



## **CCIQ SUBMISSION**

# **Department of Immigration and Border Protection Discussion Paper – Reviewing the Skilled Migration and 400 Series Visa Programmes**

**CHAMBER OF COMMERCE AND INDUSTRY QUEENSLAND**

**17 October 2014**

## Introduction

1. The Chamber of Commerce and Industry Queensland (CCIQ) takes this opportunity to provide a response to the Department of Immigration and Border Protection's Discussion Paper reviewing the skilled migration and 400 series visa programs.
2. CCIQ notes that the Australian Chamber of Commerce and Industry (ACCI) will also make a submission to the department addressing broader, nation-wide issues. CCIQ supports that submission, and will use our own submission to highlight matters specifically affecting Queensland employers in relation to skilled migration.
3. CCIQ's consultation with and feedback from our members is that they *want* to hire Australian workers. However, skills shortages, particularly in certain Queensland regions and industries, have precluded businesses from using local workers to fully meet their staffing requirements in the short to medium term. This has meant that employers need to consider engaging a skilled foreign worker through one of the various channels for temporary skilled migration.
4. CCIQ therefore supports the continued availability of skilled migration channels into Australia as a means of combatting skills shortages. Together with policies to up-skill the local workforce and increase labour market participation and mobility, a streamlined skilled migration program allows businesses to meet labour demand and compete globally.
5. Subclass 457 visas in particular are a key part of this, and CCIQ welcomes recent announcements of the Federal Government following release of the final report of the Independent Review of Integrity in the subclass 457 program in this regard. As such, the overarching message of this submission with respect to the framework and operation of the skilled migration system in Australia will focus on the need for greater regulatory consistency and stability to enable employers to have certainty and confidence in the skilled visa system, particularly with respect to 457 visas.

## Streamlining and simplifying skilled migration programs and processes

6. It is imperative that businesses, especially in regional and remote areas of Queensland (including those competing with the mining sector for staff), have access to skilled migration to address ongoing skills and labour shortages, particularly in areas of immediate skills labour shortages.
7. Rather than tightening the regulatory framework around 457 visas, and therefore punishing those employers who have genuine skills shortages and participate in the program in good faith, CCIQ considers that a deregulated, flexible and demand driven framework together with better and more effective monitoring of the program using the tools currently available to the Federal Government is a more suitable way forward.
8. CCIQ has long advocated for the Federal Government to repeal the July 2013 amendments to the *Migration Act 1958* (Migration Act), as the amendments made it more difficult for small and medium businesses to employ workers by implementing additional advertising

requirements, quadrupling the application cost and requiring applicants to possess university-level English competency.

9. Small and medium businesses are increasingly frustrated, confused and apprehensive about sponsoring a foreign skilled worker (particularly on a subclass 457 visa). Businesses consider becoming a sponsor, or continuing to sponsor foreign skilled workers, as too difficult and too risky.
10. However, this does not appear to have led to them hiring more local workers, despite being legitimately affected by skills shortages. Consequently, they are left without the staff that they require, and their businesses tend to stagnate and shrink. This is counterintuitive to the purpose of temporary skilled migration programs and CCIQ calls on the Federal Government to recognise the greater need to support small and medium businesses, particularly within regional and remote Queensland, by simplifying access to skilled migration.
11. Accordingly, CCIQ welcomes the Federal Governments recent announcements with respect to review of the subclass 457 visa program, following the release of the final report of the Independent Review of Integrity in the subclass 457 visa program. In particular, CCIQ is pleased with the Government's commitments to reform the sponsorship requirements, streamline sponsorship processing, increase visa approval periods for start-up businesses, and relaxing the English language requirements.
12. However, CCIQ considers that there is certainly scope to further streamline and simplify processes, which are significantly time-consuming, complex and costly. In some cases, the process has become so costly and time intensive that many small businesses are forced to pay migration agents just to help them secure the skills they need.
13. In particular, CCIQ believes that:
  - a. a more transparent and responsive Consolidated Sponsored Occupations List will increase accessibility by small and medium businesses; and
  - b. the abolishment of the current legislative requirement for labour market testing for businesses in regional areas and for businesses with less than 20 employees will increase accessibility and decrease compliance costs for small and medium businesses.

#### ***Consolidated Sponsored Occupations List***

14. CCIQ considers that the CSOL and the methodology behind it is flawed, to the detriment of small and medium businesses. It is critical that the list accurately reflects the true range of required skilled occupations, particularly for regional and remote areas in Queensland. Increasing the transparency and responsiveness of the CSOL will go a long way to increasing accessibility by small and medium businesses.
15. The development of the Consolidated Sponsored Occupations List (CSOL) is of particular concern for small and medium businesses in Queensland. CCIQ has, on a number of

occasions, communicated these concerns to the Federal Government, particularly over the methodology applied in determining occupations of inclusion in the CSOL.

16. CCIQ questions whether the CSOL adequately reflects the skills needs of Queensland's small to medium sized businesses, particularly those in regional and remote areas. Current methodologies appear to be hinged on a judgment of the relative value of particular occupations and skills to the Australian economy as a whole, which is a highly subjective process that is made even more complex by the diverse nature of Australian industry.
17. CCIQ believes that there is a need to recognise the unique challenges of regional Queensland. CCIQ does not want to see an outcome where Queensland businesses are disadvantaged because the skills they are faced with are not classified as being of 'high economic value' to Australia, which does not necessarily align with the skills needs of Queensland industry. This is particularly relevant in Queensland, where a singular focus on fulfilling the skills and labour needs of the resources industry has meant that those of other industries (including those that compete with the mining sector for staff) have been overlooked.
18. Notably, the CSOL omits many professional 'business' skill areas such as entrepreneurship, small business management and commerce. Encouraging people with these skills to come to Australia is vitally important to the growth of the Queensland and Australian economies. This is because it is they who are more likely to start a business, or become involved in the management of a business, that will employ and train Australians. This is also essential for small and medium business in regional and remote areas of Queensland, who need workers with 'business' skills, but cannot attract the same away from their larger metropolitan counterparts.
19. CCIQ also considers that there is a need for a 'semi-skilled' visa analogous to the Seasonal Worker visa program. This would avoid any temptation by employers to sponsor an employee on a 457 visa in a profession on the CSOL when in reality they need a worker to work in a lower skilled occupation that is not on the CSOL.
20. CCIQ strongly recommends ongoing consultation with small and medium businesses, relevant industry bodies and Regional Certifying Bodies (RCB) is necessary to keep the CSOL relevant and responsive, as they are well-placed to advise on the professions that are sought after, but which have not been identified by the Federal Government as 'priority'. It is important that the CSOL is balanced, and covers skills and occupations that are in demand across the labour force, so that all sectors of the economy have access to skilled labour when it cannot be sourced locally.

*Recommendation 1: The Federal Government should review its processes for developing the CSOL, and consult more closely with small and medium businesses, industry bodies and professional bodies over its content.*

*Recommendation 2: The CSOL should include small business skills areas such as entrepreneurship, management and commerce.*

*Recommendation 3: The Federal Government should consider creating a semi-skilled visa category, particularly for use by regional businesses, or review the Seasonal Worker visa program with a view to broadening it to include a greater number of industries.*

### **Labour Market Testing**

21. Prior to the introduction of labour market testing, the subclass 457 visa program was responsive to business needs as an uncapped, demand-driven and flexible solution to short-term skilled labour shortages. However, the July 2013 amendments to the Migration Act removed many of the inherent benefits of the program and effectively stopped businesses from accessing skilled labour in a timely manner when local workers could not otherwise be found. In particular, the labour market testing changes significantly disadvantage small and medium businesses in regional and remote locations, which generally lack the resources of their larger metropolitan counterparts.
22. CCIQ considers that labour market testing is ineffective, time-consuming and of little suitability to small and medium employers because it is far more cost-effective for them to source skilled workers locally if they are able to. Accordingly, it is really only a practical requirement for large employers. In particular:
  - a. Insisting that employers advertise for certain positions and show evidence of having done so is frustrating for small and medium employers urgently seeking to fill a position who are familiar with the challenges of the local employment market. For example, businesses in remote and rural areas, including from towns such as Charleville and Mareeba, have told CCIQ that they have experienced staff turnover of up to 100 per cent in a six month period. Workforce issues have also been raised by employers in our tourist locations, including the Gold Coast and Cairns, who are having difficulty finding staff that want to work a consistent five-day week. These employers are well versed in the challenges of their local employment market and consider skilled migration pathways the most suitable avenue to fill skill shortages in a timely and efficient manner.
  - b. Regional small and medium employers are generally limited to a localised job market, as they are unable to offer the fly-in, fly-out (FIFO) or drive-in, drive-out (DIDO) arrangements that have been a feature of the resources industry and which have been used to counter longstanding mobility problems in Queensland. Small and medium businesses in regional areas cannot afford to employ workers on this basis, as the cost of their flights and accommodation would be prohibitively expensive. CCIQ certainly does not believe that FIFO/DIDO agreements should become 'mainstream' for businesses of all sizes and calls on the government to introduce measures to improve labour mobility.
23. CCIQ acknowledges that labour market testing is already a standard requirement for Labour Agreements, Enterprise Migration Agreements and Regional Migration Agreements. However, our view is that these skilled migration pathways are designed to facilitate large scale migration where there are endemic skills shortages within a particular region or industry. Accessible temporary skilled migration pathways, such as the subclass 457 visa

program, must be accessible for small and medium employers who only seek to fill a small number of vacancies in their business.

24. Accordingly, CCIQ considers that mandatory labour market testing is not necessary for small scale skilled migration pathways such as the subclass 457 visa. It is far more cost effective for employers to source skilled workers locally, if they are able to, rather than go through the process of becoming a sponsor and employing a foreign skilled worker. The fact that businesses *do* seek to sponsor foreign skilled workers is of itself an indication of the shortages of suitable applicants in their local area. The labour market testing requirements only add to the already significant bureaucratic burden on small and medium businesses by increasing the time and cost of the recruitment process, which in turn affects productivity.
25. The July 2013 amendments also introduced a genuineness criteria in the assessment process. CCIQ considers that this inhibits the ability of business to expand into new fields of operation that may in turn prevent that business from accessing skilled labour because it is not considered a 'genuine' fit for the business at that time. This criteria is counterintuitive to innovation, which is necessary to drive productivity and growth of small businesses. In light of recent announcements extending the subclass 457 visa approval periods for start-up businesses (recognising the importance of innovation and entrepreneurship) CCIQ considers that this criteria should be removed for businesses with less than 20 employees who are seeking to expand.
26. Clearly, there needs to be flexibility in the criterion against which applications are assessed, and that a 'one-sized fits all' model is not necessarily appropriate. If the Federal Government is seeking a means of verifying the legitimacy of an employer's application to sponsor a foreign skilled worker, CCIQ considers that RCBs could play an important role in this respect by attesting to the existence of skills shortages in a given region as they do under the Regional Sponsored Migration Scheme. This arrangement has operated successfully for some time, and is a more measured approach to addressing the veracity of an employer's stated need for foreign skilled workers.
27. CCIQ considers that there is also a good case for the reintroduction of regional concessions for business sponsors of foreign skilled workers on temporary visas, particularly with respect to skill level requirements and minimum salary.

*Recommendation 4: The requirements for labour market testing should be removed for businesses in regional areas and for businesses with less than 20 employees.*

*Recommendation 5: The genuineness criteria should be removed for businesses with less than 20 employees.*

*Recommendation 6: RCBs should be given a designated role in attesting to the existence of skills shortages in respect of a business sponsorship application.*

*Recommendation 7: The Federal Government should consult with small and medium businesses and industry groups over the reintroduction of regional concessions for 457 visas.*

## Conclusion

28. CCIQ believes that it is important to maintain broad-based skilled visa programs that are accessible, responsive and fit for purpose. Skilled migration programs are recognised as a useful supplement to our local skills and training effort. They allow businesses that are genuinely unable to fill positions with local staff to employ temporary foreign workers without unnecessary complexity or expense.
29. Queensland employers have told CCIQ that they are eager to hire local workers, as it is quicker and generally more cost effective to do so (particularly given the extremely rigorous, expensive and time-consuming process that businesses must go through to become a sponsor of a foreign skilled worker). Moreover, doing so enables them to make a significant contribution to their local community, which is important to small and medium business owners.
30. There is little evidence demonstrating an over-reliance on temporary skilled workers in Queensland. In the year ending 30 June 2014 there were 7,550 subclass 457 visa applications granted to applicants that nominated Queensland as their location of work. This is a 31 per cent decrease in primary application grants in comparison to the year ending 30 June 2013. Total subclass 457 visa holders in Queensland for the same period (16,940) represented only 0.7 per cent of the total number of people (2,362,300) employed in Queensland.<sup>1</sup> Meanwhile, data on the usage of skilled migration visas in the short term can provide guidance on the areas in which training needs to occur so that Australians can fill those jobs in the medium to long term.
31. It is important that the function of skilled migration channels into Australia not be made a political issue at the expense of the regulatory stability and certainty that employers, particularly small and medium employers, so desire. Changes that are part of political efforts to be 'tough' on foreign workers and protecting Australian jobs, such as the July 2013 changes, are unnecessary and not based on any evidence giving rise to the need for further regulation. Instead, focus must be placed on ensuring that the regulatory framework provides small and medium businesses with certainty and confidence in meeting their skilled labour needs, and is sufficiently flexible to service the needs of those businesses in regional and remote areas of Queensland.

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<sup>1</sup> Department of Immigration and Border Protection Subclass 457 Quarterly Report, June 2014 (<http://www.immi.gov.au/media/statistics/pdf/457-quarterly-report-2014-06-30.pdf>) and Australian Bureau of Statistics Publication 6202.0 - Labour Force, Australia, June 2014