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25 July 2024

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Legcon.sen@aph.gov.au

Dear Sir/Madam,

Deloitte submission – Response to Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024

Thank you for the opportunity for Deloitte Touche Tohmatsu (“Deloitte”) to provide a submission in response to the Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024.

Information about Deloitte

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To sustain its momentum, Deloitte continues to invest in innovative new services, products and people, while expanding its business through acquisitions, alliances and organic growth.

Deloitte Australia provides a broad range of audit, tax, consulting, and financial advisory services to public and private clients. It has expertise that spans industry sectors including automotive; consumer business; energy & resources; financial services; government services; life sciences & health care; manufacturing; real estate; and technology, media & telecommunications.

Deloitte Immigration Services

Deloitte Immigration is an integrated network of professionals focused exclusively on providing tailored immigration advice and assistance to corporate clients ranging from small business to multinational corporations. Our immigration professionals bring a depth of understanding of the strategic and technical issues which impact the global movement of people.

As well as managing the visa program for our inbound sponsored employees, we assist organisations to assess and manage immigration compliance connected to any aspect of global mobility, as well as assist multinationals and individuals to obtain a wide range of work or personal visa types to enable movement across borders.

We welcome the opportunity to discuss the issues raised in this submission in greater detail.

We are providing feedback on the proposed Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024.

1. Labour Market Testing

We welcome the proposal to increase the validity of labour market testing to 6 months prior to the sponsor lodging a nomination. Recruitment practices for our clients vary significantly and this is seen as a positive step to ensure that government requirements align more closely to commercial practices. Some of clients have expressed that they would like to see the labour market testing requirements amended further with an increased validity period of up to 12 months, and a shorter duration that LMT should be posted. Clients have frequently advised us that the 28 day period feels arbitrary and does not align to their internal recruitment practices, in particular it means that they need to continue to advertise and receive applications even after a successful and suitable candidate has been identified.

Key consideration: Validity for LMT should be extended beyond 6 months and should align to a shorter published duration.

2. Specialist Skills Income Threshold (SSIT) and Core Skills Income Threshold (CSIT)

We note that the suggested amendment is as follows:

2.1 A SSIT of \$135,000 for highly skilled specialists, to ensure Australia can quickly recruit top talent; and

2.2 A CSIT of \$73,150 for persons that are nominated for occupations that are in national shortage or where Australia has committed to providing access to our labour market in relation to that occupation through international trade agreements.

We understand from the Migration Strategy released by the Australian Government there will be limited places available for the Specialist Skills pathway. Until the quota and eligibility criteria are confirmed it is difficult to comment on whether the SSIT is appropriate to ensure Australia can quickly recruit top talent. According to the Australia Bureau of Statistics whilst \$135,000 is significantly higher than the average Australian salary, it is important to note that in some occupations and industries this is below the average salary¹. As such it is possible that if there are limited places in this pathway, and without understanding how those places would be allocated across the year and across industries, that the proposed SSIT may be too low.

We are also awaiting further clarification about how the quota of Specialist Skills pathway applicants will be managed – in particular whether this would include secondary applicants, how the quota positions will be filled and this information conveyed to companies, and practicalities such as how refunds will be processed in the event that the quota is reached after application lodgement.

We would also welcome clarification on how the CSIT and SSIT thresholds have been determined, as both pathways are intended to serve such a varied scope of occupations and industries.

¹ <https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/average-weekly-earnings-australia/nov-2023>

We eagerly await further detail of the third pillar of the Skills in Demand visa, the Essential Skills pathway.

Key consideration: There is limited information available on the how the pathways of the Skills in Demand visa will be implemented and the practical criteria of each pathway which impacts the ability of business to provide substantive feedback. A key concern from our clients is how the quota will be managed in the Specialist Skills Pathway and which occupations will be available under the Core Skills Pathway. We have provided a submission to Jobs and Skills Australia as they sought feedback on the new occupation lists and currently await their finalisation of the occupation list for the Core Skills Pathway.

3. Annual Indexation of Income Thresholds

We welcome the predictability of annual indexation of income thresholds, however, note that some of our clients have expressed concerns that wages are not necessarily increasing each year for all employees. Some clients have expressed concerns that wages are growing at different rates across different industries so annual indexation is likely to impact certain industries less favourably.

An additional concern raised by clients has been that as the work experience requirement for the Temporary Skill Shortage visa program is being reduced to one year of relevant work experience, they will be seeking to sponsor more junior employees (i.e. those with only one year of post-qualification experience), however the increased income threshold will mean that the required salary for junior employees will be increased each year. Clients have expressed that there is a concern that whilst they are being encouraged to consider more junior foreign talent, the increased salary requirement makes this difficult to do so.

Based on the information in the Bill, the new indexed income thresholds will not be made available until 1 July. This will make it difficult for businesses to manage their workforce strategy leading up to 1 July as they would not be aware if the nominated salaries will satisfy the updated thresholds.

Key consideration: Annual indexation will be onerous on high volume users of the program, as they will be unable to plan lodgements around 1 July whilst waiting for the new thresholds to be confirmed each year.

4. Publication of Sponsor details

We understand the proposed amendment is to provide a public register of all standard business sponsors including the business name, Australian Business Number, postcode, number of individuals nominated under the sponsorship approval process and the occupations of nominated workers.

Whilst we agree with the purpose of a public register to promote transparency and worker mobility, some clients have expressed concerns about the level of detail being made publicly available, particularly around the occupations and number of sponsored visa holders within the business which may be regarded as commercially sensitive.

Key consideration: Publishing the nominated occupations and number of sponsored employees within each business is excessive to promote transparency and worker mobility as this can be commercially sensitive.

Conclusion

Deloitte and our clients are excited that the proposed amendments to the immigration program per the Migration Strategy are being implemented. However, the primary concern remains that the details of the Skills in Demand visa program are not yet known and a timeline is not clear. This is affecting the ability of companies to plan their staffing and hiring strategies for the coming year effectively. We, along with our clients, are interested to understand how the Skills in Demand pathways will be structured including which occupations will be available in the Core Skills Pathway and how the Specialist Skills pathway and quota will be implemented and managed.

Yours sincerely,

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