

The real issues with the 457 visa aren't being addressed

Written by Joanna Howe, Senior Lecturer in Law, University of Adelaide

Australia's 457 visa system is back in the news again. If you believe Labor, the [457 visa is a rort](#) allowing foreign workers to steal Australian jobs. The government, on the other hand, [defends it](#) as a way for Australia to meet skills gaps in the economy.

Misunderstanding the problem is leading to wrong solutions

Failure to understand the problems with the current system is leading to bad policy. Minister Dutton [announced changes to the 457 visa this week](#) - reducing the time a 457 visa holder can remain in Australia after ceasing employment, from 90 days to 60 days.

This is completely the wrong reform – it simultaneously increases the vulnerability of the 457 visa holder and the power of the employer. If the Coalition is serious about increasing job opportunities for local workers they will redesign the 457 visa properly to ensure it meets genuine skill shortages.

If a 457 visa holder comes in to fill a genuine skills gap and they either get dismissed or voluntarily lose their job, then it's not a problem to have them looking for 90 days for a new job in that occupation where there is a genuine skills need in Australia.

As it is, 457 visa holders have such little job security. Dutton's reform will only make them far more vulnerable to an exploitative employer.

We know what's wrong with the 457 visa

National prosperity rises as a result of skilled labour migration, including through the 457 visa program. Numerous studies have shown this, most recently a [report on migration released this month](#) by the Committee for Economic Development of Australia.

But when we drill down into how the 457 visa works in practice, Labor does have a point when it claims that local workers are missing out on job opportunities. At present there is no proper

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mechanism for ensuring there is a skill shortage for the jobs in which employers are using 457 visas. This means employers can use 457 visas in areas where Australians are ready and able to be employed.

The mechanism for identifying who can apply for these visas is the [Consolidated Sponsored Occupations List](#). This is a list that has no requirement that the occupation be in demand in the Australian labour market. It includes more than 600 occupations, most of which are not in shortage. So long as an employer nominates an overseas worker to perform a job on this list, then the occupation is deemed to be in need.

Nursing, teaching, engineering and law are all on this list, and are also occupations where Australian graduates are struggling to enter the labour market.

This means the 457 visa can be used by employers who wish to access foreign labour for an ulterior motive. While most decent employers will not do this, [research shows](#) there is a core group of employers that prefer temporary migrant workers because they are more compliant, work harder and are less likely to complain or be unionised.

This week industry groups and the federal government have pointed to an [employer-conducted labour market testing requirement](#) to show that employers have to prove job vacancies cannot be filled by Australian workers. This requirement was introduced in 2013 in the dying days of the Rudd government but was implemented by the subsequent Coalition government.

But all an employer has to do to prove they have tested the labour market is to put an advertisement on social media (Facebook will suffice) and if no-one answers it, they can use the 457 visa to access foreign workers. The advertising does not need to be paid and there are no proper checks and balances to ensure that employer-conducted labour market testing is properly occurring.

The answer is a more independent system

The Coalition government's own expert inquiry into the 457 visa in 2014 [produced a report](#)

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which recommended the abolition of the current approach and its replacement with a new independent labour market testing model. This report, led by John Azarius, confirmed that this testing needs to be done independently of employers, drawing on international best practice and evidence from the OECD.

To achieve independent labour market testing, occupations should be compiled by an independent agency to ensure the list is regularly updated and reflects the changing skills profile of the economy. The occupational shortage list should account for regional nuances in labour supply. After all, an occupation which is in shortage in regional NSW may not be in shortage in Sydney city.

If an occupation is not on this list an employer should have to make the case that a shortage exists and conduct a genuine attempt at labour market testing before accessing a 457 visa worker.

Our immigration system needs the right reform

Our labour migration system is broken. Not only does the 457 visa have no proper mechanism to identify and target genuine skill shortages, but the international student visa and the backpacker visa amount to a backdoor guestworker program for low-skilled jobs. Many workers on these visas are being grossly exploited, as a litany of media exposés have shown, including [this week's investigation of migrant fruit pickers](#)

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But the conversation needs to be respectful and responsible – it should be about protecting Australian access to job opportunities and protecting foreign workers from rampant exploitation. This is a problem of the government's own making and the fault lies squarely at its door for the shambolic way it manages temporary labour migration.

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