



Skilling Australians Fund (SAF) Levy Review

Submission by the Australian Council of Trade Unions to the
Ministerial Advisory Council on Skilled Migration

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Contents

Introduction	1
Labour Market Testing (LMT)	1
Recommendations to strengthen LMT	2
Skilling Australians Fund (SAF)	3
Operation of the SAF Levy	3
Operation of the SAF	3

Introduction

The Australian Council of Trade Unions (ACTU) is the peak trade union body in Australia, with 43 affiliated unions and state and regional trades and labour councils, representing approximately 2 million workers across the country.

The ACTU welcomes the opportunity to make an initial submission to the Ministerial Advisory Council on Skilled Migration to review the Skilling Australians Fund (SAF) Levy. Australia has an underclass of exploited temporary visa holders, and a temporary skilled visa system that is driven by the interests of business rather than the interests of the Australian people. Fundamental transformation of Australia's visa system is required to end the exploitation of temporary visa holders and ensure local workers have opportunities.

Labour Market Testing (LMT)

The ACTU supported the improvements to LMT for the Temporary Skill Shortage visa (Subclass 482) and Skilled Employer Sponsored Regional (Provisional) visa (Subclass 494) implemented as part of the *Skilling Australians Fund (SAF) Act* in August 2018, which included requirements that advertising of positions must:

- Occur within four months prior to nomination
- Occur for a minimum of four weeks
- Be targeted in such a way that a significant proportion of relevant Australians would be likely to be informed about the position
- Set out any skills or experience requirements that are appropriate to the position.

The ACTU does not support any reduction to these requirements. Rather, LMT must be tightened and made more rigorous to guarantee that businesses have made every effort to fill a position locally before employing a temporary visa worker. The current pandemic has been an unfortunate experiment on the interaction between temporary skilled migration and training opportunities for Australians. With apprenticeships now at unprecedented low levels, and still no meaningful increase in wages, there is no ambiguity: high levels of temporary skilled migration come at the cost of jobs for young Australians.

The current system of LMT is already too weak and suffers from a lack of enforcement. Unfortunately, there are some employers and industries that have perpetuated a skill shortage through their active preference to engage short-term visa workers rather than skill-up local workers. These employers have determined it is in their economic interests to engage temporary

visa workers because of their vulnerability to exploitation and to enable the employer to undermine collective bargaining outcomes, and so deliberately seek to circumvent LMT requirements or only test the labour market in a superficial way to satisfy visa sponsorship criteria, with no real intention of identifying potential local candidates. ACTU affiliate the Australasian Meat Industry Employees Union (AMIEU), notes for example that it is common for employers in the meat industry to advertise a vacancy and report that no suitable candidates applied, while they have rejected local candidates for spurious reasons, for example subjecting candidates to rigorous pre-employment medical checks that temporary visa workers are not subjected to. The AMIEU note the effect of this is that over time it becomes common knowledge in the community that applying for work at the local abattoir is pointless, and so simply stop applying for vacancies.

As such, we do not support the recommendations made by the Joint Standing Committee on Migration's Inquiry into Australia's Skilled Migration Program in its interim and final reports¹ for less prescriptive LMT requirements and exemptions from LMT.

Recommendations to strengthen LMT

We urge MACSM to consider options to strengthen LMT requirements and enforcement in order to ensure opportunities for local workers, and to prevent unscrupulous employers from engaging vulnerable temporary visa workers in order to exploit them and avoid skilling-up local workers.

LMT must be improved to include:

- Bans on advertising targeting only overseas workers or workers with specific language skills (with relevant exceptions) and advertisements setting unwarranted and unrealistic expectations of skills and experience in order to exclude local workers
- Employers delivering evidence against strict criteria that no qualified local worker was available within a reasonable timeframe
- Proof by employers that they have offered better wages, payment of relocation costs as well as training to potential candidates in case of labour shortages before applying to bring in temporary visa workers
- Proof by employers that they have sought to employ those most disadvantaged by the labour market such as Indigenous workers, older workers and long-term unemployed

¹ Joint Standing Committee on Migration, 'Interim Report of the Inquiry into Australia's Skilled Migration Program', March 2021 https://parlinfo.aph.gov.au/parlInfo/download/committees/reportint/024650/toc_pdf/InterimReportoftheInquiryintoAustralia'sSkilledMigrationProgram.pdf;fileType=application%2Fpdf and 'Final Report of the Inquiry into Australia's Skilled Migration Program', August 2021 https://parlinfo.aph.gov.au/parlInfo/download/committees/reportint/024680/toc_pdf/FinalReportoftheInquiryintoAustralia'sSkilledMigrationProgram.pdf;fileType=application%2Fpdf

- A public database of jobs advertised as well as data on what the results of that advertising were (ie. The number of applications received, the number of applicants hired, and reasons why unsuccessful applicants were not considered suitable)
- Proof that a set number of existing employees are engaged in training (apprenticeships/traineeships/scholarships etc) for the occupation/s being sought.

Skilling Australians Fund (SAF)

The ACTU supports the SAF levy, which serves as an incentive for businesses to test the local labour market for suitably skilled local workers before lodging a nomination to bring in a temporary visa worker. It is based on the principle that businesses who employ temporary visa workers should contribute to the skilling-up of local workers, and that in the medium to longer term, local workers must be trained to limit the need to engage temporary visa workers to cover workforce gaps due to skill shortages. It is clear that in order for Australia to recover and rebuild from the COVID-19 crisis, Australians are going to need more, rather than less, support in developing work-related skills, and therefore more funding for training will be required. Employers benefit from workers' skills, and so should bear a share of the costs. The quantum of the levy and the operation of the SAF could be improved, however, to lessen the incentive for businesses to employ temporary visa workers instead of providing opportunities to local workers.

Operation of the SAF Levy

We support an increase to the SAF levy such that the cost of bringing in a temporary migrant worker is commensurate with the cost of hiring and training a local worker. Any lesser amount provides an incentive for employers to use temporary visa workers instead of training and employing local workers. We do not support employer exemptions from the SAF levy, or an exemption for employers paying the SAF levy twice for the same worker. Temporary visas can be up to four years in length – if an employer has engaged a temporary visa worker to deal with a skill shortage but has not been able to train up a local worker during that time, then we see no reason why the employer should not pay the SAF Levy a second time.

Operation of the SAF

The ACTU supports changes to the operation of the SAF to better align it with training outcomes related to the industries and locations where the SAF levy is collected: there needs to be more transparency over where monies from the SAF are spent, and a match between where funds are raised and where they are spent. For example, SAF levies collected from employers in the meat industry should go to skilling local workers in the meat industry, to reduce the industry's reliance on temporary visa workers in the medium and longer term. There should also be a closer geographical connection between where the funds are raised and where they are spent – currently,

Victoria and Queensland are not party to bilateral agreements with the Australian Government under the SAF, meaning funds raised in these states are not going to training workers in these states. Finally, the scope of the Fund should also be broadened to provide training and skills in other areas of the economy that do not operate on an apprenticeship system, for example aged and disability care.

address

ACTU
Level 4 / 365 Queen Street
Melbourne VIC 3000

phone

1300 486 466

web

actu.org.au
australianunions.org.au