AUSTRALIAN CHAMBER OF COMMERCE AND INDUSTRY

INQUIRY INTO THE CURRENT FRAMEWORK AND OPERATION OF SUBCLASS 457 VISA, ENTERPRISE MIGRATION AGREEMENTS AND REGIONAL MIGRATION AGREEMENTS

ACCI Response

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Small Business TOO BIG TO IGNORE

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1. EXECUTIVE SUMMARY

The Australian Chamber of Commerce and Industry (ACCI) takes this opportunity to provide a response to the Legal and Constitutional Affairs References Committee inquiry into the current framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements.

Australian businesseses create wealth and jobs for the the country, enable infrastructure development in regional centres and invest across Australia.

ACCI has been very active in promoting workforce participation, labour mobility and upskilling of existing workers to meet skills and labour demands across the Australian labour market. Skilled migration acts as an important link in the human capital needs of Australian industry, serving as a stop-gap measure when the local labour force cannot meet the skills and labour demands of employers.

Skilled migration pathways, especially the temporary pathways offered through subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements offer businesses an opportunity to fill peak labour demand at times when the Australian labour market is not fully capable of providing the skills and labour where and when it is needed.

Meeting labour force needs is about having the right people with the right skills in the right place at the right time. This simple statement masks the complexity and enormity of the task of balancing employment participation, skills development and migration policies. Lack of mobility is one of many challenges facing Australian employers, especially those in regional areas. For personal, historical, cultural and geographic reasons many Australians are reluctant to move beyond their immediate metropolitan or major regional city to take on new job opportunities, particularly at certain stages of their lives in the younger years. Skilled migration, operating in combination with skills development of Australian workers and employment participation initiatives, is an important mechanism to help businesses overcome the challenge of securing a suitable workforce.

Given the importance of skilled migration, ACCI has become increasingly alarmed at recent policy announcements and public commentary around important elements of migration. Worthy programs such as 457 visas, EMAs and RMAs have, in recent months, become subjected to a series of unsubstantiated claims of widespread rorting and have been used to invoke parochial and even racist sentiment with claims of foreign workers “stealing” jobs from unemployed Australians. ACCI feels that a careful, considered approach, based on clear and substantiated evidence, is needed to ensure that we maintain the value and integrity of the schemes and don’t further harm our reputation overseas as a good destination to do business, work or learn.

2. ABOUT ACCI

2.1 Who We Are

The Australian Chamber of Commerce and Industry (ACCI) speaks on behalf of Australian business at a national and international level.

Australia's largest and most representative business advocate, ACCI develops and advocates policies that are in the best interests of Australian business, economy and community.

We achieve this through the collaborative action of our national member network which comprises:

- All state and territory chambers of commerce
- 30 national industry associations
- Bilateral and multilateral business organisations

In this way, ACCI provides leadership for more than 300,000 businesses which:

- Operate in all industry sectors
- Includes small, medium and large businesses
- Are located throughout metropolitan and regional Australia

2.2 What We Do

ACCI takes a leading role in advocating the views of Australian business to public policy decision makers and influencers including:

- Federal Government Ministers & Shadow Ministers
- Federal Parliamentarians
- Policy Advisors
- Commonwealth Public Servants
- Regulatory Authorities
- Federal Government Agencies.

Our objective is to ensure that the voice of Australian businesses is heard, whether they are one of the top 100 Australian companies or a small sole trader.

Our specific activities include:

- Representation and advocacy to Governments, parliaments, tribunals and policy makers both domestically and internationally;
- Business representation on a range of statutory and business boards and committees;
- Representing business in national forums including the Fair Work Commission, Safe Work Australia and many other bodies associated with economics, taxation, sustainability, small business, superannuation, employment, education and training, migration, trade, workplace relations and occupational health and safety;
- Representing business in international and global forums including the International Labour Organisation, International Organisation of Employers, International Chamber of Commerce, Business and Industry Advisory Committee to the Organisation for Economic Co-operation and Development, Confederation of Asia-Pacific Chambers of Commerce and Industry and Confederation of Asia-Pacific Employers;
- Research and policy development on issues concerning Australian business;
- The publication of leading business surveys and other information products; and
- Providing forums for collective discussion amongst businesses on matters of law and policy.

3. INTRODUCTORY COMMENTS

Successive Australian governments have adopted a holistic and balanced view in relation to our skilled migration intake, whilst retaining a strong emphasis on developing skills of Australians, recognising the importance of skills as a key driver of productivity gains in the workplace. The Australian government should continue to carefully and sensitively manage our national migration program, for its economic and social contribution to the nation, whilst continuing to ensure that employers can s access the skills and labour they need to maintain productive output.

The focus of Australia's migration policy needs to remain on the three Ps, being population, participation and productivity. The long-term prospective needs of business, as well as its short- and medium-term requirements, need to be addressed in order to achieve a balanced migration policy.

A major reform of the subclass 457 visa program was conducted in 2008-09. The *Migration Legislation Amendment (Worker Protection) Act 2008* introduced a range of sponsorship obligations to ensure the working conditions of sponsored visa holders meet Australian standards and that those workers are not exploited.

In its current form, the 457 visa program allows businesses to access overseas labour when domestic workers are not readily available. Requirements currently exist for employers to attest to their commitment to recruit locally before looking abroad and are committed to training more Australian workers.

The Department of Immigration and Citizen ship, through its March monthly report on 457 visa usage showed that 457 visas are working to fill labour needs as intended and had responded well to economic needs. Numbers of businesses seeking overseas workers has decreased as unemployment in Australia has increased. The increase in available domestic labour has reduced the need for imported skills.

In a media release dated February 2013[1], The Department of Immigration and Citizenship stated that:

> *Temporary work visa applications have been heading downwards since June 2012 and have now declined for the last three consecutive months. Reinforcing this trend has been a drop in actual 457 visa grants since August. This movement demonstrates the 457 visa program's responsiveness to the changing needs of the Australian economy.*

[1] http://www.newsroom.immi.gov.au/releases/457-visa-program-responds-well-to-economic-needs-3

This downward trend was continued in the more recent March 2013 statistics, which reinforces the responsiveness of the program and minimises any concerns that the program is growing uncontrollably.

The 457 visa program gives access to highly skilled workers that are in short supply in the Australian labour force. Of those 457 visa holders who were in Australia on 30 November, 64 per cent were working in occupations that typically require a bachelor degree or higher qualification[2]. Average nominated base salary of those 457 visa holders granted visas this program year to 31 March 2013 was $83 000 with an average total remuneration of $89 800. Managers and professionals, who together accounted for 66 per cent of the total number of visas approved this program year, had combined average total remuneration of $109 000. Construction, Health and Information technology occupations, three of the most widely used occupation streams; all have average salaries well above annualised Australian Average Weekly Ordinary Time Earnings (AWOTE) by the latest available data (ABS, November 2012).[3]

Evidence in relation to the operation of Enterprise Migration Agreements (EMA's) and Regional Migration Agreements (RMA) cannot be presented due to the unnecessary and largely political delay in their implementation. These schemes reflected good policy and they should be progressed as soon as possible to assist large projects and regional areas crying out for labour.

4. RESPONSES TO INQUIRY TERMS OF REFERENCE

4.1 Effectiveness in filling areas of identified skill shortages and the extent to which they may result in a decline in Australia's national training effort, with particular reference to apprenticeship commencements

While skilled migration can deliver skilled workers for immediate or emerging shortages in relatively short timeframes, it must complement robust training and workforce participation arrangements. Information about labour and skills shortages is drawn from a range of sources, within the Federal, State and Territory Governments, and the private sector. More effective co-ordination of this information is an essential element of an effective skilled migration program.

In addition to skilled labour issues, from time to time, there are circumstances where, due to overall labour shortages, unskilled and semi-skilled workers cannot be found from within Australia to meet particular labour needs, particularly in the agricultural and hospitality industries. There needs to be immigration options available providing targeted, short-term programs for unskilled workers, with arrangements for industry support. These programs require careful management. ACCI welcomes the pilot seasonal worker scheme but notes that the

[2] http://www.immi.gov.au/media/statistics/pdf/457-state-territory-summay-report-mar13.pdf
[3] http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6302.0Nov%202012?OpenDocument

provision of unskilled labour should be expanded in to other sectors in the future based on need and evidence.

The regulations and conditions relating to the employment of overseas workers can often be difficult for employers to apply and can make the employment of overseas workers unnecessarily complex.

A major impediment and cause of delay for overseas workers and employers seeking to employ them, is the need for overseas qualifications and experience to be recognised before the employee can begin to work productively in Australia.

Regional workforces have shrunk considerably in recent years due to migration of the regional workforce to major regional and metropolitan areas where, in the past, there has been greater opportunity for education and employment. Conversely, those in major regional and metropolitan areas are often reluctant to leave the services and amenity readily afforded in urban areas.[4]

The limited mobility of the Australian labour market means that job losses in the South Eastern Australian manufacturing and services sectors or increasing the training effort to bolster skilled graduates from Vocational Education and Training Providers in the Eastern States do not automatically translate into a boost in the available workforce for resources projects and major infrastructure developments in the northern and western parts of Australia. Endemic and systemic issues in the Australian labour market and across the Australian workforce more broadly often prevent workers from undertaking significant relocation for employment, especially where the employment opportunities are short term, living conditions are not conducive to family relocation and there is little access to services and amenities, as is often the case with new resources developments in their construction phase.

Both EMAs and RMAs are new and yet to be implemented temporary skilled migration initiatives to help address the acute skill and labour shortages facing parts of regional Australia and large resource and infrastructure projects. These initiatives will enable employers to sponsor workers from outside Australia in circumstances that are not otherwise permitted under the standard migration programs. The program is designed to increase capacity in regional labour markets that are experiencing these shortages. The agreement covers skilled and semi-skilled workers.

The EMA is designed for large scale projects with capital expenditure of more than two billion and with a peak workforce of more than 1500 workers. The National Resources Sector Employment Taskforce recommended the introduction of EMAs in July 2010. The taskforce, chaired by Gary Gray, then Parliamentary Secretary for Western and Northern Australia, was

[4] Buchanan et al, 2011, *Understanding and Improving Labour Mobility*, NCVER

convened in late 2009 to help address the need for more than 70 000 additional skilled workers on major resources projects over the next five years.

One of the more valuable aspects for employers and regional stakeholders of an EMA or RMA is that under current guidelines both will allow the inclusion of occupations that would not be eligible for a 457 visa provided there was evidence that the workers were not available in Australia. There had been wide consultation with key stakeholders including Unions as the guidelines for EMAs were being developed.

4.2 Their accessibility and the criteria against which applications are assessed, including whether stringent labour market testing can or should be applied to the application process

Temporary skilled migration pathways need to be responsive to demands for skills and labour from employers and need to ensure that those skills can be quickly accessed when local labour cannot be sourced.

Subclass 457 visas are widely used across the economy in a broad range of occupations and by a wide variety of employers. State and territory governments remain one of the largest users of 457 visas to help fill serious skills shortages of health workers in the community. The introduction of stringent labour market testing requirements could cause significant time delays that may see regional areas not having access to health professionals due to the time impost of conducting detailed labour market analysis.

Further obligations placed on employer sponsors in conducting labour market testing would only slow down their access to skilled overseas workers under what is supposed to be a fast, flexible visa solution to skilled labour shortages. Additionally, the 2008 Deegan Review pointed out that labour market testing may breach terms in many existing international trade agreements and complicate or hinder future agreements.

ACCI remains open to consultation on these issues in order to address the minority of cases where employers could be perceived as “overusing” the scheme by employing large numbers of 457 visa holders relative to the size of their workforce. There may be mechanisms of checks and balances only in these circumstances, so as not to burden the vast majority of users.

Enterprise Migration Agreements (EMAs) and Regional Migration Agreements (RMAs) will be predominantly used for the development of new large scale projects in the resources sector. Traditionally, these projects have a high labour demand in the initial construction phase before moving on to a less human capital intensive production phase. Low labour mobility within Australia presents a significant barrier to meeting high labour demand during construction. The primary benefit of EMAs is their ability to contribute to the provision of the skills and labour needs in the short term in new developments before a largely local workforce can be engaged in the production phase.

The guidelines specify that to be approved for an EMA, a project owner or prime contractor will need to demonstrate:

- why sufficient Australian workers cannot be found to fill anticipated vacancies in semi-skilled occupations, including labour market analysis
- consultation with relevant stakeholders on labour market needs and the training of Australians
- commitment to ongoing local recruitment efforts; and
- commitment to training and social inclusion targets for the project.

ACCI believes that these guidelines, along with close government and public scrutiny due to the highly politicised nature of the agreements, will ensure that project owners will make every possible effort to attract local labour and train Australian workers while using EMAs, RMAs and other subclass 457 visa holders to fill gaps as necessary.

4.3 The process of listing occupations on the Consolidated Sponsored Occupations List, and the monitoring of such processes and the adequacy or otherwise of departmental oversight and enforcement of agreements and undertakings entered into by sponsors

A balanced list that covers the breadth of the economy and the skills in demand across the labour force is needed to ensure that skilled labour supply is available to all sectors of the economy, not just those perceived by the government of the day as being high value. While ACCI agrees in principle that a prospective approach to meeting skills demand is beneficial, it highlights that labour market forecasting is notoriously unreliable and occupations can rapidly experience peaks and troughs of demand. In finding a sensible balance between a retrospective and prospective weighting for which occupations should be included on the list, business and industry should advise government as to what the correct balance should be, dependent on variables such as type of industry, location and up-to-date analysis.

Changes made to the CSOL and other lists used for skilled migration purposes are often not immediately or widely communicated. This leads to considerable confusion and frustration on the part of employers and can further exacerbate time lags in cases where access to skills in order to progress work is time critical.

4.4 The process of granting such visas and the monitoring of these processes, including the transparency and rigour of the processes

Fair and effective enforcement of sponsor obligations under the 457 visa subclass program is essential to demonstrate to employers, government and the community more broadly, that the program is working as intended and not being abused. ACCI firmly believes that many of the current proposed changes to the 457 visa subclass program would be unnecessary if there was an adequately resourced compliance and monitoring regime already in place.

The Department of Immigration and Citizenship (DIAC) has gathered sufficient data over the 15 years of the 457 visa program to form an evidence-based profile of high risk occupations and sponsors using the program.

Greater resources should be devoted to the education of sponsors and employees as a proactive measure to encourage compliance rather than a heavy-handed, reactive compliance activity approach which is burdensome and invasive for employers. Educational measures should relevant, multi-lingual and targeted according to this risk assessment framework.

ACCI cautions that any changes to the program, notably to obligations and monitoring, should not penalise all sponsors, the majority of whom do the right thing, because of a small percentage who do not.

4.5 The adequacy of the tests that apply to the granting of these visas and their impact on local employment opportunities

Skilled job vacancy rates as published monthly by the Department of Education, Employment and Workplace Relations (DEEWR) are an existing, solid indicator of current skills need across the Australian Labour market. The April 2013 Vacancy Report shows that despite softening in some areas of the labour market, the Skilled Internet Vacancy Index and the Regional Internet Vacancy Index still show considerable demand for some occupations and in some regions.

Meeting labour force needs is about having the right people with the right skills in the right place at the right time. This simple statement masks the complexity and enormity of the task of balancing employment participation, skills development and migration policies. Lack of mobility is one of many challenges for Australia. For personal, historical, cultural and geographic reasons most Australians are reluctant to move beyond their immediate region to take on new job opportunities, particularly at certain stages of their lives in the younger years. Skilled migration, operating in combination with skills development of Australian workers and employment participation initiatives, is an important mechanism to help businesses overcome the challenge of securing a suitable workforce.

4.6 The economic benefits of such agreements and the economic and social impact of such agreements

Australia garners significant economic and social benefit to welcoming migrants to work in Australia. Skilled migrants live and work in Australian communities, rent houses, buy groceries, holiday in our major tourist areas, send their children to our schools and provide employers with the skills they need to operate effectively and productively. Most 457 visa holders are highly skilled, of those 457 visa holders who were in Australia on 30 November, 64 per cent were working in occupations that typically require a bachelor degree or higher qualification.

Temporary skilled migration streams are not a system where employers can access “cheap foreign labour” to undercut Australian workers. Average total remuneration of 457 visa holders granted visas this program year to November was $89,800. According to the Department of Immigration’s report, managers and professionals, who together accounted for 66 per cent of the total number of visas approved this program year, had combined average total remuneration of $109,000. Under the 457 regulations, workers on 457 visas can’t be paid less than Australian workers in the same job at the same company. Additionally, employer sponsors incur additional costs for employing workers on 457 visas such as paying for health insurance, flights to and from Australia, agent fees for finding the worker offshore.

4.7 Whether better long-term forecasting of workforce needs, and the associated skills training required, would reduce the extent of the current reliance on such visas

While it is better to plan than not plan, it is generally accepted that current mechanisms used in workforce projections and planning have limited validity and cannot predict major shifts and changes in the economy. Long term forecasting of labour needs is particularly unreliable and, when combined with supply or student demand driven approaches to training can lead to a mismatch between those skills required in the economy and those skills presently available.

Supply driven training approaches determined by prospective planning may ultimately detract from industry specific technical skills and increase the likelihood of a mismatch of skills with the needs of employers upon the completion of training. Also, the risk of any projection project is that it makes supply-side planning more attractive, particularly to policy makers. ACCI supports well informed, industry demand driven training responses, that is, that employers and employer groups through frequent feedback to appropriate agencies, provide information and advice to governments, education and training providers and the community more broadly as to what skills are in demand and where geographically that demand exists.

4.8 The capacity of the system to ensure the enforcement of workplace rights, including occupational health and safety laws and workers' compensation rights

Workers from outside Australia employed on a 457 visa, or under an EMA or RMA framework will already be protected by the same laws that protect and govern the employment relationship of other workers at federal and state / territory levels. Workers from outside Australia sponsored under an EMA or RMA will hold 457 visas and will be subject to the *Worker Protection Act 2009*. Temporary skilled migrants already are afforded all of the same protections as Australian workers under current workplace relations laws, occupational health and safety laws and compensation rights.

4.9 The impact of the recent changes announced by the Government on the above points

The key value of the 457 visa subclass program is its responsiveness to business need as an uncapped, demand-driven, flexible program. The proposed changes will remove many of the inherent flexibilities of the program and effectively stop businesses from accessing skilled labour when domestic workers cannot otherwise be found. ACCI firmly believes that maintaining the integrity of the temporary skilled migration programs requires action being taken against those who abuse the system. Rorts are or serious concern to employers, government and the broader community and should be dealt with quickly and fairly. However, there is no evidence to suggest

widespread abuse of the system. The Department of Immigration and Citizenship reports very few cases of abuse of 457 visas with 125 employers sanctioned in 2011/2012 with a further 449 employers formally warned and notified of areas of non-compliance. Out of close to 100,000 457 visa holders, this represents a very small percentage and is not evidence of "widespread rorting".

In any scheme, there will always be a small minority that don't play by the rules. The Government, with the full support of employers out there doing the right thing, should target those rule breakers through rigorous enforcement rather than reducing access to employers meeting the requirements.

ACCI directly, as well as employer representatives on the Ministerial Advisory Council on Skilled Migration, have communicated clear and unambiguous advice that these changes are unbalanced. They compromise key features in the 457 visa stream and are likely to create unreasonable barriers for employers, especially in the regions, needing to meet their skills needs when domestic workers are not available. They are also likely to cause cost and time blowouts in one of the areas of immigration policy that is largely working as intended.

Before dealing with specific proposals, a key impact on the announcement has been the politicisation of what was previously a largely bipartisan approach to temporary migration. Enveloping a strong program, with sound policy fundamentals, in political language of putting foreign workers last in the jobs queue unnecessarily damages the public confidence in the program. The changes have been reinforced in statements by the Minister and Government inclusive by interpretation of trends in Visa statistics that are controversial and potentially misleading. Since August 2012, the 457 visa trend has been downward, so concerns about alarming growth are unfounded, as are exaggerated claims of rorts and projections of visa numbers being over 300,000. This is unnecessarily alarmist, and a rational, evidence based discussion needs to return.

A summary of the key issues arising from the proposed changes is detailed in Table 1.

Table 1: Proposed Changes and Consequences

Change	*Issues*
Effective doubling of current training requirements and the introduction of a set quota for apprentices/trainees and new graduates. The proposed training requirements will be: entry-level employment quota— Australian Apprentices to represent at least 15 per cent of the sponsor's trade workforce OR recent Australian higher education graduates with less than 12 months post-qualification paid work experience to represent at least 5 per cent of the sponsor's managerial and professional workforce, or training expenditure — at least 2 per cent of the total gross wages for the sponsor's total workforce to be expended on training linked to the completion of units of competence under the Australian Qualifications Framework for the sponsor's Australian workforce.	The current training requirement — introduced as an interim measure on 14 September 2009 — requires Subclass 457 sponsors to expend: 2 per cent of payroll for its total workforce on training, or 1 per cent of payroll for its total workforce on training its own Australian workforce. Issues: A quota was originally discussed following the Deegan review in 2008. It was not pursued following considerable opposition from industry at the time. DEEWR is again bringing forward the same recommendations and claiming that they consulted broadly (using the 2008/2009 consultations and the union support for the increase) to show that there is support for the move. Employers, especially small employers and those in regional areas would experience significant difficulty in meeting a 15% of workforce quota for apprentices/trainees or a % new graduate quota due primarily to the availability of suitable applicants. The proposed change also introduces the requirements that training to meet the 2% benchmark would need to be AQF recognised, i.e. formal training as opposed to on the job/in-house informal training, product specific training or other training(such as ISO , Sigma Six, etc.). Additionally, those employers in regional areas could experience difficulty in accessing training to meet the other requirements of 2% of payroll being expended on training on AQF qualifications.
Strengthening the Employer Attestation of commitment on employing Australians and non-discriminatory recruitment practices	More information required to determine if this will be onerous for employers to evidence their "commitment".

Strengthen the training benchmarks commitment to make it an ongoing and enforceable requirement	Whilst not currently encapsulated in the regulation, new businesses are already required to provide that commitment as part of seeking the Business Sponsorship approval under DIAC policy.
Introduce a genuineness criterion in the assessment of Subclass 457 visa nominations	Potentially will inhibit the ability of businesses to meet skills demand in new and emerging fields. If an employer is looking to branch out into a new field of operation that is not traditionally a 'fit' for the company, this could prevent that business from accessing skilled labour.
Amending sponsorship terms of approval - restricting the number of Subclass 457 workers that a business can sponsor to the number approved in their application unless formally varied	Could create delays in accessing skills for businesses undergoing rapid growth. Employers would be required to forecast skills/labour need at time of application which may change considerably over time. This measure could lead to employers exaggerating their forecasts which could lead to onerous requests for substantiation or even refusal if DIAC determine that number is too much.
Strengthening assessment of generalist occupations Stage 1 – Requiring Program and Project Administrator and Specialist Manager not elsewhere classified applicants to undertake a formal skills assessment and, if salary is less than AUD92 000 meet English language requirements. Stage 2 – extending English language requirements to additional positions	Limiting occupation use to specific industry sectors or other means of using the CSOL is flawed whilst ever ANZSCO is unable to accurately determine the full range of Australian occupations. The fact that ANZSCO deliberately has "NEC" (not elsewhere classified) generalist occupations is recognition that it is NOT a fully prescriptive tool for migration purposes.

Strengthening the 'market rate' assessment provisions Stage 1 – increasing the market salary assessment exemption level from AUD 180 000 to AUD 250 000 Stage 2 – expanding the market rate assessment beyond a particular workplace to that workplace's regional locality	All businesses have unique operating requirements, organisational cultures and subtle differences in operation that require differing systems and structures to support them. Hence they need to have flexibility in how they structure the pay of their employees. Additionally, this could lead to overseas workers being paid more than domestic workers.
Prevent unintended employment relationships (including on-hire arrangements outside of approved labour agreements and certain occupations exempted by an instrument in writing and 'sham contracting' arrangements)	Of real concern to the building industry where a considerable portion of the workforce is sub-contracted. Potential administrative burden
Strengthen obligation not to recover certain costs by requiring sponsors to be solely responsible for certain costs	Current obligations are: *You must not recover, or seek to recover, from the skilled worker or any of their family members, all or part of the costs (including migration agent costs):* *that relate specifically to the recruitment of the skilled worker* *associated with becoming or being a sponsor or former approved sponsor.* Current requirements should be sufficient if adequately enforced.
Prevent potential for misuse of the English language salary exemption; and Aligning definitions of English ability across skilled programs	Such a change could mean that the nominated employee loses their ability to change employers because they cannot meet the English language requirement for another employer who may offer a salary less than the original employer but with better working conditions (eg, hours, location etc). They would therefore be "tied" to their original nominator – an issue the current 457 program sought to eliminate (at strong demand of the Unions).

Amend terms of sponsorship approval for start-up businesses	It is unreasonable to restrict an Australian start-up business to a 12 month Sponsorship period in the first instance as it does not provide sufficient confidence for the owners to be able to establish and build that enterprise. It would also limit their capacity to recruit suitable overseas talent with such a short period of stay allowed in the first instance.

4.10 Other related matters

ACCI believes that there should be an increased ability to access semi-skilled labour through temporary employer-sponsored migration. The inclusion of semi-skilled occupations on the CSOL should be allowed where there is identified demand for these skills and little availability of these skills in the short term in the domestic labour market. In many cases, semi-skilled employees play an essential role in supporting more highly skilled occupations at the trades and professional level and are essential for ongoing productivity in the workplace. These roles, while considered semi-skilled often have significant lead times to train and require a strong demonstration of technical ability. Roles such as concreters, riggers and scaffolders, stores people and trades assistants are essential for supporting the work of more highly qualified occupations and are essential in the operation of many workplaces.

ACCI believes that employers should have access to semi-skilled labour through the 457 visa pathway. While Labour Agreement pathways to some extent meet the requirements of employers in this area, the administrative burden of the application process remains a significant disincentive for employers to pursue this option.

Individual employers in regional areas servicing the resources sector who may have lower semi-skilled labour needs than large scale resources projects need greater access to migration options. They have significant difficulty in recruiting or training staff due to the labour vacuum created by resources projects. For example, a mechanical services company servicing the resources and agricultural sector may experience difficulty in attracting and retaining semi-skilled workers such as drivers, stores-people and trades assistants. The local labour pool in most cases has been largely absorbed by the resources sector and options to bring in domestic labour is limited due to an inability to pay rates similar to those in the resources sector. In such cases, the employer would be advantaged by having access to semi-skilled labour through a temporary skilled migration pathway.

5. CONCLUSION

The focus of Australia's migration policy needs to remain on the three Ps, being population, participation and productivity. The long-term prospective needs of business, as well as its short- and medium-term requirements, need to be addressed in order to achieve a balanced migration policy. Only a balanced migration policy covering short-, medium- and longer-term skills and labour needs will meet the requirements of Australian business.

Subclass 457 visas, EMAs and RMAs are a prime vehicle in meeting short-term skills needs during intensive construction phases of major resource projects as well as meeting demand for skills more broadly where that is difficulty in filling vacancies.

Temporary skilled migration pathways through subclass 457 visas and the proposed EMA and RMA pathways provide a dynamic approach to short term human capital needs for Australian employers who face difficulties in attracting local labour sources. EMAs and RMAs will provide a unique opportunity to provide a work ready workforce for major resource development projects, ensuring a balance in the supply of labour between domestic and overseas workers, based on the capability of the existing workforce.

Far from increasing confidence in the 457 visa, it is ACCI's concern that the proposed changes will in fact discourage a large number of Australian businesses from using the 457 visa at all. This will place increasing pressure on the (already over-stretched) resident skilled workforce, drive up wages (through artificial market interference), and ultimately reduce the ability of Australian businesses to complete in a global market. A further consideration should be that an obligations framework which places additional costs on employers will ultimately be borne by the Australian community via price increases which will in turn place inflationary pressures on the Australian economy.

6. ACCI MEMBERS

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