



Our ref: 200614520

RECEIVED
14 MAR 2007

BY: MLG

Submission No. <u>68</u>
Date Received.....

The Secretary
Joint Standing Committee on Migration
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Secretary

SUBMISSION TO THE INQUIRY INTO TEMPORARY BUSINESS VISAS

Thank you for the opportunity to provide input into the inquiry into eligibility requirements and monitoring, enforcement and reporting arrangements for temporary business visas.

Skilled migration is very important to the Western Australian economy, particularly in this current period of unprecedented sustained economic growth.

The significance of the State's economic activity to the national economy cannot be ignored. In 2005-06, Western Australia's trade surplus was responsible for effectively reducing Australia's total trade deficit by 65 percent, from \$43.9 billion to \$15.3 billion, with the State's economy representing 10.9 percent of the total Australian domestic economy.

This growth has put enormous pressure on the State's labour market, and the shortages of skilled workers may well escalate. Western Australia has been experiencing record low levels of unemployment (averaging 3.6 percent last year) and even with high participation rates, there are still severe shortages of skilled workers.

According to the State Department of Industry and Resources, Western Australia has projects worth more than \$69 billion underway or planned over the next few years, requiring more than 40,000 workers. The Western Australian Chamber of Commerce and Industry has undertaken research that indicates that an additional 20,000 skilled workers per year will be required until 2010 to meet demand.

Clearly, both the Western Australian and Commonwealth Governments need to take action to address this skills shortage.

At a State level, my Government is committed to increasing both the skills of workers and the availability of skilled workers through a range of initiatives. Paramount to this commitment is the objective to equip as many Western Australians as possible with the skills needed. Some initiatives already underway include investing in training and apprenticeship reform, fast-tracking apprenticeship programs and increasing the number of training places.

My Government also recognises the need to encourage new workers to Western Australia. It is imperative that we attract workers who bring with them specialist skills that are hard to find here and workers that can service the critical skills shortages for which demand is very high.

For this reason, my Government is very supportive of skilled migration programs, including the 457 visa scheme, provided that adequate protections and procedures are in place for both employers and employees.

This State has been at the forefront of reform to the 457 visa scheme and it was research originally conducted by the WA Department of Consumer and Employment Protection (DOCEP) in 2006 that highlighted some of the concerns with the program as it was then administered.

We continue to be actively involved in the work of the Commonwealth/State Working Party on Skilled Migration (which will be reporting to the Council of Australian Governments) and as well as working closely with the Department of Immigration and Citizenship (DIAC) on trying to improve the effectiveness, fairness and integrity of the 457 visa scheme.

One issue that I would like to bring to the Joint Standing Committee's attention is a particular deficiency of the existing skilled migration program that impacts on the 457 visa scheme, that is, the way regional Australia is defined for migration purposes.

Greater consistency and transparency is required in determining which geographic areas are to be classified as "regional". Presently, all areas of Australia are classified regional, with the exception of Brisbane, the Gold Coast, Sydney, Newcastle, Wollongong, Melbourne and Perth. Exempting Perth from regional employer sponsorship puts Western Australia at an unfair disadvantage vis-à-vis Adelaide, Hobart and Darwin. Levelling the playing field in this area would improve the fairness and integrity of the temporary skilled migration program.

I have included additional comments about my concerns with the definition of regional Australia, and have provided more detailed comment on other matters regarding the 457 visa program in the attachment.

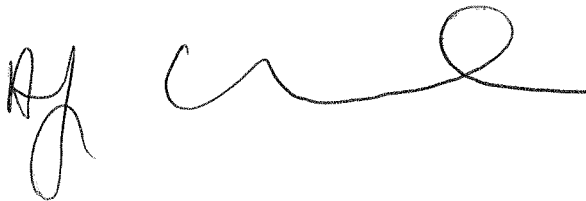
While my Government has worked with the Commonwealth to improve the operation of the 457 visa program, it would be disappointing if further changes were unilaterally introduced to the scheme which made it more difficult, costly or burdensome for Western Australian employers to attract skilled workers from overseas or that undermined the fairness and integrity of the system for the skilled workers themselves.

Any changes to the scheme that undermine other areas of labour market need, particularly in remote areas, will not be supported by the Western Australian Government.

We remain committed to skilled migration solutions that best meet the needs of employers and those of the State, now and into the future. Improving the effectiveness, fairness and integrity of the 457 visa program will ensure that the scheme continues to provide a fast and effective means through which industry and government can help alleviate their skills shortages.

If you would like to discuss any of the issues raised in this submission, please contact Mr Stephen Moir, Acting Managing Director, Small Business Development Corporation, on (08) 9220 0200.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alan Carpenter', written in a cursive style.

Alan Carpenter MLA
PREMIER

- 8 MAR 2007

ATTACHMENT

The Western Australian Department of Consumer and Employment Protection (DOCEP) undertook research into alleged exploitation of 457 visa holders by sponsoring employers, which then led to the Ministerial Council on Immigration and Multicultural Affairs (MCIMA) undertaking a review of the program's compliance and monitoring processes.

This research highlighted a number of serious concerns with the 457 visa program as it was then administered, particularly in relation to employers breaching monetary and/or non-monetary entitlements. As the Standing Committee will be aware, this issue was also taken up at the July 2006 meeting of the Council of Australian Governments (COAG), which referred the matter to the Commonwealth/State Working Party on Skilled Migration (the Working Party).

Western Australia is actively involved in these national forums in working to improve the 457 visa scheme.

In Western Australia, it is the State Migration Centre, located within the Small Business Development Corporation (SBDC), which is responsible for coordinating skilled migration initiatives. The advantage of a central coordinating body means that the State's position in relation to regional waivers and concessions is consistently applied by all regional certifying bodies. In particular, while the State may support a case for concessions in minimum skill requirements, it maintains a position of pay parity with regard to workers' salaries, entitlements and conditions.

The Western Australian Government would welcome any changes to the 457 visa program – if adopted by COAG – that improves its operation and level of compliance, including measures regarding pay parity, English language proficiency and minimum training requirements.

However, it is imperative – in light of concerns surrounding unscrupulous employers allegedly exploiting foreign workers – that more information and education is provided by the Australian Government to those employers seeking to access overseas skills under the 457 program, along with a comprehensive compliance testing regime, to ensure that the scheme is not misused to import cheap labour. This could also be supported by a public awareness campaign to mitigate any ill will or negative community perception towards migrant workers.

Where workers are needed, especially in some remote areas where small business has sought various waivers, employers should first be looking at engaging Australians. An essential component of 457 visa approval is there must be strong and verifiable evidence that Indigenous and long-term unemployed people have been given practical and realistic opportunities to be employed in the first instance. This is particularly relevant in regions where planned changes to the Community Development Employment Programme

(CDEP) over the next 12 months will provide a larger pool of Indigenous people requiring pathways to enter the mainstream labour market. It is therefore vital that the 457 visa process does not undermine, particularly in remote locations, State and Federal initiatives to employ Indigenous and long-term unemployed people.

More effort also needs to be made to progress 457 visa holders into permanent resident visas, such as the State/Territory Nominated Independent (STNI) and Regional Sponsored Migration Scheme (RSMS) visas. This could be achieved by the Department of Immigration and Citizenship (DIAC) raising the awareness of 457 visa holders and their sponsor employers of the availability of other visa categories.

Where appropriate, Western Australia will continue to be a party to Labour Agreements under the 457 visa program. Labour Agreements provide employers with a faster and more effective means of recruiting skilled workers from overseas while at the same time protecting the interests and welfare of foreign workers and their families. This involvement in the negotiation of Labour Agreements provides State Government agencies with greater access to workplaces and employee records, and hence enhanced powers to monitor and investigate employer compliance with the scheme as well as with State law. Another benefit is that it enables the State to better plan service delivery and manage the infrastructure demands that result from the typically large numbers of skilled workers entering a certain regional centre under such an agreement.

There is some concern that their continued use could result in the proliferation of Labour Agreements covering individual employers. It may be appropriate for the Commonwealth Government to consider exploring the benefits of alternative methods of achieving this result, for example, the development of a broad industry-wide agreement that can be applied to multiple businesses in a specific sector.

There is some concern that DIAC and other departments (such as the Office of the Employment Advocate and the Office of Workplace Services) are not adequately resourced to ensure a comprehensive and transparent monitoring and compliance program. This is critical for maintaining the integrity and public confidence in the program.

From a State perspective, this is made more complicated as Commonwealth agencies are currently unable to share information on their investigations with State agencies due to privacy laws. This makes it difficult for Regional Certifying Bodies in Western Australia (the Regional Development Commissions) to make informed decisions in relation to the skill needs in their regions. The issue of federal privacy laws in sharing information across governments needs to be clarified in the context of the compliance and monitoring of employers under the 457 visa system.

Strengthening both Commonwealth and State Government processes for monitoring and enforcing employers' compliance with employment and other laws is crucial to the integrity of the 457 visa program. Without this, 457 visa holders are vulnerable to exploitation as they:

- frequently have English as a second language;
- have little understanding of employment legislation and their rights;
- have little understanding of which agencies may assist them; and
- have apprehension that their employment status and ultimately their visa may be jeopardised if they seek assistance.

Consideration should also be given to what protections could be provided to the family members of skilled migrants, in particular to safeguard against potential exploitation by employers. One option could be to introduce a Minimum Salary Level to cover the family members of 457 visa holders, though this would need to be developed in close cooperation with state and territory governments.

As already discussed, there are concerns with the definition of regional Australia. Presently, all areas of Australia are classified regional, with the exception of Brisbane, the Gold Coast, Sydney, Newcastle, Wollongong, Melbourne and Perth. Classifying Adelaide, Hobart and Darwin as regional centres enables them to provide skill and salary waivers to 457 visa applicants, which represents a competitive advantage over other capital cities.

A further disadvantage exists in relation to the ability of regional Western Australia to attract skilled migrant workers vis-à-vis Adelaide, Hobart and Darwin. Many regional centres around the State are not able to compete with these capital cities in terms of the services and facilities they are able to offer, which undermines the ability of non-metropolitan regions to attract skilled labour.

The situation is further exacerbated in Western Australia as a significant portion of the State's "regional" workforce is actually based in Perth, in that they service the regions via fly-in, fly-out operations. Exempting Perth from regional employer sponsorship puts Western Australia at an unfair disadvantage vis-à-vis Adelaide, Hobart and Darwin.