



Electrical Trades Union of Australia

Proud to be Union

27 January 2022

The Chairperson
Senate Standing Committees on Legal and Constitutional Affairs

By Email: legcon.sen@aph.gov.au

ETU Submission - Migration Amendment (Protecting Migrant Workers) bill 2021

The Electrical Trades Union of Australia ('the ETU') is a division of the Communications, Electrical and Plumbing Union ('the CEPU').¹ The ETU is the principal union for electrical and electrotechnology tradespeople and apprentices in Australia, representing well over sixty-one thousand workers around the country. The CEPU represents close to one hundred thousand workers nationally, making us amongst the largest trade unions in Australia.

In the spirit of reconciliation, the ETU acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

The ETU welcomes the opportunity to make a submission on the *Migration Amendment (Protecting Migrant Workers) bill 2021* (hereafter, 'the Bill'). Australia has an underclass of exploited temporary visa holders, and a temporary skilled visa system that is predominantly driven by the interests of a narrow cross section of vocal business rather than in the interests of the Australian people. From the ETU's perspective we support permanent migration outcomes with a focus on the rights of the visa holder. Temporary migration should generally only be used as a 'last resort' scenario and then for specialist skills.

The ETU is aware of and supports the submission by the Australian Council of Trade Unions and the recommendations contained therein.

The ETU has made several submissions with regard to the deficiencies in Australia's visa system and identified opportunities to address those deficiencies. Specifically, we refer the committee to the ETU's submission 49 to the Senate Standing Committee on Legal and Constitutional Affairs from 2018 and submission 128 to the Senate Select Committee on Temporary Migration from 2020.

¹ CEPU is a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth).

In addition to the ETU's submissions, we would also refer the committee to other inquiries and reports including the Government's own Migrant Workers Taskforce² and the Migrant Worker Justice Initiative report titled Wage Theft in Silence³.

We note that none of the recommendations referred to in the ETU submissions have been fully implemented, many have not even been acknowledged by Government and that nearly three years since the Government's own taskforce handed down its report, this proposed Bill is the first attempt by the Government to begin to address migrant worker exploitation.

Pre-COVID, Australia's Temporary Work Visa System was at crisis point and needed urgent reform. The pandemic has heightened these deficiencies with many migrant workers left destitute when lockdowns and restrictions came into effect across Australia.

Today, you can visit any social media site or job vacancy site and find a litany of advertisements specifically targeting migrant workers with below award wages and conditions on offer. If you visit the social media pages of the workplace regulators you find a litany of complaints of no help, no follow up and no resolution for exploited migrant workers.

Our Union continues to be involved in activities brought about by the impacts of Australia's broken Visa system.

² https://www.ag.gov.au/sites/default/files/2020-03/mwt_final_report.pdf

³

<https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/5bd26f620d9297e70989b27a/1540517748798/Wage+theft+in+Silence+Report.pdf>

CASE STUDY 1 - 2018

In Queensland, on a solar farm construction project just outside of Townsville, ETU members became aware of a group of 4 workers, 2 Filipino and 2 Thai, who were engaged on the project under what appeared to be dubious employment arrangements. Concerns started to emerge after the ETU members noticed these workers had very limited English language proficiency, were often kept isolated from the rest of the workforce and it was noticed they never had any other food at mealtimes other than plain white rice.

Discussions with these workers revealed they were being paid just \$40 AUD per day and were employed under the sub class 400 visa arrangements. They were eating plain white rice for 3 meals a day as it was the only sustenance they could afford. The ETU members on site promptly called a Union meeting and “passed the hat around” to raise desperately needed funds for these workers. The ETU members then escalated the issue via their ETU Officials.

What was unearthed following this is extraordinary.

Schneider Electric had brought over 2 Filipino workers and 2 Thai workers on subclass 400 “Specialist” visas based on the unavailability of locally skilled workers despite Townsville having an unemployment rate of 8.77% as at the 2018 June quarter and the ETU being aware of numerous unemployed members in the region who had been refused employment on the project despite applying.

The work which these 4 individuals were to perform, as stated to Immigration, includes licenced electrical work but their skills and qualifications were never assessed, the workers were not licenced to perform it and Schneider freely admitted it paid these 4 workers \$40 per day plus an additional \$42 per day for food and accommodation.

In fact, Schneider’s lawyers were adamant that, as these 4 are employed by a foreign entity, Schneider Electric Australia:

1. had done nothing illegal; and
2. was under no obligation to pay.

Despite this position and following action from the ETU, Schneider settled the matter by increasing the wages and paying backpay.

CASE STUDY 2 - 2020

More recently the WA Branch of the ETU recently worked to assist in the recovery of stolen wages for a group of workers from the Philippines who were being exploited in WA as well as the restoration of the 30 jobs taken from Australian workers when the company displaced those local workers with temporary workers.

ETU members became aware of temporary worker exploitation, unlicensed electrical work, and displaced Australian workers at the Austal shipbuilding facility in Henderson, WA in late May 2020. Austal workers raised with the ETU that thirty local workers had been sacked following the temporary workers' visas being extended. Inquiries by the ETU revealed that the Filipino workers were only receiving a living allowance of \$90 per day and illegal and immoral rates of pay of just ₱12,911.25 Philippine Pesos a month for the ordinary 40 hrs per week they worked Monday to Thursday.

Despite Austal being awarded a \$324 million-dollar Australian defence contract in May, Australian workers have had their jobs terminated in the middle of a recession only to discover they were being replaced by exploited temporary foreign workers from the Philippines. These workers are being paid just \$2.11 AUD per hour and are occasionally requested to work overtime and weekends without any further payment.

In addition, at the first sign the company could be found out, they made arrangements to expel the temporary workers from Australia and send them back to the Philippines despite the fact that these workers haven't done anything wrong and that most of them lived in Cebu, a province of the Philippines which at the time had very high numbers of COVID-19 cases. Upon the extension of their visas the workers were told that they'd be engaged until November, but this was cut short.

The Department of Immigration has approved and issued visas despite the applications containing direct evidence that applicants were not eligible, and the Australian visa system is structured so that these exploited workers are the ones held to account for their own exploitation. Having wages stolen and being directed to perform work without Australian qualifications and licences is deemed to be a breach of the visa by the visa holder.

The ETU found Austal was directing the temporary workers to perform electrical work that they hold no Australian recognised qualifications or licences to perform, putting their own safety and the safety of other workers at risk.

It was also unclear if the Temporary workers had the requisite security clearances to be working on projects of the same class (the Cape Class) vessels as those that are scheduled to be built for the Royal Australian Navy (RAN). Further, by training Filipino nationals in the construction and repair of a class of vessel that will be built for the RAN, Australia is losing its own construction capability and there are serious questions as to what other defence capabilities Austal might be putting at risk.

Austal have questions to answer about if foreign nationals are deliberately or inadvertently obtaining detailed knowledge on the design and construction of the same class of vessel that will be built for the RAN. This knowledge will also go to the Philippines when it would be better retained in Australia. It also raises the question: is the government intending to transfer our defence capabilities offshore so that the remaining RAN Cape Class boats are built in the Philippines instead of Australia?

Following the ETU's intervention, significant wage recoveries have been made for the exploited workers and some Australian workers resecured their old jobs back.

Despite the obvious exploitation outlined in the above case studies, the Bill proposed by the Federal Government contains zero provisions to prevent a recurrence of these events and contains no powers to take action against an employer should it occur again.

Now is an opportunity to get the settings right instead of returning to business as usual or worse, reducing the limited protections and safeguards even further. As a start, the Govt should at the very least fast track the implementation of the 22 recommendations of the Migrant Workers Taskforce report which were handed down over 2 years ago.

The current treatment of visa workers is a national embarrassment. Exploitation of migrant workers coupled with the underutilisation and underinvestment in Australian jobs and skills requires urgent Government intervention.

The Government must take steps to rein in the scourge of worker exploitation occurring and to force employers and industry to take responsibility and action to genuinely invest in and address skills shortages and training needs and opportunities for Australian workers. Access to the temporary skills visa system is a privilege, not a right.

Australia's visa system is at crisis point and must be urgently fixed.