



## **Auckland Chamber of Commerce and Industry Submission on the Immigration Amendment Bill (No 2)**

### **Introduction**

The Auckland Chamber of Commerce and Industry welcomes the opportunity to make a submission to the Transport and Industrial Relations select committee on the Immigration Amendment Bill (No 2).

**The Auckland Chamber of Commerce confirms that it wishes to be heard in support of this submission.**

**Contact details for service:** Charlie Park, PA to Auckland Chamber of Commerce Chief Executive, Michael Barnett; Ph: (09) 302 9916, or email: [cpark@chamber.co.nz](mailto:cpark@chamber.co.nz) .

The Auckland Chamber is dedicated to the strengthening of the Auckland's status as New Zealand's pre-eminent commercial, industrial and communications centre and to assisting the development of a desirable environment for its 1.5 million residents.

The Auckland Chamber has a corporate membership of more than 6000, including many small medium businesses (SMEs) lawfully employing migrants holding temporary work visas and who expect their views to be forcefully represented in this submission.

### **Overview**

The Chamber notes that the overall aim of the Bill is to further ensure that New Zealand's immigration system protects our borders, is responsive to the use of electronic systems, protects migrant workers from exploitation, and gives immigration officers the power they need to enforce the Act.

In summary, the Bill:

- Extends the powers of immigration officers to enable them to undertake a personal search at the border, search a property or place for identity documents in order to facilitate a deportation or turn-round, and enter and search an employer's premises in order to search for unlawful workers, check documents, and interview employees to ascertain whether the employees and the employer are complying with the Act.
- It will also enable immigration officers to apply for and execute a search warrant. Currently immigration officers apply to the court for a warrant, and a police officer executes the warrant on their behalf. The intent of this provision is that it will result in more timely compliance operations and contribute to the effective functioning of the immigration system.

The Bill also includes two amendments that will protect migrant workers from exploitation.

- The first measure is to make exploitation of migrants on temporary entry class visas with work conditions an offence. There is presently an inconsistency in the legislation in that employers who exploit unlawful migrant workers can face hefty sanctions, whereas those who exploit lawful migrant workers face much less serious penalties. The bill will address that mismatch by adding the exploitation of lawful workers as an offence under the Act. Employers who exploit migrant workers on temporary visas could face up to 7 years' imprisonment and/or a fine of up to \$100,000.
- The second amendment will see employers who are themselves recent migrants and who have a residence class visa for less than 10 years liable for deportation if they exploit migrant workers. This will act as a further deterrent, and was a provision in the 1987 Act, but was not carried over when the Act was updated in 2009.

The Bill also changes the way biometric information is collected to address gaps in identity management capability, and which is aimed at enabling faster identification and to improve the ability to manage risk. For example, the amendments will enable biometric information to be collected from persons already known to be liable for deportation or turn-round, enable a compulsion order to be sought to require a person to allow their biometric information to be taken where that person is liable for deportation, and, where a compulsion order is made, enable police to use reasonable force to take the biometric information. It will also enable biometric information to be collected from non-citizens arriving in New Zealand, either before or after they have been granted entry permission and while they are still within the immigration control area.

## **Chamber support and suggestions**

The Chamber strongly agrees that the integrity of our immigration system is vital for the well-being of New Zealand.

Accordingly, we support the provisions that seek to curtail activities of employers who take advantage of vulnerable workers. We believe that employers in this group are few in number; overwhelming most employers are fair-minded and law abiding and should not be tainted by the behavior of the few who attempt to exploit migrants who hold temporary work visas.

Indeed, in our view, all employers who take advantage of employees should be accountable and employees should feel comfortable to report when they believe they are being exploited.

It is pleasing to note that in the first reading debate of the Bill, there appeared to be bipartisan agreement that unscrupulous employers who set out to exploit migrant workers should not be tolerated in New Zealand.

Unscrupulous employers not only harm their staff, but also gain an unfair competitive advantage over good employers competing for business.

The Chamber seeks a clear and simple law change – to make exploitation of migrants on temporary entry class visas with work conditions an offence. We agree that an important factor

in exposing exploitation is for workers themselves to speak up; having the confidence to speak up should be helped by a simple, well understood law.

They need to know that the fundamental and overriding principle practiced in New Zealand is that migrant workers have the same employment rights and protections as all other workers in New Zealand.

### ***Other matters***

The Chamber suggests that as important as the law changes proposed in the Bill will be the manner in which they are carried out. This is especially the case in respect of the changes affecting biometrics, privacy and powers of immigration officers.

As noted above, the Bill extends the powers of immigration officers so they can search an employer's premises and talk to the people present to identify offending by employers. They will also be able to search for unlawful workers, check documents and ensure migrant employees are complying with the Act.

We agree that this law change should help enable migrant workers to stand up and speak out when they are being exploited. On the other hand it has to be supported by a robust, responsive and professionally trained, resourced and focused investigative system by both Immigration New Zealand and of the Ministry of Business, Innovation and Employment.

### **Concluding comment**

Our support and further suggestions to the Immigration Amendment Bill (No 2) are put forward in the positive spirit of continuous improvement of New Zealand's immigration system providing for the entry of migrant workers who are treated fairly and accorded the same employment rights and protections as all other workers.

Michael Barnett

**Chief Executive**  
3 February 2014