



**Australian
Chamber of Commerce
and Industry**

ABN 85 008 391 795
T: +61 2 6270 8000
info@acci.com.au
www.acci.com.au

11 April 2023

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra

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

Dear Committee Secretary

RE: Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023, and the Migration (Visa Pre-application Process) Charge Bill 2023

The Australian Chamber of Commerce and Industry appreciates the opportunity to comment on the Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023, and the Migration (Visa Pre-application Process) Charge Bill 2023.

The Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023 would allow the Minister to implement a visa pre-application process, involving the random selection by ballot of eligible persons who would then be permitted to apply for a relevant visa. Selection via the ballot will be a legal requirement to apply for a visa where this requirement is specified as a visa application validity requirement in the Migration Regulations 1994 (the Migration Regulations).

The introduction of a ballot mechanism in the Migration Act 1958 (Migration Act) is intended to support the proposed Pacific Engagement Visa, to provide access to permanent residence in Australia for an annual quota of citizens of certain Pacific countries and Timor-Leste.

ACCI seeks to provide feedback both on the ballot mechanism more generally, and the proposed Pacific Engagement Visa (PEV).

General application of ballot mechanism

The Migration Act does not currently provide a framework for the Minister to conduct a ballot. Therefore, in order to establish this framework, the Bill establishes the legislative power for the Minister to arrange a ballot to be conducted in relation to one or more visas, and allows the Minister to make regulations around eligibility.

While the ballot mechanism has been introduced for the purpose of supporting the proposed PEV, the Bill provides a framework for the ballot process to be used in relation to other visas. This means that the consideration of this legislation goes far beyond a consideration of the Pacific Engagement Visa, and due consideration must be given in relation to whether a ballot process is appropriate for Australia's migration system more generally. The Bill as it currently stands would mean that the Government of the day can determine what other visa categories a ballot may apply to. While regulations are disallowable by Parliament, there is a risk this approach may result in less public debate and scrutiny.

Canberra
Commerce house
Level 2
24 Brisbane Avenue
Barton ACT 2600
PO Box 6005

Melbourne
Level 2
150 Collins Street
Melbourne VIC 3000

Sydney
Level 7
8 Chifley Square
Sydney NSW 2000



Pacific Engagement Visa

The Explanatory Memorandum makes clear that the primary and immediate purpose of the Bill is to support the Government's policy objectives in relation to engagement with Pacific nations. However, in implementing a new visa category, fulfilling the purpose of Australia's migration system must also be a key consideration. From an employer perspective, there appears to be a missed opportunity for this new proposed element of our migration system to help address the demand for labour from business in Australia.

Firstly, there are no parameters around eligibility for the PEV set out in the Bill. The Explanatory Memorandum states that it will be limited to the following, however there is no certainty (or draft regulations) at the point of consideration of this legislation, given that it is intended that eligibility be set out in the regulations:

Eligible participants aged 18 to 45 will register in a ballot. Participants randomly selected through the ballot can then apply for the visa and include their partner and dependent children in their application. To be granted a visa, they'll need to have a formal full-time job offer in Australia and meet basic English language, health and character requirements.

Further clarity is needed on how the requirement to have a formal full-time job offer in Australia will operate in practice. Employers will be less inclined to make a written offer of employment if there is a risk that they will wait significant periods for a person who is yet to be granted a visa, particularly as there is no requirement that the person work in that job once they arrive in Australia.

In addition, there are no occupational parameters, and while current PALM visa holders can enter the ballot, they hold the same likelihood of being successful at the ballot as any other entry. As mentioned above, there appears to be a missed opportunity to help address the demand for labour in Australia, and to craft a Bill that both supports Australia's engagement with the Pacific nations, as well as supports businesses in securing the labour that they need.

The PALM visa scheme has been used to supply labour to businesses in rural and regional Australia (and agriculture nationally). Businesses have reported instances where unskilled workers have entered Australia and during the four years of employment, become skilled as a result of training provided by the employer. Businesses and visa holders have found it extremely difficult to navigate the transition of people from a PALM visa to another visa subclass. This means there are situations where the business may have a need for an employee in an occupation in shortage in a regional area, and the visa holder would like to stay in Australia, however there is no pathway for them to do so.

While PALM visa holders will be eligible to apply for the PEV ballot, consideration could be given to whether existing PALM visa holders be given preference in the ballot. Or alternatively, pilot the new visa solely with PALM visa holders.

PALM visa holders have already demonstrated an ability to succeed in the workplace, and have pre-exposure to Australia. This ensures that there is a good fit and a firm commitment by a migrant to Australia, enabling a smooth transition. As one of the country's leading demographers states, this "two-step process is very effective because of the guaranteed employment of the migrant as opposed to the potentially long job search that needs to be undertaken by an



independent skilled applicant.”¹ This can also reduce the investment required in terms of post-arrival settlement support.

We note comments that the ballot was introduced to avoid creating a “brain drain” in the Pacific if certain occupations were targeted. That is, where a migration program focuses on people who have particular expertise and skills and results in them coming to Australia in a way that means they do not utilise those skills and expertise in their own countries. It does not appear likely that preferencing current PALM visa holders in a visa program of 3,000 per year will create such an effect. These workers generally work in unskilled occupations, where Australian employers then support them with the necessary training.

ACCI is supportive of establishing measures to increase Australia’s engagement with the Pacific. Given the focus on migration in the Bill, it is our view that the Bill should meet the dual purpose of both strengthening Australia’s relationship with the Pacific, and ensuring the proposed new visa type is consistent with what Australia’s migration system is seeking to achieve.

¹ McDonald, Peter 2016, “Ageing in Australia: Population changes and responses”, Population Ageing and Australia’s Future, ANU Press, pp.65-83