional areas, may be experiencing severe shortages. Employers in these areas should not be unfairly disadvantaged by the shortcomings of various skills lists.

Exemptions from the CSIT: Pressure on local wages

The intention of the Temporary Skilled Migration Income Threshold (TSMIT) was to ensure that overseas workers are not paid less than an Australian worker doing the same

work. It was also intended to stop certain visa programs being used to undercut the Australian labour market. The new Core Skills Income Threshold (CSIT) proposed in the Bill assumedly has a similar purpose.

While ACCI is generally supportive of the proposed increase of this threshold to \$73,150, we do hold concerns about potential unintended consequences of the TSMIT/CSIT more broadly.

The Migration Regulations (reg 2.79(3)) state that the terms and conditions, or annual earnings, of migrant workers must be at least as favourable as those provided to Australian citizens or permanent residents performing equivalent work. While this is intended to mitigate the likelihood of migrants being paid less than local employees, we are concerned that in some circumstances, employers may have to increase the wages of local employees to match the TSMIT for migrant workers, without any correlated increase in productivity.

For instance, under some circumstances, an Australian chef earns less than the TSMIT/CSIT. If an employer needs to hire an additional chef from abroad who must be paid \$73,150 to meet the CSIT, the employer will need to raise the salary of the local chef to \$73,150 to ensure compliance with the 'same job, same pay' provisions in the Migration Regulations. However, this wage rise will be entirely delinked from productivity.

While we recognise that Labour Agreements provide a mechanism to create some degree of flexibility for lower salaried occupations and industries, these do not apply to all industries and occupations experiencing skills shortages. The process to secure a Labour Agreement is rigorous and can be time-consuming. It requires negotiation with the Department of Home Affairs and may not be feasible for all employers, especially smaller businesses or those in regions with less critical shortages.

While higher wages would not be a negative outcome for individual Australian workers, artificial inflation of award wages when delinked from productivity does have the potential to create inflationary pressures on the economy. There are very good reasons that the Fair Work Commission (FWC) undertakes a broad analysis of the potential impacts of wage rises in their annual wage review. The figures that the FWC lands on across each of the awards are determined based on economic factors *and* social considerations, and are deemed to be both fair for workers and sustainable for the economy. In contrast, the CSIT, as currently written, is a single figure (\$73,150) that will be linked only to AWOTE, with no consideration of the award wages of that industry. Yet it will influence the minimum wage that an employer must pay their Australian employees if they also need to seek migrant workers to fill their skills gaps.

This mandated parity could lead to a broader increase in wages across the industry, again with no corresponding productivity increases, contributing to inflationary pressures as businesses pass on the higher costs to consumers. Furthermore, these conditions exacerbate challenges for businesses, particularly in sectors where skill shortages are prevalent. Small and medium enterprises (SMEs) will find it particularly difficult to absorb the increased wage costs, which could lead to financial strain or even business closures.

While the intention behind these provisions is to protect local workers and ensure fair wages, the economic impact could be significant, potentially leading to reduced hiring, increased prices for goods and services, and a slower economic recovery. We urge policymakers to consider these potential outcomes carefully and explore measures to mitigate adverse effects.

ACCI recommends introducing an exemption from the CSIT in areas of skill shortage, where local wages currently sit below the TSMIT, particularly in the absence of the Essential Skills Pathway.

Indexation formula

The Bill proposes a new formula for indexation based on the AWOTE amount for a quarter, rather than CPI. Generally, ACCI supports this move to using the AWOTE amount, as it focuses only on full time wages and most migrants accessing the CSIT or SSIT will be employed full time.

However, we are cautious that inflation is currently higher than usual. While currently AWOTE is a fairer measure than CPI on which to index the income thresholds, when inflation drops this is likely to change.

ACCI recommends amending the Bill's proposed formula for indexation, so that indexation is applied based on whichever is lower out of AWOTE or CPI.

Summary

While the Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024 aims to enhance the integrity and effectiveness of Australia's skilled migration program, it is crucial to consider the practical implications for employers and the broader economy. The proposed increase in the period for labour market testing and the introduction of the Core Skills Income Threshold (CSIT) could unintentionally exacerbate skills shortages and increase operational costs for businesses, particularly small and medium enterprises. These changes may drive up local wages to maintain compliance with market salary rate provisions, contributing to inflationary pressures and financial strain on businesses. To ensure that the migration system remains responsive and effective, ACCI recommends the introduction of exemptions for occupations deemed to be in shortage from both labour market testing and the CSIT. This approach would balance the need for fair wages and worker protections with the practical realities faced by employers in a competitive global market, ultimately supporting Australia's economic growth and stability.

About the Australian Chamber of Commerce and Industry

The Australian Chamber of Commerce and Industry (ACCI) is Australia's largest and most representative business network. We facilitate meaningful conversations between our members and federal government – combining the benefits of our expansive network with deep policy and advocacy knowledge. It's our aim to make Australia the best place in the world to do business. ACCI's membership list can be viewed at www.australianchamber.com.au/membership/current-members/

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