



Restaurant  
& Catering

**THE SENATE**

**LEGAL AND CONSTITUTIONAL AFFAIRS  
LEGISLATION COMMITTEE**

**INQUIRY INTO  
THE MIGRATION AMENDMENT (STRENGTHENING  
SPONSORSHIP AND NOMINATION PROCESSES)  
BILL 2024**

**JULY 2024**

## INTRODUCTION

[1] The Restaurant and Catering Industry Association of Australia Incorporated (R&CA) are pleased to provide a submission for the inquiry into the Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024.

### ABOUT THE RESTAURANT & CATERING ASSOCIATION

[2] Founded in 1922, R&CA is the national industry association representing the interests of more than 57,000 restaurants, cafés, and catering businesses across Australia. The café, restaurant, and catering sector is vitally important to the national economy, generating over \$35 billion in retail turnover each year as well as employing 580,000 people.

[3] R&CA delivers tangible outcomes to small businesses within the hospitality industry by offering evidence-based solutions to various industry challenges. Our aim is to improve regulations and policies that impact the sector's operating environment to foster robust and prosperous businesses across Australia.

[4] We work to ensure the industry is respected for its integrity, professionalism, and dedication to excellence. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the industry to the Australian way of life.

[5] Given our remit, footprint, engagement with the sector, and ongoing advocacy, we provide you with the following submission and speak with authority.

### MIGRATION AMENDMENT STRATEGY

[6] R&CA acknowledges the Australian Government's intention to amend the Migration Act to strengthen arrangements around skilled entry to Australia by legislating income threshold requirements for skilled workers and amending the labour market testing provisions in the Migration Act.<sup>1</sup>

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<sup>1</sup> Explanatory Memorandum, Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024 (Cth) 2 ('*Explanatory Memorandum*').

[7] R&CA acknowledge that in order for an approval for a nomination for an occupation for a skilled visa, the Minister must be satisfied, amongst other things of monetary benefits and pay being the same for a skilled migrant worker and an equivalent Australian worker, and those not being less than the TSMIT.<sup>2</sup>

### **CORE SKILLS INCOME THRESHOLD (CSIT)**

[8] With the TSMIT to be replaced by the new Skills in Demand visa with a Core Skills Income Threshold (CSIT), that is to be set in alignment with the TSMIT, the income threshold for the CSIT will be by a minimum of \$73,150.<sup>3</sup>

[9] The CSIT income thresholds are proposed to be the result of an annual indexation to be implemented on 1 July each year. On 1 July 2024, the TSMIT increased from \$70,000 to \$73,150 for new nominated applications between 1 July 2024 and 30 June 2025. This increase to the TSMIT represents an increase of 4.5% in the minimum income for a Skills in Demand visa.

[10] The Fair Work Commission ('FWC') raised the minimum wage by 3.75% in their Annual Wage Review 2023-24. The Review is required to be conducted in accordance with the statutory framework of the Fair Work Act where the FWC consider, amongst other things, to the performance and competitiveness of the national economy, the need to achieve gender equality, promoting social inclusion through increased workforce participation and relative living standards.<sup>4</sup>

[11] In contrast, the CSIT is the indexation of the changes in the trend for Average Weekly Ordinary Time Earnings (AWOTE) and is provided in a legislative instrument made by the Minister.<sup>5</sup>

[12] In other words, a comprehensive published decision of the Fair Work Commission for a 3.75% rise in the minimum wage is substantially different to a 4.5% rise in the TSMIT based on AWOTE provided in a legislative instrument made by the Minister.

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<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> [2024] FWCFB 3500 at [5].

<sup>5</sup> *Explanatory Memorandum* (n 1) 2-3.

**[13]** R&CA are concerned that this disparity between a decision by the Fair Work Commission and annualised increase in the TSMIT, can be the equivalent of a mandated increase in wages, particularly as:

- The monetary benefits for an equivalent Australian worker are at least the amount of the temporary skilled migration income threshold (TSMIT);
- The skilled migrant worker will be paid at least the same as an equivalent Australian worker; and
- The skilled migrant worker's guaranteed annual earnings, excluding non-monetary benefits, will not be less than the TSMIT.<sup>6</sup>

**[14]** Where there are already shortages for employees, and the annual market salary rate (AMSR) is applied, then by default, the AMSR can't be less than the TSMIT. Consequently, where there is an equivalent Australian worker, and they are being paid less than the TSMIT, then the AMSR is what the Australian worker is paid. Therefore, to sponsor a new employee and where the TSMIT is higher than what the Australian worker is being paid, then the equivalent Australian worker must earn at least the TSMIT in order to be able to fulfill the requirements of the new application.

**[15]** In other words, if an Australian worker is earning less than \$73,150, and an employer facing a skills shortage, seeks to sponsor an employee, they will be required to pay the TSMIT rate for both the Australian equivalent worker and the sponsored employee.

**[16]** Consequently, businesses who have been crippled by skills shortages for some years are likely to continue to experience difficulties due to ongoing skills shortages, further enhanced by the disproportionate increase in wages for skilled employees.

## **OUR POSITION**

**[17]** R&CA support the publication of a register of approved standard sponsors and accredited sponsors who have nominated skilled workers for entry to Australia, including the sponsor's business name, the Australian Business Number, postcode, the number of individuals nominated under the sponsorship approval process and the occupations of the nominated workers.

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<sup>6</sup> Ibid 2.

**[18]** R&CA recommend that any increase in the minimum wage for a Skills in Demand visa with a Core Skills Income Threshold (CSIT) be the same as the decision made by the Fair Work Commission for the Annual Wage Review. Employers are enabled with a choice to offer more to potential employees, however, may face ongoing skill shortages and additional wage increases with the disparity of a higher rate increase based on AWOTE.

**[19]** R&CA recommends that the labour market testing that is required in relation to a nominated position remains at its current time frame, and not be extended to 6 months.

**[20]** R&CA notes and supports submissions by the Australian Chamber of Commerce and Industry (ACCI) and other employer associations.

**[21]** R&CA thank the Legal and Constitutional Affairs Legislation Committee for their consideration, and welcome engagement