



Australian Hotels Association

Submission in relation to:

Review of Permanent Employer Sponsored Visa Categories

Sponsored Skilled Migration Policy Section
Department of Immigration and Citizenship
Sponsored.Skilled@immi.gov.au

16 September 2011

About the AHA

The Australian Hotels Association (AHA) is an organisation of employers in the hotel and hospitality industry registered under the *Fair Work (Registered Organisations) Act 2009*. Its membership of more than 5,000 licensed hotel businesses includes pub-style hotels plus three, four and five-star accommodation hotels located in each state and territory. The AHA has branches located in every Australian capital city and a Canberra-based national office.

Employer sponsored migration in the hotel industry

The hotel industry is a significant employer, with more than 278,000 persons employed between the pub sector (188,000)¹ and the accommodation sector (90,000)², and an annual wages and salaries contribution of \$5.41 billion. In addition there are an estimated 20,000 employees in the casino sector³. Although some hotels are large-scale operations with hundreds of employees which form part of national or international chains, the majority of AHA members are small, locally-owned businesses serving their surrounding communities. In 2005-06 only 145 of 65,197 businesses in the ABS Accommodation, Cafes & Restaurants sector employed more than 100 people.⁴

The AHA's members operate highly labour-intensive businesses and as such are significantly impacted by wage increases. The Australian Fair Pay Commission identified that wages amount to 24 per cent of total expenses in the hospitality industry compared to the average across all industries of 15.8 per cent.⁵ The average AHA member therefore has relative wage costs which are nearly 52 per cent higher than the average Australian business.

The nature of the hotel industry requires employees to be engaged outside of normal business hours. In most cases, the majority of hours worked in the business are at night and on weekends. This results in significant additional costs through the penalty structures in the award system. The hospitality industry is highly competitive, and competition on price results in "relatively low profit margins... of 5.5 per cent, compared with 10.8 per cent across all industries in the economy."⁶

These factors contribute to a difficulty for the hotel industry in finding labour during periods of very high employment. Shortages of skills and labour are constraining the development of the industry. Attempts to fill positions with local workers are often unsuccessful and sourcing labour from overseas is a necessity for many AHA members.

The unique nature of work in the hospitality industry creates difficulties for hotels in complying with certain aspects of the current employer-sponsored migration scheme. This submission raises issues including English language competency requirements, the need for greater parity between salaries of overseas workers and local award-based employees, and the difficulty for small and regional employers in satisfying training requirements.

¹ PricewaterhouseCoopers (2009) *Australian hotels: More than just a drink and a flutter*

² Australian Fair Pay Commission (August 2008), *Accommodation, Cafes and Restaurants Industry Profile, Research Report No. 1/09*

³ Australasian Casino Association, *Submission to the Parliamentary Joint Select Committee on Gambling Reform*, 31 January 2011

⁴ Australian Bureau of Statistics (2007), *Australian Industry 2005-06*

⁵ Australian Fair Pay Commission (August 2008), *Accommodation, Cafes and Restaurants Industry Profile, Research Report No. 1/09*, p31

⁶ *Ibid*, p40

Responses to the Discussion Paper questions

1. How can the government best facilitate access to skilled and semi-skilled migrants in the areas they are most needed while maintaining employment and training opportunities for Australian workers?

- The AHA submits there should be multiple pathways to sponsor semi-skilled workers from other visas, especially in areas of high labour shortages. The labour shortages in the hospitality industry are more pronounced at the semi-skilled level, and the current pathways are not adequate.
- There should be greater flexibility with English language requirements. For jobs such as cookery where there is little customer contact and where there is a labour shortage, it is fair and reasonable to accept a lower standard of English competency.
- Employers are exposed to costs when engaging and sponsoring semi-skilled workers, and time is taken to train these workers to meet operational requirements. The six month limit of working with a single employer serves to both discourage employer participation and create unfairness with an employer potentially reaping the benefits of a worker trained and sourced by another employer. The AHA recommends extending the maximum time for working with a single employer to 12 months.
- The current threshold promotes the use of 457 visa holder workers for employment on days where additional award penalty loadings apply so as to ensure the “overloaded” salary equates with the visa salary threshold.
- The salary thresholds for 457 visas are causing problems for hotels in balancing salary expectations with local award-based employees in similar roles, whose award rates of pay are lower than that required for overseas workers. AS a result, the 457 visa has become a less effective tool in addressing hotel labour shortages. The AHA acknowledges that 457 visa holders have some additional living expenses but does not agree that in all cases that these additional expenses equate to the salary threshold.
- The training benchmarking requirements discriminate against smaller businesses, which do not have the economies of scale or, in cases of regional employers, the access to training that exists in major cities. Training on this sort of scale is simply beyond the capacity of many hotel employers, remembering that these are the sorts of businesses which have the most difficulty obtaining Australian workers. The AHA submits that training benchmarks include flexibility such that employers receive credit for employing a certain percentage of Australian citizens to ensure ongoing employment opportunities for local citizens. This flexibility could be extended to a cluster of employers within a specific region.
- The AHA believes there is merit in removing the obligation for employers to pay superannuation to the holders of Working Holidaymaker visas. This would remove a significant cost to employers which could instead be allocated to providing training opportunities for Australian citizens.

2. How can the government ensure that employer sponsored migrants perform well in the labour market and are not exploited? For example, what is the role for English language requirements, skills assessments, salary thresholds and age restrictions?

- Skills assessment to meet industry needs;
- Salary thresholds as per applicable Workplace Relations legislation and Awards;

- Age restriction of 55 years;
- Reduce English testing requirements on proviso the employee attends TAFE or other training;
- Need specific benefits/assistance for employees over the age of 45 years;
- Use other resources to help applicants study English when in Australia (ie, TAFE or in regional areas community group and church groups);
- Responsibility/onus on sponsoring employer;
- Page 12 states: *'Poor English language skills are not necessarily an impediment to a person's ability to do the specific job for which they were selected to enter Australia. These workers have, however, been found to be more vulnerable to workplace exploitation and have limited future employment opportunities'*. The AHA suggests DIAC offer an on-going support program for these workers to ensure there is no exploitation.

3. What concessions or flexibilities are needed to support positive economic and social outcomes in regional and low-growth areas and how could these be implemented.

a) Are lower salary thresholds or English requirements appropriate?

- As per Workplace Relations legislation and Awards;
- Reduce ELTS. More flexibility with English requirements. Should be determined in accordance with Industry needs, for example, consider the level of English requirements for chefs/cooks.

b) Is there a role for provisional visas that require migrants to stay in the region for a set period of time?

- Flexible agreements could be made for different set periods of time;
- If sponsored here, must stay in same industry (can't change visas);
- Switching Employers would need to be done by consent or as a consequence of a genuine dispute;
- Visa options and categories need to be reviewed more often in order to remain responsive to changing labour market (i.e. additional visa options during specific periods including peak seasonal periods);
- One of the objectives for the review is to make it easier for certain skilled temporary visa holders (i.e. 457 visa holders) to be sponsored for permanent residence. If this occurs, there should be a condition that employees who are sponsored for permanent residence must remain with that employer (or that industry) for a specified period of time;
- Page 11 states *'People who are already living and working in Australia for a period of time have established themselves within the local community and are more likely to settle permanently in Australia'*. Could there be an option for working holiday makers who have worked for a specified period of time with an employer (or in an a particular industry) to be sponsored for *semi-skilled* occupations if there is a commitment to on-the-job training (or through an RTO) to get them 'up to speed' rather than the requirement to already possess skills/experience?

c) Would the continued use of local certifying bodies and/or exceptional circumstances provisions provide more integrity when assessing individual applications?

- Streamline process employer organisations. Certifying bodies take too long to process;
- Certifying bodies for the Regional Sponsored Migration Scheme (RSMS) should be based locally and be industry and regionally specific. This would allow for certifying bodies that are familiar with local labour market conditions. Perhaps certifying bodies should also be industry specific?
- Page 15 & 16 outline that the employer sponsored visa programs currently allow discretionary powers for considering 'exceptional circumstances' provisions. The definition of 'exceptional circumstances' is currently subjective and inconsistent. Exceptional circumstances should be defined as per the various circumstances that may apply within different industries (i.e. the definition of 'exceptional circumstances' should be different for hospitality employers than the resource sector);
- Employer Associations should provide advice regarding labour shortages in medium/high demand.

4. How could visa processing be streamlined, particularly for suitably qualified workers transitioning from temporary to permanent residence?

- Increase DIAC staff to accommodate efficient visa processes;
- Various streams of processing (i.e. mining takes up most of DIAC resources – break up by industry);
- Faster visa express applications at premium costs but should not occur if DIAC had enough resources;
- Visa fast-track – RSMS less complex with less responsibility on certifying bodies;
- Paper process an administrative burden;
- Page 17 also states that there are priority processing procedures in place for the RSMS – this should also extend to the ENS for those industries with a critical labour shortage;
- What is the process for DIAC to ascertain the 'market-based salary levels'? This information is almost impossible to obtain for regional areas.

5. Additional Comments

- Use of ABS stats re. high levels of unemployment due to Australians not wanting jobs;
- ENSOL – chefs/cooks and various managers must be on list;
- 457 based on individual requirements where there is a demand (i.e. hospitality);
- Hospitality areas (cooks/chefs/managers) demonstrated experience should be considered;
- DIAC website needs an overhaul. Complex, difficult, not user friendly;
- Those sectors that are draining Australian labour (i.e. the resources sector) should be responsible for somehow contributing to labour shortages in industry sectors that are left with labour shortages;
- Recently announced Enterprise Migration Agreements (EMAs) are to cater to the semi-skilled labour needs of the resource industry. These are a temporary migration initiative developed to address the specific labour needs of the resource sector. Why aren't these

offered to other industry sectors that have critical labour shortages (i.e. hospitality). Surely the resource sector already has an advantage?

- On page 9 of the review it states 'Workers employed in semi-skilled occupations are generally able to develop these skills within a short period of time or through on-the-job training, and therefore it is reasonable to expect that employers will obtain these workers from the local labour market'. This statement is incorrect – often, it is the semi-skilled employees that are difficult to source. Therefore, it should not be assumed that employers are able to obtain these workers locally;
- Page 17 outlines that a total of 46,000 places have been allocated to the employer sponsored visa categories for 2011/12 (16,000 of these set aside for the RSMS). Are these allocated by industry and/or state demand also? If not, they should be to ensure the critical labour shortages are given an adequate allocation;
- Should employers be able to sponsor employees on a contract other than full-time?
- Whilst not a sponsored visa, working holiday maker visas should be granted an extension for hospitality work (and increase the age limitations);
- Having an online process has assisted members;
- More detail needs to be provided around the ANZCO codes (some are very specific and others are very broad);
- Once a hotel has invested into training visa holder staff and has retained that staff throughout the visa set period then provision should be made for further extension on application by an employer without the expectation of a pathway to citizenship.

Contact

Des Crowe
National Chief Executive Officer
Australian Hotels Association
Ph: (02) 6273 4007
Email: crowe@aha.org.au