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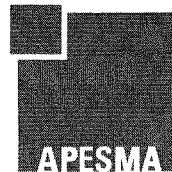
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**Submission to the
Joint Standing Committee on Migration**

**Inquiry into
Temporary Business
(Long Stay) 457 Visas**



**ENGINEERS
AUSTRALIA**



February 2007

Contact:

Kathryn Hurford
Associate Director, Public Policy
Engineers Australia
11 National Circuit, Barton, ACT 2600
Tel. 02 6270 6570, Fax. 02 6273 4200.
Email: khurford@engineersaustralia.org.au
www.engineersaustralia.org.au

Kim Rickard
National Information Officer
APESMA
GPO Box 1272, Melbourne Victoria 8060
Tel. 03 9695 8842
Email: krickard@apesma.asn.org
www.apesma.asn.au

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1. Introduction

Engineers Australia is the peak body for engineering practitioners in Australia and represents all disciplines and branches of engineering. Engineers Australia has around 80,000 members Australia wide and is the largest and most diverse engineering association in Australia. All members of Engineers Australia are bound by a common commitment to promote engineering and facilitate its practice for the common good.

The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) is an organisation registered under the *Workplace Relations Act 1996* representing over 25,000 Professional Engineers, Professional Scientists, Veterinarians, Professional Surveyors, Architects, Pharmacists, Information Technology Professionals, Managers and Transport Professionals throughout Australia. APESMA is the only industrial association representing exclusively the industrial and professional interests of these groups.

In 2000/1, four out of every five primary applicants who arrived in Australia on Temporary Business (Long Stay) 457 visas were professionals. Because of the importance of this issue to members of both organisations, Engineers Australia and APESMA welcome the invitation by the Joint Committee on Migration to comment on temporary business visas. We have decided to take the unusual step of submitting this joint response to highlight our common areas of interest and concern.

Migrants contribute to the economic development of Australia in many ways including: job creation; filling skill shortages; creation of business opportunities and business expansion; direct investment in the Australian economy; and they often bring new ideas, technologies and skills with them, which all help Australia develop a competitive edge. They also facilitate access and dialogue between Australian enterprises and potential customers and partners in their countries of origin. Engineers Australia and APESMA recognise the significant contribution made by migrant engineers to Australia's competitiveness and economic growth. Migrant engineers are a vital element in generating new ideas and approaches to engineering, and for providing skills where there are shortages.

While supporting skilled migration generally, Engineers Australia and APESMA have two overriding areas of concern. The first is that the value of educating and developing the skills of Australians may be overlooked by a preference to taking on large numbers of skilled migrants to overcome skill shortages. In a cost-conscious commercial environment, there is a danger that employers will be tempted to make greater use of "off the shelf" skills available overseas. This is especially true where there may be delayed access to such skills through local training. It is vital that skilled migration is used only where skills are not presently available to the required degree. It is essential that skilled migration does not become a replacement for a reliable and valued Australian skill base. Skilled migration cannot be seen as an alternative to educating and training a highly skilled Australian workforce.

The second is the problem that unscrupulous employers may abuse the 457 visa system to use it as a means of importing cheap skilled labour thus driving down local salaries and conditions. The measures set out in this Submission will ensure that skilled migrants are protected from being underpaid and that the system operates with the appropriate checks and

balances needed to ensure the Australian labour market is not adversely affected by the importation of skilled migrants.

APESMA and Engineers Australia propose these measures to ensure that 457 visas are used only as a short-term solution to current skills shortages which will benefit the Australian economy, to provide some longer-term solutions to developing the relevant skills within Australia, and to contribute to the stability of the labour market.

An analysis of the new international dimensions of skilled migration including migration to and from Australia by people with engineering qualifications follows. Migration, skill requirements and economic growth including education and training in Australia and the skills needs of Australian industry are also discussed along with an outline of a number of policy/procedural reforms that would both protect skilled migrants and improve the benefits of skilled migration to Australia under the 457 visa stream.

2. Migration to Australia

International migration has been transformed in the last decade. The two main impacts on Australia being firstly, that the number of nations seeking to attract migrants formally through government programs and policies has increased substantially. Secondly, there has been an increase in the number of people for whom international migration has become a viable option. The significance of the non-permanent movement of labour has also increased. Temporary entry programs have grown to the point that at any one time over 200,000 persons temporarily present in Australia have the right to work. Currently, 71,150 visas are issued each year for people to enter Australia on the temporary business (long stay) 457 visa.

Internationally, immigration programs are focused on contributing to the economic, social, environmental and humanitarian interests of the host country¹. Skilled migration, in contrast to humanitarian and family-based migration, is focused primarily on only one of these goals. This goal is to increase the host country's wealth and to support economic growth for the entire population. The rise in international competition for skilled labour has developed as countries move away from family-based migration programs toward skilled migration. This move has been directed by a number of factors:

- **Population decreases:** skilled migration can offset decreases in national populations due to declining fertility and ageing of the population;²
- **Multinational corporations:** the growth of multinational corporations has put pressure on governments to facilitate the inter-country movements of personnel³; and
- **Skill shortages:** inefficiencies of the internal labour market, specific mismatches caused by growth in demand outstripping local training capabilities, and inadequacy of supply at the prevailing age rate can cause skill shortages that can be addressed by skilled migration.⁴

Until recently only traditional immigrant countries (Australia, New Zealand, Canada and the United States) competed for immigrants. Now European nations and nations elsewhere (especially in the Middle East and Asia) are entering the competition for migrants with desired characteristics, especially skills in short supply.⁵ Countries experiencing labour shortages and population pressures are directing the focus toward skilled migration.

The Australian government's focus on temporary business visas reflects this trend. While Australian firms and businesses are currently reliant on imported skills, Engineers Australia and APESMA believe that the Australian government must also consider the training needs of Australians and not simply rely on immigration to ameliorate skills shortages.

Expanding Australia's skills base through investment in education and training must occur in tandem with short term solutions focused on temporary skilled migration. This will include a review of key issues affecting education and training sectors including but not limited to a reassessment of Higher Education Contribution Scheme (HECS) rates, retraining programs for technology management professionals to assist with addressing the shortage of science and mathematics teachers, R&D incentives, strategies to attract to and retain talented students in engineering and science-related courses, and strategies to re-attract graduates who have gained international experience back to Australia.

3. Migration, skill requirements and growth

For some time Engineers Australia and APESMA have been drawing attention to existing and prospective shortages in engineering skills and to the declining output of University engineering graduates who are Australian citizens.⁶

The findings of the Department of Education Science and Training's 2006 *Science Engineering and Technology Skills Audit* along with the Productivity Commission's report on the *Economic Implications of an Ageing Australia* have both acknowledged that there are grounds for believing that "at least temporary skill shortages in specific occupations"⁷ exist.

The Commission goes on to say that "such specific occupational skill shortages (and excesses) are transitory, as training institutions respond to demand, industry structures change and relative occupational wage rates vary."⁸ Without denying the importance of the market, Engineers Australia and APESMA are not convinced that the market is producing appropriate outcomes in respect of engineering, science and technology skills.

There is a tendency to overstate the growth in the total numbers of engineering completions in Australian Universities. This is because of the strong growth in the number of overseas students studying undergraduate and post-graduate degrees in Australia. Between 1994 and 2003 there was an increase of 4423 in annual engineering award completions in Australian Universities, comprising all undergraduate and postgraduate awards and degrees.

This apparently impressive 59 percent growth to 11,943 award completions does not convey the true situation because the completions are predominately made up of foreign students. In fact, there has been minimal growth in the annual output of Australian students from engineering courses which is the main domestic supply from which new demand for engineers and the replacement of older engineers retiring from the workforce must be met.

TABLE 1 AWARD COURSE COMPLETIONS IN ENGINEERING IN AUSTRALIA 1994 TO 2003

Level of Course	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Doctorates	290	310	413	471	436	436	475	421	481	531
Prop of Overseas Students (%)	42.0	35.8	29.5	30.1	25.9	26.6	25.0	23.0	20.6	20.5
Masters by Research	261	249	239	261	230	195	190	207	188	194
Prop of Overseas Students (%)	36.0	28.9	24.7	23.0	28.7	26.1	24.2	29.0	21.8	23.7
Masters by Coursework	627	709	831	949	972	1,059	1,052	1,552	1,695	2,379
Prop of Overseas Students (%)	27.9	35.4	38.9	37.5	41.7	48.9	56.5	59.0	63.2	72.1
Graduate Diplomas & Certificates	574	582	630	698	650	554	513	517	484	556
Prop of Overseas Students (%)	5.7	6.9	13.5	22.7	19.5	6.5	17.3	20.9	31.0	26.1
Bachelors, Pass & Honours	5,418	5,923	6,008	6,330	6,559	6,507	6,613	7,719	7,469	7,828
Prop of Overseas Students (%)	10.3	10.7	12.0	12.7	15.4	19.1	21.5	21.5	23.4	25.5
Other Awards	350	349	217	175	150	170	129	297	519	455
Prop of Overseas Students (%)	1.4	2.6	5.5	2.9	6.0	6.5	6.2	6.0	7.9	19.1
TOTAL	7,520	8,122	8,338	8,884	8,999	8,921	8,972	10,713	10,836	11,943
Prop of Overseas Students (%)	13.1	13.7	15.8	17.2	19.2	22.1	25.4	26.7	29.1	34.3

Source; Engineers Australia Data Request from the Department of Education, Science and Training.

Further data on university gradations in engineering can be found in the Engineers Australia publication, *The Engineering Profession: a statistical overview* www.engineersaustralia.org.au/representation/publications.

Alongside declining engineering enrolments and completions, as an example, around 1,800 civil engineers reach retirement age each year. This figure is indicative of the rate of professional engineers exiting the workforce generally.⁹

The Australian policy emphasis to deal with skill shortages has focused on skilled migration to contribute to the stock of Australian engineers. At the same time however, Australian engineers are also migrating overseas.

There is strong evidence of the growing globalization of the skilled labour market in which young highly qualified Australians are increasingly participating. In the 7 year period 1995-96 to 2001-02, the number of Australian resident engineers who left Australia long term averaged 221 per year. This trend was reversed briefly in 2002-03 when more residents who were engineers returned to Australia than left. However, in 2003-04 the net out-flow resumed and 666 more Australian resident engineers left Australia than returned.

There is a view which suggests that in this process Australia is losing its best and brightest talent. In 2001-02, for the first time, Australian-born permanent departures exceeded foreign born departures. This is part of a rising trend among Australian-born persons evident since the mid 1980's. This group is typically better educated, better remunerated and younger than the population as a whole and has given rise to speculation about an Australian 'brain drain.' Others dispute this concept and see the emigration of skilled Australians as part of an

international “skill exchange”, arguing that the movement in most cases is not permanent and that in time those returning will bring enhanced skills and experience back to Australia¹⁰.

APESMA’s 2005 Graduate Survey indicated that 62 per cent of graduates from the last three years expect to work overseas in the first five years of their career.

The number of Australians now living and working permanently overseas has been estimated to be 900,000, or about 4 per cent of the Australian population.¹¹ The impact in Australia has been offset numerically by positive net inflows of very competent temporary migrants. However, little is known about differences in the levels and types of expertise and training exchanged and the consequential geographic impacts in Australia. Engineering skill shortages in recent years have been regionally as well as city-based. The skill exchange proposition is not supported by sufficient research to allay our concerns.

In the past, Australian skilled migration intakes, while large in the local context remain small by comparison to the United States and Canada.¹² However, the numbers of temporary skilled visas approved by Australia now exceed Canadian numbers. Cobb-Clark and Connolly¹³ suggest that Australian outcomes in attracting skilled migrants are not necessarily controllable by Australian migration authorities. They argue that Australian skilled visa applications are influenced by the skilled migration intakes of the United States (negatively) and Canada (positively) and economic circumstances in Australia. The implication is that long-term reliance on skilled migration may make the Australian labour market more volatile and risk-exposed if circumstances in the United States change.

Reliance on overseas skills is currently essential to meet the needs of Australian industry. This is a concerning situation when ongoing supply is not ensured. In this global environment of skills exchange, reforms to training and higher education institutions to raise the rate of University completions of Australian graduates is essential to ensure the growth of the Australian economy, and must be considered a priority.

4. Potential enhancements

To ensure that skilled-migrants on temporary business visas bring with them a desired set of skills, Engineers Australia and APESMA suggests that all temporary migration applications need to satisfy the following prerequisites:

- Along with their verified job offer from an employer in Australia, the applicant should have been employed for at least 3 of the last 4 years in the field for which they are being sponsored prior to making the application.
- Individuals migrating on the basis of their engineering skills must undergo a skills assessment before having a visa granted. (Further discussion on the value of this measure can be found in section 4.2).
- The age limit should be removed to enable older and more experienced professionals to access the visa.

- The sponsoring employer should be required to pay the applicant the higher of (a) the actual wage the employer pays to other similarly qualified and employed individuals, or (b) the prevailing market rate for the occupation in the area of employment. (Further discussion on the value of this measure can be found in section 4.3)
- The sponsoring employer must also pay a fee (for example \$1000 - \$5000) to sponsor an immigrant to fill a vacant job. This fee will be collected to support the following three programs:
 - (a) To train Australian citizens for the jobs for which migrants are being sponsored;
 - (b) To provide English language training to migrants entering Australia under all permanent migration streams; and
 - (c) To provide scholarships to encourage Australians to study in fields with known long-term labour shortages.
- The sponsoring employer should be required to demonstrate that they do not have a disproportionate dependence on migrant labour.
- A sponsoring employer should be required to demonstrate that the skills of 457 visa applicants are substantially different to those of any staff made redundant in the previous twelve months.
- The sponsoring employer should be required to demonstrate that they have canvassed the views of relevant employer and employee bodies (such as Engineers Australia and APESMA) during a labour market testing process. Such labour market testing should be mandatory and exceptions made only in specific and limited cases.

The introduction of these measures would have the following positive outcomes:

- Employers would be encouraged to look extensively at the local labour market, as hiring locally would enable the employer to avoid the fee. Employers would begin to reconsider re-training Australian workers rather than utilising "off-the-shelf" foreign talent.
- If an employer is willing to pay a fee to sponsor a skilled migrant it can be more readily assumed that the employer has searched and failed to find Australian workers and thus needs to fill a legitimate vacancy. As a result, skilled migrants will only fill job vacancies that cannot be filled by Australian workers.
- Cases where Australian businesses have laid off skilled Australian workers, simply because they can employ foreign workers more cheaply would diminish. The fee would act as a deterrent to these practices.
- The fee would not be set at a level that would hinder application numbers, nor affect international flows of skilled temporary migrants. It would simply produce increased funds for training of Australian students, workers and permanent migrants.

- As the fee will be used to provide English language training to migrants entering Australia under other migration streams (humanitarian and family) the positive effects of these migrants on the Australian labour market will be increased.¹⁴

The following procedural mechanisms/issues will need consideration if the above reforms are adopted:

- Mechanisms must be put in place to prevent the employer from requiring the foreign worker to pay the increased fees.
- The ability of small and medium enterprises to pay the increased fees to sponsor skilled migrants would need to be addressed. Inability to pay the fees should not constrain an employer's ability to fill a legitimate vacancy. Measures to determine a legitimate vacancy and inability to pay the fees will need to be put in place to address this potential problem. A reduced fee structure for these situations will need to be considered.
- Should universities, research institutions, government agencies and States and Territories sponsoring migrants be obliged to pay the increased fees, or should they be exempt?

The recommendations above were supported by the Committee during the 2003-04 *Review of Skilled Migration*. The Committee supported Engineers Australia's proposal for a reduced fee of A\$1,000 for temporary entry skilled migration applications, and for small and medium enterprises. The Committee observed that a fee set at that level was the equivalent of less than two weeks of the annual \$37,720 minimum salary required for 457 temporary visa entrants (currently \$57,300 for ICT professionals and \$41,850 for professional engineers) and comparable with the visa fee of \$1,210 paid by off-shore applicants for permanent employer sponsored migration.

The Committee considered that if such fee was imposed it should only be charged in relation to the principal applicant. It was this person that the employer was recruiting, and charging for each member of their family could quickly lead to discrimination against applicants with dependants by prospective employers.

Engineers Australia's proposal, which is supported by APESMA, to devote that revenue to the training of Australians appealed to the Committee because migrants were being recruited to fill local skill shortage demands. Department of Immigration and Citizenship (DIC formerly DIMIA) data indicates that more than 48,000 temporary skilled visas were issued in 2002/3 with this number increasing to 71,150 in 2006-06, a rise of 46.4% compared with 2004-05. Therefore the fees applied to the primary applicants could generate substantial revenue. The Committee considered that it would be appropriate to devote the revenue raised to expanding Australia's local skill pool through scholarships. The areas of study should include those experiencing existing and prolonged skill shortages.

4.1 English language requirements

A study undertaken by *Cobb-Clark and Chapman (1999)* on permanent migration (all streams) found a close relationship between the ability to speak, read and write English and strong employment outcomes in the Australian labour market. More advanced levels of English ability are strongly associated with higher employment and participation rates, and lower unemployment rates. Six months after immigration, 55 and 40 percent of migrants that spoke English “only” or “very well” were employed. Only 5 percent of those who spoke English “not at all” were employed as wage/salary earners.

Eighteen months after arrival, the unemployment rate of individuals speaking English “very well” was two and a half times the rate for native English speakers. *Yale-Loehr and Erhardt (2001)* have also documented a strong correlation between language ability and economic success, which remains strong over the long-term.¹⁵ These findings suggest that small improvements in English-speaking capacity would result in relatively large improvements in labour market status. Data like this strengthens the case for increased visa fees to flow into providing English language training to migrants entering Australia under permanent migration streams.

In terms of the English level ability for skilled migrants, Engineers Australia and APESMA believe that then English level of those entering on a 457 visa should be reviewed.

Engineers Australia as a service provider to Australia Education International – National Office of Overseas Skills Assessment (AEI-NOOSA), undertakes a program of skills assessment for migrant engineers under the permanent migration schemes. This process provides applicants with the opportunity to demonstrate that their engineering knowledge is equivalent to Australian standards but applicants are also required to provide evidence of their English language competency in speaking, listening, reading and writing under the International English Language Testing System (IELTS). An exemption from this requirement applies to native English-speakers or to graduates from a Masters program from an Australian University.

Engineers Australia’s skills assessment process was recently given high praise by the Migration Institute of Australia in the Committee’s September 2006 Report, *Negotiating the Maze: review of arrangements for overseas skills recognition, upgrading and licensing*:

Engineers Australia is a very good example of a transparent system of qualifications assessment and other agencies would do well to implement similar systems.

Engineers Australia has determined that in order to operate effectively as an engineer in Australia IELTS Level 6.0 - 'competent' is required. Engineers unable to reach this level of competency in English will not be given a successful skills assessment from Engineers Australia.

Engineers Australia and APESMA would consider that given the labour market benefits associated with higher levels of English ability coupled with the health and safety aspects of engineering work, the English language ability of applicants applying for a 457 visa should be considered. Particularly for professional engineers, it would be hard to argue that an

engineer with an English level lower than IELTS Level 6.0 would be able to effectively practice engineering in Australia. Therefore, consideration should be given to whether the 457 visa conditions should require applicants to have also reached a level of English which equals that required for permanent migration to Australia and/or a successful skills assessment by Engineers Australia.

4.2 Skills assessments, registration and licensing

Applicants entering Australia on the 457 visa do not have to undertake and successfully pass a skills assessment before being eligible for migration. However if required, the applicant must demonstrate that they have the necessary skills to be eligible for registration or licensing with an Australian State authority if it is necessary to undertake the nominated position for which they are being sponsored. The 457 visa rules state that the applicant must be “eligible for any relevant licences or registration required for the nominated position”.

Engineers Australia and APESMA are concerned that the 457 visa system may be assuming that the skills of engineers entering under the scheme are being evaluated after migration by a government body through a registration or licensing system.

However, there is no one single regulatory regime in Australia governing the engineering profession and no national legislative restrictions on the use of the title “professional engineer”. Engineers do not need to be a member of a professional association in Australia in order to offer engineering services to the public and on the whole do not need to be registered or licensed before working as an engineer in Australia.

In all States and Territories of Australia the principal regulatory instruments governing the practice of engineering include:

- self-regulation by Engineers Australia,
- self and co-regulation by the National Professional Engineers Register operated by the National Engineering Registration Board www.nerb.org.au ; and
- government regulation in the State of Queensland by the Board of Professional Engineers, under the *Professional Engineers Act 2002* www.bpeq.qld.gov.au.

Other than in Queensland, the engineering profession operates under a self regulatory system with two voluntary registration schemes – membership of Engineers Australia as a Chartered Professional Engineer (CPEng), or registration on the National Professional Engineers Register (NPER). Engineers can be registered on NPER without being members of Engineers Australia.

Engineers who enter Australia on the 457 visa (unlike many other professionals) are not having their qualifications assessed by de-facto arrangements based on State administration of registration or licensing schemes. Other than in Queensland, skills assessment through registration is voluntary. As a result many of the “engineers” entering via the 457 visa system

may not actually be competent to offer their services to the Australian public. At present we have no way of determining the skill level of engineers migrating temporarily to Australia.

Given the potential risk to public health and safety associated with delivering some types of engineering work, Engineers Australia and APESMA would like to see the profession of engineering regulated by a consistent national system. Both organisations take the view that a joint approach by government and the profession, with appropriate legislative support (co-regulation), is required for those areas of engineering practice that represent a risk to public health and safety or where there is a significant asymmetry of knowledge between the engineer and the consumer. An outline of Engineers Australia's policy on the regulation of the engineering profession is attached as Appendix A.

Given that a comprehensive registration system does not exist in Australia for engineers, Engineers Australia and APESMA believe that individuals should not be eligible for a 457 visa unless they have successfully undergone a skills assessment to confirm the level of their engineering experience.

Engineers Australia and APESMA are mindful of the need for minimising red tape and delays in processing visas and would be happy to work with the Committee, the DIC and AEI-NOOSA to consider skills assessment processing arrangements that ensured applications related to temporary migration were undertaken in a timeframe that did not impact negatively on existing 457 visas processing times.

4.3 Salaries and market rates

With nine percent of visas approved under the 457 visa scheme found to be below minimum salary levels, there is a strong case for some strengthening of the regulation and enforcement provisions in relation to salaries. APESMA and Engineers Australia are of the view that the following measures will ensure that skilled migrants are protected from being underpaid and that the 457 visa system operates with the appropriate checks and balances needed to ensure that Australian industry is not affected by the importation of workers as cheap labour. Most critically, APESMA and Engineers Australia believe that 457 visa rules should require employers to pay market rates.

Specifically, the sponsoring employer should make a commitment to pay the applicant the higher of (a) the actual salary the employer pays to other similarly qualified and employed individuals, or (b) the prevailing market rate for the occupation in the area of employment with reference to relevant market rate surveys. The current market rate for a graduate professional engineer in the consulting and general industries is \$45,000 (base salary). This compares with the current Minimum Salary Level of \$41,850 for professional engineers.

Salaries should, as a minimum, be annually indexed to CPI or updated in line with current market rates during the life of the 457 visa to prevent them falling behind appropriate levels. During the process of labour market testing, jobs should be advertised at the current market rate or the rate the employer pays to other similarly qualified individuals to prevent the situation whereby local skilled workers do not apply for vacancies because they are advertised at below market rates.

The DIC should also look to regulate and monitor deductions from the salaries of skilled migrants including accommodation, airfares and recruitment costs to ensure that reported salary levels are the actual salaries paid rather than salaries prior to the deduction of costs.

4.4 Abuse in the process, investigation, breaches and non-compliance.

Of the 71,150 457 visas granted in 2005-06, the DIC monitored the compliance of 6471 sponsors on paper and visited 1790 job sites Australia wide.¹⁶ While the number of sponsors who are paper audited (around 10%) seems reasonable there could be a case made that the number of site visits should be increased.

The sanctions DIC is able to impose on non-compliant sponsors are however of concern. Simply barring the employer from sponsoring overseas workers, and/or canceling the visas of the workers already employed by the sponsor hardly seems an adequate deterrent. Also, because reporting a non-compliant sponsor can result in the cancellation of an employee's visa, poorly treated or underpaid employees are discouraged from reporting their sponsor given the fear that such an action may result in them having to leave Australia if sanctions are imposed on their sponsor.

Engineers Australia and APESMA find it unsurprising that there has been recent negative attention on the 457 visa and many reports of non compliant sponsors who have underpaid, or treated their employees poorly. Compliance and monitoring is a consideration but the fact that DIC does not collect data on the actual salaries paid to 457 visa holders also plays a role. Currently there is no way to be sure that 457 visa holders are being adequately paid, or that market rates are not being undercut.

5. Conclusion

As outlined above, migrants contribute to the economic development of Australia in many ways including: job creation; filling skill shortages; the creation of business opportunities and business expansion; direct investment in the Australian economy; and they often bring new ideas, technologies and skills with them, all of which contribute to enhancing Australia's economic prosperity and social diversity.

Engineers Australia and APESMA recognise that the skilled migration program is essential to Australia's future competitiveness but believes that the economic benefits of the program could be dramatically enhanced if the policy/procedural reforms outlined in Section 4 are put into place.

It is also vital that skilled migration is used only where skills are not presently available to the required degree in the Australian labour market. Mechanisms should be put into place which protect skilled migrants and minimise their use by unscrupulous employers as a source of cheap labour. Skilled migration should not become a replacement for a reliable, valued and appropriately remunerated Australian professional skill base, and cannot be seen as an alternative to educating and training a highly skilled Australian workforce.

Both organisations would welcome an opportunity to appear before the Committee to elaborate on the details of this Submission and respond to questions.



ENGINEERS
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APPENDIX A

POLICY POSITION REGULATION OF THE ENGINEERING PROFESSION

For the public, the risk of inadequate engineering depends on their exposure to engineering services. Every person's lifestyle is dependent on engineering via transport, communications, manufacturing and utilities. Therefore, every person has some risk exposure to engineering services.

There are many regulatory and quasi-regulatory regimes maintained by local, State and Territory governments that come into existence because of the absence of a comprehensive regulatory system for engineers.

Each State and Territory has different notions of what constitutes an effective regulatory regime. Some jurisdictions have implemented regulation by requiring registration through a statutory board, while others have introduced co-regulatory regimes with professional associations and government taking on various roles in the registration process. Other jurisdictions have elected to have no regulatory regime, preferring to leave the profession to self-regulate. Various government agencies and departments keep their own lists of engineers for procurement, certification and employment purposes. These "registers" are usually based on highly subjective and often biased or ill-informed judgement as to who is competent to practice as an engineer.

Engineers Australia takes the view that self-regulation is appropriate as applied to the provision of some, but not all, engineering services. A joint approach by government and the profession, with appropriate legislative support (co-regulation), is required for those areas of engineering practice that represent a risk to public health and safety or where there is a significant asymmetry of knowledge between the engineer and the consumer.

Engineers Australia supports the following regulatory measures:

- *Restrictions on who may deliver a service* – legislation that reserves the provision of services to qualified and/or experienced persons. This clearly delineates the boundaries of what activities are to be confined to professional engineers, engineering technologists and engineering associates while allowing other activities to be performed by less qualified or skilled persons. This regime works best where there is a significant asymmetry of knowledge between the consumer and the practitioner with respect to the service being offered.
- *Regulation as to professional conduct* – provides for the adherence to codes of ethics and disciplinary measures to minimise the incidence of malpractice and unprofessional conduct, and to provide a visible assurance to clients that practitioners can be trusted to act in their interests.
- *Regulation as to continuing professional development* – provides for a practitioner to undertake continuing professional development as a requirement for continuing practice after initial registration or attainment of chartered status.

Endorsed by the National Council of the Institution of Engineers Australia, 25 February 2003

There are a number of models for regulation of professions. Engineers Australia favours a co-regulatory model where government and non-government bodies (such as professional associations or joint boards) work in partnership to regulate certain aspects of the profession. Co-regulation requires State legislation to ensure compulsory registration of practitioners in certain fields of practice. The legislation would also empower a non-government body to undertake certain activities in relation to its registration function.

Co-regulatory models can take many forms. However, the two models that Engineers Australia prefers are:

Model 1

Non-government bodies take on the accreditation and registration of practitioners, and government undertakes general administration of the legislation, complaints handling and disciplinary actions.

The non-government body is charged with the task of:

- certification of applicants in accordance with objective and fair standards;
- objective and open appeals mechanisms against a decision to refuse accreditation and registration; and
- audit of compliance with conditions of continuing registration.

The statutory body or government department charged with the administration of the legislation is required to:

- respond to complaints from consumers;
- undertake inquiries and, if necessary, disciplinary action against practitioners in response to complaints; and
- prosecute non-registered persons breaching the provisions of the legislation.

Model 2

Non-government bodies undertake certification, registration, complaints handling and investigation, and disciplinary actions (with associated appeals mechanisms) and government undertakes administration of the legislation. Government retains control of who may become a registration authority. Government retains the role of prosecuting non-registered persons, or delegates this task to a non-government body. Variations on this theme are that government retains a hearing role for disciplinary actions after investigation by the registration authority or an appeal-hearing role where practitioners have been refused registration or have been deregistered.

The National Engineering Registers and the grades of Chartered Professional Engineer and Chartered Technologist provide a flexible framework that can be used to match levels of education and experience of engineers with their needs.

RECOMMENDATION

- **Governments should facilitate the introduction of a consistent registration system for the engineering profession in areas of highest risk to public health and safety and should adopt a co-regulatory approach to regulation of the engineering profession.**

¹ Philip Ruddock, "Australian Immigration: grasping the new reality", presented to *National Skilling: Migration Labour and the Law: An International Symposium*, University of Sydney, November 23-24, 2000, p1.

² Graeme Hugo, "Migrants and Demography: Global and Australian Trends and Issues for Policy Makers, Business and Employers", presented to *National Skilling: Migration Labour and the Law: An International Symposium*, University of Sydney, November 23-24, 2000, p.13.

³ Susan Martin and B. Lindsay Lowell, "US Immigration Policy, Highly Skilled Workers and the New Global Economy, presented to *National Skilling: Migration Labour and the Law: An International Symposium*, University of Sydney, November 23-24, 2000, p.1.

⁴ J. Dobson, K. Koser, G. McLaughlan and J. Salt, *International Migration and the United Kingdom: recent patterns and trends*, Final Report to the Home Office, Occasional paper 75, December 2001, p.4.

⁵ Graeme Hugo, "Migrants and Demography: Global and Australian Trends and Issues for Policy Makers, Business and Employers", p.5

⁶ See for example Engineers Australia, Science, Engineering and Technology in Primary and Secondary Schools, October 2000; Submission to the Inquiry into Higher Education Funding and Regulatory Legislation, Senate Employment, Workplace Relations and Education References Committee, August 2003; Encouraging Student Participation in the Enabling Sciences, Submission to the House of Representatives Standing Committee on Science and Innovation, August 2004; Science, Engineering and Technology Skills Audit, Submission to the Department of Education, Science and Training, June 2005; and Inquiry into Skills Recognition, upgrading and licensing, Submission to the Joint Standing Committee on Migration, July 2005. Visit www.engineersaustralia.org.au for copies.

Refer also to APESMA Conference presentations including (1) Vines, J. (2005), Key Challenges Facing the Sector 2005 - 2010, presented at the Conference on Recruitment, Training and Retention for the Engineering Sector, Melbourne, 1-2 March. 2005, (2) Vines, J. (2005), The Contemporary Labour Market for Professional Engineers, presented at the Australian Financial Review Skilling Australia – Addressing the Nation's Skill Shortages Conference, 20-21 September 2005, and (3) Vines, J. (2006), Professional Engineering Employment Issues in Local Government, presented at the LGMA National Forum on Skills Shortage in Local Government, 27-28 April 2006. (Papers available by contacting krickard@apesma.asn.au.)

⁷ Productivity Commission, *Economic Implications of an Ageing Australia*, Productivity Commission Research Report, 24 March, 2005, p32

⁸ Op cit, p69

⁹ M. Rice, 2006, *Civil Engineering Labour Force Projections*, unpublished report to the Association of Professional Engineers, Scientists and Managers, Australia.

¹⁰ A.M Findlay, 'A migration channels approach to the study of high level manpower movements: a theoretical perspective', *International Migration*, vol 28 no 1 ,p15, and Hugo op cit, p65

¹¹ Graeme Hugo, *International Migration*, vol 28 no 1, p66

¹² International Migration Trends, *International Migration*, vol 28 no 1 p400

¹³ D.A Cobb-Clark and M.D Connolly, The World Wide Market for Skilled Labour: Can Australia Compete? *International Migration Review*, Vol. 31, Fall 1997, p689

¹⁴ Stephen Yale-Loehr and Christoph Erhardt, "Immigration and Human Capital: a theoretical, comparative and practical perspective", presented to *National Skilling: Migration Labour and the Law: An International Symposium*, University of Sydney, November 23-24, 2000, p. 21.

¹⁵ Op cit, p. 2.

¹⁶ *Population Flow: Immigration Aspects*, Department of Immigration and Multicultural Affairs, 2005-06 edition p 70.