

Migration Council
AUSTRALIA



Migration Council Australia Submission

Senate Standing Committee on Legal and Constitutional Affairs

**Inquiry into Migration Amendment (Temporary Sponsored
Visas) Bill 2013**

20 June 2013

The Migration Council Australia (MCA) welcomes the opportunity to make a submission to the Senate Standing Committee on Legal and Constitutional Affairs' Inquiry into the Migration Amendment (Temporary Sponsored Visas) Bill 2013.

The MCA recently analysed the results of a survey of 3,800 holders of 457 visas and 1,600 businesses that use the program. The findings are detailed in our report, *More than Temporary: Australia's 457 visa program* (attached). This is the first large-scale survey of the program conducted.

The report provides a body of evidence to indicate that the program is meeting the needs of both the majority of employers and the vast majority of 457 visa holders. In particular, a high level of employment satisfaction demonstrates that 457 visa holders are integrating well into the Australian workforce.

In the majority, employer usage and attitudes reflect the policy intention of the program. Eighty-three per cent of employers responded that they found it very or somewhat difficult to hire or employ workers from the local labour market. Overall, there was relatively little difference between businesses of different sizes. Employers in smaller states tended to experience more difficulty finding workers than larger states. Respondents noted that professionals (38 per cent), trades workers (26 per cent) and managers (9 per cent) were the most difficult roles to fill. It is worth noting that these figures are in accord with the overall occupation mix in the 457 program (52 per cent, 25 per cent and 14 per cent, respectively).

Some 22,000 businesses use the 457 program, a significant proportion of which are small and medium sized enterprises. It is worth noting that 32 per cent of firms with 10 employees or fewer found it difficult to fill trades workers positions. For small businesses, access to skills can be important to maintaining the viability of their business model and in keeping other workers employed.

Critically, the survey results reinforce that skills transfer and knowledge from 457 visa holders play an important part in building Australia's human capital. Temporary migration does not just fill skills shortages; it addresses skills deficits by training Australian workers. The program is critical in keeping us competitive in the era of international knowledge wars, when industry innovation is global.

Our analysis found that 76 per cent of 457 visa holders said they helped to train or develop other workers; 68.5 per cent of employers said they were using 457 visa holders to train Australian counterparts; and that an overwhelming majority (86.3 per cent) of visa holders felt that their job in Australia used their skills and training well. These findings underscore the positive benefits to Australia's productivity and long-term gains to our international competitiveness.

This is further supported by modelling conducted by Access Economics in 2002. Based on their model, the living standards of existing Australian residents would ultimately rise by 5.4 per cent as a result of 20 years of the intake of the 457

program at the 2000–01 (40,493) level of intake. Recent increases in the program size can be expected to have improved this result.

The 457 visa program is a purpose-built labour market policy tool and part of a new era of people movement management. A growing portion of the permanent migration program comprises employer-sponsored migrants. Of these permanent migrants, some 70 per cent of those sponsored already reside in Australia on temporary 457 work visas. This is the newest policy advancement, a two-step migration process, allowing demand to drive the flow of skills into our labour force. Any changes to the 457 program must recognise the role the program now plays in supporting our overall migration model.

Migration Amendment (Temporary Sponsored Visas) Bill 2013

The MCA does not support the sections of the Act that pertain to the introduction of labour market testing. Labour market testing is an administrative burden for employers and for the Department of Immigration and Citizenship that is unlikely to address concerns that employers are misusing the program.

Labour market testing has been a feature of the program previously, however it was dropped as an ineffective and cumbersome policy. In 2002, the then Department of Immigration and Ethnic Affairs conducted a review of the 457 program that found the required processes for labour market testing were:

- viewed by many as out of date with contemporary recruitment practices;
- expensive and time consuming for employers; and
- difficult for the Department to verify.

The review also suggested that the processes did not give regard to the specialised knowledge of employers of the particular labour market they operated in — or acknowledge that employers would not seek an overseas employee if a suitable Australian was available for the position. The review found that “objective thresholds are more efficient and more effective than traditional labour market testing” when high levels of skills are involved, and subsequently recommended the introduction of a skills threshold as a replacement for the labour market testing arrangements.¹

A more effective policy stance would be the introduction of a price signal through higher sponsorship fees, providing revenue to strengthen compliance and deliver settlement services. Increased compliance activity would more effectively target the small minority of those acting outside the existing regulatory framework. Further, a more effective program would incorporate orientation programs for new migrants that highlight workplace rights, reducing the potential for exploitation.

Unwarranted regulation risks penalising all employers, their employees and skilled migrants, as well as undermining investment, skills transfer and

¹ In Australia's Interests: A Review of the Temporary Residence Program, Department of Immigration and Ethnic Affairs, June 2002.

development, and broader job creation. It is a blunt tool to address the relatively small number instances of misuse that may be dealt with through other means.

Extension of period of unemployment permitted

The MCA supports the proposed extension to the period a 457 visa holder can go without an employer from 28 days to 90 days as a positive and much needed reform. Recommended in the 2008 Deegan Review, support for this amendment is broad across the business and community sectors.² In the event of a breakdown in the relationship with their employers, 28 days is arguably too little time to secure alternative employment or to see through an unfair dismissal claim.

² Visa Subclass 457 Integrity Review, Barbara Deegan, October 2008.