

# *Migration malpractice: a focus on employer fraud*

*A response to Migration Amendment  
(Protecting Migrant Workers) Bill 2021  
Context Paper*

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## About VETASSESS

VETASSESS has over 20 years of demonstrated experience in delivering assessment services to individuals, training providers, industry groups, and government agencies both nationally and internationally.

We are Australia's leading skills assessing authority and the largest assessment-only Registered Training Organisation, delivering skills assessments for skilled migration and national skills recognition. As experts in developing and delivering assessment, we have been entrusted to deliver projects using our experience and capability in areas of program design, skills assessment, and test administration, specifically for migration services. We advise international governments, develop national education systems, and implement assessment best practice. VETASSESS operates from offices in Australia, India, China, Philippines, and the United Kingdom.

VETASSESS' online learning division eWorks has more than 20 years of experience nationally. eWorks creates and delivers original eLearning and online education support for governments, education providers, TAFEs, registered training organisations, universities, peak industry groups, and professional bodies across many sectors and industries.

VETASSESS operates as a commercial arm of Bendigo Kangan Institute (BKI).

**We occupy a unique place in the migration,  
assessment, and education system.**



## Introduction

VETASSESS, as the leading assessment provider specialising in skills assessment, migration, and verification, welcomes the opportunity to respond to the Migration Amendment (Protecting Migrant Workers) Bill 2021, a Bill for an Act to amend the *Migration Act 1958*, and for related purposes.

VETASSESS takes pride in supporting Australia's skilled migration program through our work and professional partnerships with various government departments and stakeholders, including the Department of Home Affairs and the Department of Education, Skills and Employment.

We welcome the opportunity to support initiatives to alleviate Australia's long term skilled migration shortages, and to collaborate with the Government and stakeholders in developing a labour force that is reliable, future facing, and responsive to economic needs.

## Our Response

VETASSESS supports the changes to the Migration Amendment (Protecting Migrant Workers) Bill 2021 however, notes that there remain gaps in the Bill to protect migrant workers.

Our response is based on our extensive experience in assessing skills for migration purposes and verifying qualifications, training, and employment claims, both nationally and internationally.

Our response will focus on the following issues:

- Fraudulent activity by employers and employee-applicants
- Access to register of Prohibited Employers

### **1. Fraud and fraudulent activity**

VETASSESS supports targeting wage underpayment and employee exploitation. We raise another matter of significant concern to the integrity of Australia's migration system: fraudulent employment claims.



This form of migration fraud can comprise of financial exploitation of migrant workers by employers who offer fabricated employment history for cash. This fraudulent information can include dates of employment, position description, skills, dexterity, as well as work and tasks performed. Applicants allegedly pay employers to fabricate employment histories or employers can gain an advantage over employees through an agreement that involves fabricating employment claims. The Migration Amendment Bill does not appear to include employer fraud of fabricated employment history.

Furthermore, VETASSESS would like to know the impact of this Migration Amendment Bill on migrant workers that willingly enter an illegal and fraudulent arrangement with such employers.

It is our experience that fraudulent employment claims are an issue with temporary employer-sponsored visas, and particularly with small to medium-sized employers. This fraud is easier for VETASSESS to detect for permanent visas that require a skills assessment from us to support the visa application, as we subject our skills assessment applications to an integrity check for employment before issuing an outcome.

The COVID-19 pandemic has highlighted the issue of skills shortages, and they have been exacerbated by border closure. The Federal, State and Territory Governments are working on how to address shortages, and the National Skills Commission was recently established to provide expert advice and leadership on Australia's labour market and workforce skills needs. Undetected fraudulent migration will undermine work to identify and respond to national skills shortages and the skilled migration programme.

Fraudulent activity can be exploitative. We believe the Amendment should address the potential for any fraud committed by the employers.

**Recommendation 1:**

**The Migration Amendment Bill should address fraudulent activity undertaken by employers in falsifying migrant workers' employment history to support workers' visa applications.**



## **2. Easy access to a register of Prohibited Employers**

The proposed Part 2 establishes a framework whereby the Minister may declare some employers to be Prohibited Employers for a period of time. We note that the period of prohibition would vary.

The Exposure Draft – Context Document states that the Minister will be required to publish details of Prohibited Employers, with exceptions to publication to be provided for in the regulations.

### **Information on Prohibited Employers**

We support the Minister’s publication of Prohibited Employers, providing transparency and easy access to information. We propose that authorised parties such as VETASSESS, should have easy access to the register of **ALL** deregulated and prohibited employers, including historical data of employers and organisations that may no longer be on the Prohibited Employers list.

This would ensure that assessing authorities do not bear any additional risks in assessing an applicant for a skills assessment positively, since we are aware that the person has worked for a prohibited employer.

Full access to information about prohibited employers will support the integrity and reliability of skills assessments for migration purposes, raise a ‘red flag’ about the claims by the employer and the applicant, and enable us to address concerns around fraud.

We support a further 12 months of additional requirements on prohibited employers once their period of prohibition ends.

Such a publicly available register will aid assessment authorities to navigate through verifying fraudulent employment claims. VETASSESS also requests that fraudulent employers that are identified through our employer verification checks and processes in our assessment procedures be considered for inclusion under a list of Prohibited Employers.

#### **Recommendation 2:**

**The Prohibited Employers list be made available to all assessing authorities who may also provide recommendations of fraudulent employers to be added to the list by the Minister.**