

30 April 2014

Mr John Azarias
Panel Lead
Independent Panel of the Subclass 457 Visa Programme Review
c/- Department of Immigration and Border Protection
PO Box 25
BELCONNEN ACT 2616

Dear Mr Azarias,

RE: Australian Dairy Industry Council submission to the independent review of integrity in the subclass 457 visa programme.

The dairy industry is one of Australia's major rural industries. Based on farm gate value of production, it is ranked third behind the beef and wheat industries, delivering \$13 billion of value to Australia's economy each year. There are approximately 6,400 farms producing close to 9.2 billion litres of milk annually, for a farm gate value of just under \$4 billion.

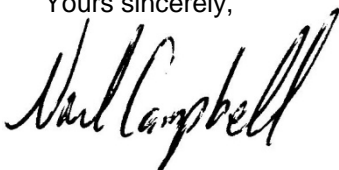
The dairy industry welcomes the chance to present this submission to the independent review of integrity in the subclass 457 visa programme. The dairy industry is a significant rural employer, directly employing around 43,000 people on farms, in factories and other industry bodies. The dairy industry, like other agricultural commodities, experiences labour shortages in critical on-farm and manufacturing roles, particularly in rural and regional areas, and often relies on temporary overseas workers to fill these roles.

This submission is made on behalf of the Australian dairy industry by the Australian Dairy Industry Council (ADIC). The ADIC is the national peak policy body for the Australian dairy industry and represents all sectors of the industry on issues of national and international importance. Its constituent organisations – the Australian Dairy Farmers Limited (ADF) and the Australian Dairy Products Federation (ADPF) – represent the interests of dairy farmers, manufacturers, processors and traders across Australia.

This submission outlines the ADIC's response to several of the questions raised in Terms of Reference 2 and 3, which are most relevant to the dairy industry. In particular, we will focus on the effectiveness of the Australia and New Zealand Standard Classification of Occupations (ANZSCO) codes and occupations and Consolidated Skilled Occupation List (CSOL) in facilitating access to overseas temporary labour. We will also briefly outline the dairy industry's efforts to address labour shortages utilising both the domestic and overseas labour forces.

Should you require any clarification of the comments contained herein, please contact the ADIC on (03) 8621 4250.

Yours sincerely,



Noel Campbell
Chair
Australian Dairy Industry Council

ADIC RESPONSE TO QUESTIONS IN THE TERMS OF REFERENCE

Terms of Reference 2 and 3

- *Evaluate the regulatory framework of the subclass 457 visa programme and determine whether the existing requirements appropriately balance a need to ensure the integrity of the programme with potential costs to employers in accessing the programme.*
- *Report on the scope for deregulation while maintaining integrity in the programme.*

Recommendations

1. That the Government investigate whether the skills recognition framework used for the Australian migration system, the Australian and New Zealand Standard Classification of Occupations code system (ANZSCO), appropriately recognises industry skills and qualifications within primary industries.
2. Increase the number of agricultural occupations on the Consolidated Sponsored Occupations List (CSOL) – examples of current occupations not on the CSOL are ‘Senior Farmhand’ and ‘Dairy Farm Production Manager’.
3. Align the skill levels used by the Department of Immigration and Border Protection (DIBP) in assessing eligibility for skilled migration with the Australian Qualifications Framework skill levels.
4. Nominate a dedicated Case Officer (or team) within the DIBP to process 457 visa applications from agricultural commodities, to ensure consistency in decision-making and in interpretations of skills assessments.
5. That the Government facilitates agriculture sector template labour agreements for industries facing chronic shortages of skilled labour, such as the dairy industry.

Q10. How effective are skills assessments in ensuring 457 visa holders have the skill for the nominated position? Is there something that could be done to streamline the requirement for business?

Q12. Is the Consolidated Skilled Occupation List (CSOL) an appropriate source for occupations relevant to the 457 visa?

Q13. How should the composition of the CSOL be determined?

Q14. Is there a more effective way to define nominated positions than ANZSCO, to capture emerging occupations and to provide clarity of positions between skill levels?

Dairy, like most other agricultural commodities, suffers a chronic skilled labour shortage.¹ Difficulty attracting workers to rural and regional areas has dire consequences on our industry, which is already impacted by an ageing demographic.

The dairy industry has been actively developing and implementing strategies to attract, retain and develop a skilled domestic workforce through education programs spanning from primary (Discover Dairy, Picasso Cows), and secondary (Cows Create Careers), through to tertiary education (the National Centre for Dairy Education Australia, postgraduate scholarships).² However, despite these efforts, a labour shortage exists that can only be filled by overseas labour.

Dairy’s future depends on attracting, training and retaining the next generation of farmers, food scientists, processing workers, and industry service providers. While the industry invests heavily in programs to recruit, train and retain skilled workers within Australia, closing the gap from the local workforce will take time. Recruitment of overseas workers offers a short-to-medium-term solution.

Many farmers rely on overseas labour to fill essential on farm roles that cannot be filled by the domestic labour force. However, accessing overseas labour through the subclass 457 visa programme is a frustrating and laborious task, leading to delays in recruiting skilled employees from overseas to fill skills shortage gaps. Some of the challenges with the current process involve Department of Immigration and Border Protection (DIBP) staff being unfamiliar with the skill requirements for many on-farm roles, and a

¹ http://c.ymcndn.com/sites/www.agrifoodskills.net.au/resource/resmgr/publications/2013_environmental_scan.pdf – AgriFood Skills Australia Environmental Scan 2013, p. 39

² <http://www.dairyaustralia.com.au/People-and-skills/Careers.aspx> – Dairy Australia Education and Careers programmes

lack of understanding about skills and training recognition from overseas training institutions. These issues are exacerbated by misalignment of the Australian Qualifications Framework (AQF) with the skills classifications used by the DIBP in assessing eligibility for skilled migration.

The AQF is the national system of cross-sectoral qualifications, introduced in 1995 to provide national recognition and consistency as well as common understanding across Australia of what defines each qualification. The AQF levels define the relative complexity and depth of achievement and the autonomy required of graduates to demonstrate that achievement. In the AQF there are 10 levels with level 1 having the lowest complexity, recognised as Certificate I, and AQF level 10 the highest complexity, recognised as a Doctoral Degree. A Bachelors Degree is recognised at level 7, medium-high complexity.³

The ADIC sees a number of inconsistencies in ANZSCO definitions and current practice, such as definitions used in the Pastoral Award 2010, and for a number of occupations that have their skill levels classified too low to enable employers access to the 457 visa scheme. For example, the ADIC believes Dairy Farm Cattle Worker (841512) skill levels are classified too low, at skill level 5, equivalent to Certificate I (AQF level 1). Conversely, classifications such as Dairy Cattle Farmer (121313) are classified too high, at skill level 1, equivalent to a Bachelors Degree (AQF level 7), meaning that many applicants do not pass the required skills threshold. Further, ANZSCO definitions do not recognise on-farm skilled qualifications between skill levels 1 and 5, which is inconsistent with AQF skills recognition. Under the AQF, Certificates III and IV in Agriculture and the Diploma of Agriculture are consistent with ANZSCO skill levels 3 and 4, yet ANZSCO definitions do not recognise these qualifications for the purposes of skilled dairy farmhands and managers.

ABS data from 2011 shows that 60.4 per cent of people employed in the agriculture and fishing sector have no post-secondary qualifications, with just 9.7 per cent holding a Bachelors Degree – relevant for the most applicable occupation of Dairy Cattle Farmer (ANZSCO 121313) on the Consolidated Sponsored Occupation List (CSOL).⁴ This is a clear demonstration that the skill rating for farmers under ANZSCO is not reflective of the actual skill level required for farming, where much training is done on-the-job, and experience is valued higher than tertiary qualifications.

The ADIC notes that the next major review of ANZSCO is scheduled to begin following the 2016 census and release of the next full edition of ANZSCO in 2021. Given this timeframe, the ABS should work with industry to identify any significant changes required from the existing ANZSCO classifications. For example, the duty statement for Dairy Cattle Farmer (ANZSCO 121313) lists several responsibilities, such as *maintaining and evaluating records of farming activities, monitoring market activity, and managing business capital including budgeting, taxation, debt and loan management*, that are not relevant to Dairy Farm Production Manager (assessed domestically as being at FLH7 under the *Pastoral Award 2010*) and more relevant to a share farmer, farm owner or farm consultant. An application including these duties can be the basis for a Case Officer to refuse an application.

Recommendation 1

That the Government investigate whether the skills recognition framework used for the Australian migration system, the Australian and New Zealand Standard Classification of Occupations code system (ANZSCO), appropriately recognises industry skills and qualifications within primary industries.

Recommendation 2

Increase the number of agricultural occupations on the Consolidated Sponsored Occupations List (CSOL) – examples of current occupations not on the CSOL are 'Senior Farmhand' and 'Dairy Farm Production Manager'.

Recommendation 3

Align the skill levels used by the DIBP in assessing eligibility for skilled migration with the Australian Qualifications Framework skill levels.

³ <http://www.aqf.edu.au/aqf/in-detail/aqf-qualifications/> – AQF Qualifications, accessed 24 April 2014

⁴ <http://www.awpa.gov.au/our-work/sector-specific-skill-needs/Documents/Food%20and%20beverage%20workforce%20study.pdf> – Australian Workforce and Productivity Agency, Food and Beverage Workforce Study, October 2013, p. 54

Q17. Are Department of Immigration and Border Protection outreach officers utilised effectively by stakeholders in providing information on the 457 visa programme?

The DIBP Outreach Officer programme provides a valuable resource to farmers gathering information in preparation for an application. However, the ADIC believes that the challenge lies in the inconsistency of interpretation of skills by DIBP Case Officers assessing 457 applications, and a lack of knowledge surrounding eligibility when skills assessments are conducted.

Anecdotal evidence from dairy farmers who have attempted to secure overseas labour using the 457 visa programme and had applications rejected indicates that there is a lack of understanding amongst DIBP staff about the skills requirements and duty statements of on-farm roles. This is supported by the Dairy Australia and ADIC's own discussions with DIBP staff, where Outreach Officers advising farmers on eligibility for 457 visas at dairy information sessions late last year advised that overseas workers can only be brought in as farm managers on 457 visas, whilst the Canberra-based Case Officer believed the farm manager classification would cover skilled workers below the manager level.

The ADIC proposes the establishment of a dedicated team of Case Officers processing 457 visa applications from agricultural commodities. This will ensure consistency in decision-making and in interpretations of skills assessments, and enable training of DIBP staff to familiarise them with on-farm roles and eligibility criteria.

Recommendation 4

Nominate a dedicated Case Officer (or team) within the DIBP to process 457 visa applications from agricultural commodities, to ensure consistency in decision-making and in interpretations of skills assessments.

Q18. What impact do labour agreements have in terms of managing non-compliance or fraud in the 457 programme?

The ADIC cannot comment on the role of labour agreements in managing non-compliance or fraud in the 457 programme. The dairy industry is currently preparing a labour agreement to assist farmers in accessing overseas labour; however our primary motivation is the difficulty farmers face in securing labour due to the disproportionately high skills level thresholds under the CSOL and the subjective skills assessments of applicants by DIBP Case Officers, rather than fraud (real or perceived) in the 457 programme within our industry.

Labour agreements between an employer and the Commonwealth offer a solution to the difficulties many farmers experience in accessing the 457 visa programme. These agreements are designed to address a genuine, systemic labour market shortage, rather than accommodate an employer's preference for a particular overseas worker, and may include skilled occupations that are not on the approved list for 457 visas. Labour agreements are generally effective for two to three years, and allow for temporary and permanent visas to be granted.

Preparing a labour agreement application is time-consuming task requiring specialist expertise beyond the resources of most individual farmers. Based on the experience of the meat and pork industries, Dairy Australia is helping industry to prepare a labour agreement application for several farm businesses as a 'pilot', with a view to setting the standard that could lead to an industry-wide template agreement in future.

This initiative is being undertaken in response to growing frustration among farmers seeking overseas workers through 457 visas, or backpackers on working holiday visas. The 6-month limit on employment for the latter is disruptive for the business, while the former is proving laborious, frustrating and inadequate. Compounding the issue is the fact that many farmers do not want a highly qualified farm manager, but rather are seeking skilled senior farm hands responsible for daily operational tasks including milking cows, detecting/treating animal health issues and animal husbandry. These skills are currently not recognised in ANZSCO.

Recommendation 5

That the Government facilitates agriculture sector template labour agreements for industries facing chronic shortages of skilled labour, such as the dairy industry.