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# Exposure Draft Migration Amendment (Protecting Migrant Workers) Bill 2021

**Introduction:** The Approved Employers of Australia Ltd (AEA) represent small, medium, and large producers and Labour Hire companies that employ more than 8,000 + SWP and 2,000 PLS workers. Our members have invested a lot of time and money in the SWP & PLF to ensure the programs have integrity and workers are protected.

The AEA supports the proposed amendments to the Migration Bill to fully protect the workers from exploitation and coercion. The AEA has been very vocal on workers breaching their visa conditions and the number of rogue operators that are blatantly soliciting and exploiting these vulnerable workers without conviction. The AEA acknowledges the action taken in Bundaberg, but this needs to be done on a much larger scale. The AEA has reported details of rogue operators and absconding workers to Border Force and Labour Hire licensing authorities on a regular basis without any feedback on progress.

The AEA has also raised their concerns on several occasions regarding the redeployment of absconding workers without the consent of the sponsoring AE or without considering a proper process. The AEA condemns this action as Seasonal Workers are free to roam around Australia without any obligation to the commitments made to their sponsoring Approved Employer. This lack of intervention by the Government authorities, totally undermines workforce security which is a key benefit of the SWP and PLS and leaves Approved Employers exposed to significant financial loss and total lack of regard by those Seasonal Workers who are in breach of their visa conditions.

**Migration Amendment Bill 2021:** The AEA would like to provide the following comments:

- (i) **Role of ABF:** It is noted that the proposal is for the ABF to play a greater role in addressing the exploitation of migrant workers who are NOT engaged through the employer sponsor program. This role should include workers employed under the Employer Sponsor Framework such as the Seasonal Worker Program (SWP) and Pacific Labour Scheme (PLS). Mention is made of education and changing the culture and behaviour of workers and rogue operators but has had little or no effect to date. More decisive action needs to be taken against rogue operators and absconders otherwise this will feed the increasing black labour market. Clearly for the ABF to play a greater role in compliance, then the ABF needs to be resourced properly otherwise it will have little effect in practice. We also need to clearly define the roles and responsibilities of all stakeholders involved as well as the action they are assigned take to successfully tackle this problem jointly.
- (ii) **Approved Employers:** Changes to legislation only cover the worker but not the approved employer. Approved Employers have invested heavily in the program at high risk. Some rogue

operators have openly admitted that they cannot afford the workers flight, visa, and quarantine costs. These operators are recruiting workers in the sending country prior to arrival who then abscond shortly after their arrival. This leaves the AE with the cost burden and loss of business/harvest opportunity while the rogue operator and worker get off without any financial obligation. The workers themselves have knowingly breached their employment contract with the sponsoring AE. Any Australian that owes money is charged accordingly so why allow these workers and rogue operators to get away with it. Legislation needs to include the recovery of costs from the worker and or rogue operators and the consequences of breaching their employment contract/visa conditions.

- (iii) **Government Agencies:** Workers that are dismissed for serious offences in the workplace, arrested and prosecuted under Australian law or breached their visa conditions are breaking the law. These workers should be repatriated home and not redeployed. Legislation needs to cover the redeployment of workers by Government Agencies in exceptional circumstances only and with the approval of the AE.
- (iv) **Migrant Workers:** The proposed legislation does not address the problem of getting illegal migrants to testify against the rogue employer. Most or all migrants are afraid that they will be goaled as well. So, the result is that very few convictions will be achieved. The Legislation needs to include this and provide the worker with protection when testifying against a rogue operator.

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