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All workers should be treated fairly and equally

Temporary visa holders should be entitled to the same pay, conditions, and workplace protections as Australian workers, the Law Council of Australia said today.

Giving evidence before the Senate Legal and Constitutional Affairs Committee, the Law Council expressed its strong support for measures that better protect migrant workers from workplace exploitation.

“We generally welcome the introduction of the Migration Amendment (Strengthening Employer Compliance) Bill 2023,” Law Council of Australia President, Mr Luke Murphy said.

“However, we must ensure the intentions of the legislation match the reality on the ground.

“This means that for the regulatory regime to be effective, there must be a marked increase in compliance and enforcement efforts.

“Further, complementary reforms must proceed expeditiously to provide greater protections for a temporary visa holder to make a credible complaint about work exploitation, without jeopardising their visa status. Temporary visa holders will only feel confident in reporting exploitation if their visa status is secure.

“While the Bill contains a measure which purported to protect a worker against visa cancellation in such situations, that measure is flawed, and such protections can be provided without amendments to the Migration Act.”

The Law Council also supports the introduction of a visa to support migrants to leave exploitative situations quickly and remain in Australia with a right to work.

“Other proposed measures in the Bill could be improved to achieve their objective,” Mr Murphy said. “These include simplifying the proposed offence provisions regarding employer coercion of an employee to accept a work arrangement which is against their interests. The Act itself should set out the substantive aspects of a Ministerial power to declare a person a ‘prohibited employer’, rather than the regulations.

“The Law Council supports the Bill’s proposed repeal of existing offences imposed on a migrant who works contrary to visa conditions, or who works despite not holding a visa at all. Repeal of these offences may help to prevent the circumstances in which exploitation can arise and could encourage migrant workers to report exploitation.

“Understandably, there is a reported reluctance by undocumented workers to report exploitative behaviour for fear of detention and removal from Australia. The Law Council considers it in the public interest for undocumented workers to have avenues through which they can secure a visa.”

A copy of the Law Council of Australia’s submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Migration Amendment (Strengthening Employer Compliance) Bill 2023 is available [here](#).

Contact: Kristen Connell, P. 0400 054 227, E. kristen@talkforcemedia.com.au

The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.