

Agricultural Competitiveness Green Paper Submission

Date submitted

12/12/2014

Name of Organisation/Individual

Regional Development Australia Mid North Coast

What are the top policies from the Green Paper that the Government should focus on in the White Paper and why?

Visas programs for skilled and unskilled labour form an integral role in addressing the skills shortages experienced in the agriculture sector by Mid North Coast, NSW. As a Regional Certifying Body (RCB) gazetted by the Department of Immigration and Border Protection for the S187 and S489 visas, RDAMNC performs a vital role in ensuring that while these visas address regional skills shortages, they do not disadvantage recent graduates, long term unemployed and people of all ages looking for work. Employers in our region utilise many of the visas named in the Agricultural Competitiveness Green Paper (ACGP), including RSMS (S187), S457, Working Holiday Maker (417 and 462) and the Seasonal Worker Program (416).

RDAMNC supports the Agricultural Competitiveness Green Paper Policy Idea 15 – Strengthening labour availability as per the following:

- a. Expand the Working Holiday Maker (417) visa

RDAMNC agrees with the suggested changes as per the ACGP.

- b. Broaden skills coverage of the Temporary Work (Skilled) visa (subclass 457)

RDAMNC agrees with the proposal to broaden the range of skills covered by the 457 program to include some occupations that are highly skilled.

RDAMNC believes the proposal to amend English language and skill requirements under the 457 visa review has the potential to adversely affect visa holder's worker's rights. In our capacity as a RCB of the RSMS S187 visa, we regularly receive non-compliant employment contracts signed by the employer sponsored nominees. Areas of non-compliance include wages below award and/ or market salary rates, as well as leave entitlements and accruals that contravene the National Employment Standards and Fair Work Australia minimum requirements. Some of these contracts are signed by nominees who appear to be unaware of their entitlements and legal rights due to low English language skills or ability to read and understand the contractual terms, and/or an unfamiliarity with their rights as an employee in Australia. Lowering the level of English below the current scores could seriously impact both the initial signing of employment contracts, and the ability of the visa holder to question any disparate terms of employment once they have commenced work.

In administering the RSMS program where the visa applicant is required to have an IELTS score of at least 6, it is our understanding from speaking with employers and visa holders, that the majority of dependent s accompanying the visa holder have even less English language skills. We are also aware

of the flow on effects of reduced English levels on partners and children who accompany the visa holder as dependents. Anecdotal evidence provided by MNC regional schools suggests that where there is little or no English spoken at home, many children in turn struggle to assimilate and achieve academically when starting school. We therefore would encourage that any amendments made to the current level of English required under the 457 visa not reduce the current minimum IELTS or OET 'B'- (thinking homework, assistance and reading etc).

Local employers, RTO's and JSP's have expressed concern that when faced with applications from highly qualified, experienced overseas skilled workers, and those applications from recent Australian graduates or less experienced applicants, that employers will choose the former applicants in preference to the latter, thereby potentially disadvantaging Australian Citizens and permanent residents. While it is imperative that there be avenues available to employers to address regional skills shortages, it should not be at the expense of available local labour. RDAMNC recognises that some of the requirements of employer sponsored visas, including the 457 visa program, could create unnecessary regulatory burdens for employers. Feedback from the majority of our regional employers, JSP's and RTO's indicates they would welcome a streamlined visa application process, however, not at the expense of workplace safety, the rights of the visa holder or the local Australian employment citizens or permanent residents.

c. Expand the Seasonal Worker Program (SWP)

Visa holders under the SWP play an integral role in supplementing the agriculture domestic labour supply for the Mid North Coast. Participants from Pacific nations and East Timor work in a variety of agricultural sectors for periods ranging between 14 weeks and 6 months. We agree with the proposal to expand the industry cover of the SWP to all agriculture sectors.

The majority of the overseas seasonal workers on the SWP on the Mid North Coast are from low income and underdeveloped communities. The income earned from such employment has a flow on effect upon the visa holder's return to their communities, benefiting the general community as well as the family of the worker directly involved in the program.

While RDAMNC recognises the financial benefits of reducing transportation costs for Australian farmers utilising this labour source, with a lack of information as to who would bear the cost of flights and domestic transfers, we are concerned that recouping these costs from the SWP visa holders would negate the financial benefits of the program. The capacity of SWP workers to cover the travel costs upfront could potentially limit the ability of worthwhile and 'needy' individuals to participate in the program.

d. Streamline application processes

RDAMNC agrees with the suggestion to reduce red tape on the S457 visa by reducing application waiting periods and encouraging greater uptake of labour agreements.

As an RCB for RSMS S187, we are privy to the employment contracts and financial statements of regional agriculture businesses, many of whom have very little or no idea of the rights of their employees under NES and Fair Work Australia. A number of these businesses struggle to make the transition from unpaid family members to employing paid staff and this is regularly reflected in non-compliant terms and conditions of employment. Areas of non-compliance include but are not limited

to: hours of work per week, overtime and penalty rates, unpaid super and PAYG and accrual of leave entitlements. While labour agreements have the potential to streamline the S457 application process, RDAMNC and associated community service providers would encourage an education aspect for those employers unfamiliar with conducting compliant business practices in Australia, including the terms and conditions of employment for all their employees.

e. Provide clear pathways to residency

As a Regional Certifying Body RDAMNC is in agreement with streamlining the pathways to residency, provided that there is a rigorous process for assessing visa applicants who have experience but no formal qualifications.

What policies from the Green Paper don't you support and why?

Please refer to Question 1, where further explanations are added to answers.

General Comment

In administering the RSMS for the MNC region over the past 5 years, on a number of occasions we have received employer nominations that have been fraudulent with regard to nominee qualifications and alleged experience. The integrity of the skills assessments provided through VETASSESS and similar bodies provides assurance to our regional business community and the private sector that the nominees attaining Permanent Residency under the S187 visa genuinely have the qualifications and experience to meet the known regional skills shortages, without their appointment being at the expense of employing Australian Citizens and Permanent residents to the nominated positions.

RDAMNC recognises that significant experience with no formal qualifications should not be a hindrance in terms of a pathway to residency. We do encourage, however, a stringent assessment process be undertaken to ensure that the aforementioned experience is genuine and equates to those skill sets that a qualified person would demonstrate.

RDAMNC supports clear pathways to residency but stresses the importance of ensuring the integrity of the various programs is preserved.

With considerable experience in relation to the permanent residency visa S187, we feel qualified to speak for our regional community with regard to this visa. Our role as an RCB provides an additional level of protection to the integrity of the RSMS visa program, reducing the potential and opportunity for non-genuine employers to abuse the program or to potentially exploit migrant workers. For visa recipients who experience mistreatment, RCB's provide a point of contact and the ability to direct to appropriate government agency and support services.

Our communities and local businesses rely on regional RCB's to ensure that local Australian Citizens and Permanent Residents, including new graduates and suitably qualified applicants, are not disadvantaged through the RSMS program and have equal opportunity to gain employment.

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Our RCB advice provides confidence to visa processing officers that the employer has made a genuine attempt to employ from the local labour pool and that there is genuine skills shortage of that occupation in the region. We provide support to the validity of the application through our "on the ground" local knowledge of the business/employer presence and any disparity that may exist in relation to documented claims as opposed to physical operating reality. RDAMNC has on occasion been in receipt of S187 applications where fraudulent documents and questionable businesses have been identified as a result of local on the ground knowledge and awareness of business operations.

We have attached for your consideration a joint letter written in May 2014 by NSW RDA's who operate as Regional Certifying Bodies for RSMS S187. The letter submitted to DIBP was in relation to a proposal to deregulate the RCB process in order to reduce red tape for business.

Please note this application is in addition to a previous application from RDA Mid North Coast - already submitted, however purely related to a specific topic.