



Immigration Advice
and Rights Centre

29 July 2024

Ms Sophie Dunston
Committee Secretary
Legal and Constitutional Affairs Legislation Committee
Parliament House
Canberra ACT 2600

Dear Ms Dunston,

Inquiry into the Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024

The Immigration Advice and Rights Centre (IARC) welcomes the opportunity to make a submission to the Legal and Constitutional Affairs Legislation Committee's Inquiry into the *Migration Amendment (Strengthening Sponsorship and Nomination Processes) Bill 2024*.

IARC is a not-for-profit, specialist community legal centre providing free legal advice and assistance to people throughout New South Wales. Our vision is for a fair, just, and accessible Australian immigration system. We provide advice in relation to migrant worker exploitation, immigration and domestic violence, Family visas, Refugee and Humanitarian visas, visa cancellations, and Australian citizenship. IARC promotes a fair immigration system through law reform, community development, and free legal education to workers and the broader community.

We commend the Government on two core aspects of this Bill: the inclusion of the indexation formula for the minimum income threshold in the Migration Act, and the establishment of a legislative framework for a register of approved sponsors. These changes should provide migrant workers with greater certainty about their future and reduce workplace exploitation.

While the exact policy settings for the proposed Skills in Demand visa are yet to be determined, we wish to recommend that the visa conditions for migrants in the Essential Skills Pathway be less stringent than the other two pathways. Specifically, all migrants in the Essential Skills Pathway should be allowed to undertake secondary employment to increase their income and improve their subsequent employment prospects.

Commendations

IARC commends the Government for inserting the indexation formula into the Migration Act for both the Core Skills Threshold (CST) and Specialist Skills Threshold (SST). This legislative change provides migrant workers with greater certainty about their future, including many skilled IARC clients referred to us through the Visa Assist program delivered in partnership with Unions NSW. Migrants can now be confident that their wages will rise in line with inflation, and that future Governments cannot freeze the minimum income threshold, as occurred from 1st July 2013 to 1st July 2023 when the Temporary Skilled Migration Income Threshold (TSMIT) remained at \$53,900.



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IARC also commends the establishment of a legislative framework for a register of approved sponsors. In a July 2023 submission co-authored with Unions NSW on what became the *Migration Amendment (Strengthening Employer Compliance) Act 2024*, we argued that new criminal offences alone would not prevent migrant worker exploitation if employers were not properly monitored.¹ The establishment of a register of approved sponsors rightly enhances Government oversight of employers who sponsor skilled workers in Australia. This register should reduce exploitation by encouraging greater employer compliance with Australian workplace laws.

Recommendations

While the exact policy settings for the proposed Skills in Demand visa are yet to be determined, we wish to recommend that the visa conditions for migrants in the Essential Skills Pathway be less stringent than those for the other two pathways. Specifically, Condition 8607 (and other comparable conditions), which may make the visa subject to cancellation if the migrant undertakes secondary employment, should not be applied to migrants within this pathway.

The Federal Government recognises the greater risk of migrant worker exploitation within lower-paid sectors of the economy.² Many migrants who come to Australia through the Essential Skills Pathway will earn substantially less than their counterparts in the Core Skills Pathway, which guarantees a minimum annual income of \$73,150 for migrants whose applications were lodged after 1st July 2024.³ For instance, the new Aged Care Industry Labour Agreement stipulates that migrants in this sector will earn an annual salary of at least \$51,222, which is only about 70 per cent of the CST.⁴

Migrants in the Essential Skills Pathway are more vulnerable and liable to workplace exploitation because of these lower pay rates. We believe it is imperative to permit migrants in this pathway to undertake secondary employment, while maintaining their sponsor as the primary employer to maintain the integrity of the employer-sponsored arrangement. By way of example, allowing aged care nurses to be employed by local hospitals for weekend or after-hours on-call shifts would enable migrants to raise their income closer to the CST level and improve their subsequent employment prospects, benefiting the migrants themselves and the Australian economy. Crucially, greater flexibility would also empower low-paid migrants to escape exploitative employers more easily.

Yours sincerely,

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¹ IARC-Unions NSW Submission to *Migration Amendment (Strengthening Employer Compliance) Bill 2023*. (2023, July 21). (p. 6).

² Australian Government. (2023). *Migration Strategy: Getting migration working for the nation*. (p. 44).

³ Department of Home Affairs. (2024, June 30). Retrieved July 26, 2024, from [Salary requirements to nominate a worker \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/salary-requirements-to-nominate-a-worker).

⁴ Department of Home Affairs. (2023, November 22). Retrieved July 26, 2024, from [New Aged Care Industry Labour Agreement \(homeaffairs.gov.au\)](https://www.homeaffairs.gov.au/new-aged-care-industry-labour-agreement).



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