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APSCo welcomes the opportunity to contribute to the development of the Productivity Commission's Productivity Inquiry, particularly concerning the areas of professional labour supply and migration – key components of Australia's labour market which are a focus outlined in the Inquiry's Terms of Reference.

As the peak body representing professional recruitment firms in Australia, APSCo is a strong advocate for:

- (a) a robust migration program that recognises the importance skilled migration has and will continue to play in Australia's economic prosperity.
- (b) workplace relations settings that protect vulnerable workers while recognising the very different nature and needs of the agile, professional services workforce. This professional workforce is an important source of the digital and other skills needed for the continued productivity and prosperity of Australia and relies significantly on professional contractors retaining their flexibility.

Migration settings

Current settings for skilled migration require changes to enhance Australia's economic prosperity, particularly in the face of the economic challenges Australia and the world faces over the coming months and years.

The current settings around skilled migration are based primarily on the data presented by the Australian and New Zealand Standard Classification of Occupations (ANZSCO). APSCo along with other industry representative groups believe that the ANZSCO process as it currently stands is too inflexible and not adaptable enough to adequately meet the needs of industry to address skills gaps where they exist in the workforce. Noting that the Australian Bureau of Statistics (ABS) is currently undertaking a review and update of the ANZSCO list, a process APSCo looks forward to participating in, APSCo maintains there are immediate changes that can be implemented prior to the ABS's current timeframe of December 2024.

As the main source of data that influences Australia's skilled migration system, ANZSCO needs to be agile, flexible and constantly evolving. As it stands ANZSCO has only been updated four times since 2006, a clear demonstration of its current inflexibility. APSCo proposes ANZSCO classifications are reviewed and updated on a far more frequent basis, every 12 or 24 months for example, in order to better reflect the realities of the labour force market at that time.

This more frequent updating of the ANZSCO list should then be mirrored in the skills list derived from the ANZSCO data. As with ANZSCO, it is critical that these lists become flexible and adaptable with frequent revisions.

One immediate inclusion on these lists should be the position of recruitment consultant. This occupation was previously included on these lists but was latter omitted. As the body representing the professional recruiting industry, APSCo knows the shortages facing the industry before and after this omission and maintains the reinstatement back on to the lists would go some way to addressing this issue.

All skilled migration visas should also include a pathway through to permanent residency, to ensure that Australia remains competitive and attractive in the global labour market. As it currently stands, Australia can be viewed as unattractive to skilled global applicants to move especially considering the personal circumstances these applicants might have – partners and dependents for example. The option of eventually resettling on a permanent basis in Australia would be a strong selling point for applicants such as these.

APSCo also recommends the Government establish a new highly skilled workers category that would require a minimum level of qualification and a minimum income threshold. Whilst there would be some overlap with the existing Skilled Migration visas, if this proposed category were to be established, APSCo believes it should be exempt from the Skilled Migration Occupation Lists with the income and qualification threshold being the main eligibility requirements. As with existing skilled migration visas, APSCo believes a pathway to permanent residency be included in order to attract a greater source of talent.

Given issues we have seen in the past it should also expressly be stated that this income threshold is to be pro-rated for those not working full time/five days and keep in mind the hourly rate charged by many skilled professionals.

Workplace relations settings

As above, it is critical to Australia's future that there are no barriers to the engagement of highly skilled, agile professionals on appropriate conditions negotiated by them and which do not in any way inhibit their ability to contract or move freely between roles. This includes both local professionals and also professionals recruited from overseas to fill areas of professional skills shortages (such as digital/IT and locum doctors in regional areas).

As new laws around employee-like and independent contractor work, same job same pay and labour hire licensing are considered by the Australian Government, it is imperative that a distinction is made between these highly skilled, agile professionals and vulnerable or less skilled workers (on whom this new legislation should rightly be focused).

Professional, highly skilled contractors should not be captured (inadvertently or otherwise) by regulation designed to protect a completely different cohort of workers. They are paid more than employee counterparts and want to retain absolute flexibility and control of their pay and conditions and ease of movement between roles. Given the project-based nature of much IT/digital and other professional services contracting work, retaining a flexible, agile professional contracting workforce is imperative to Australia's future.

Unfortunately, the above distinction has not been made in certain workplace regulation contexts in the past. For example, existing labour hire law and casual conversion legislation in Australia currently present serious issues and barriers to hiring and retention of professional labour including:

1. Casual conversion

Legislation currently requires a permanent position to be technically offered by our member recruitment firms (not even their end clients) to highly skilled, highly paid professionals who may be considered "casuals" under the law. Some firms only engage these professionals as contractors but for those who engage as casuals they are required to offer, by way of example; a \$1000 a day professional a permanent role at an annual salary of \$150,000.

By their own admission, these contractors do not even like to be considered "casuals" and they are certainly not interested in lesser paid permanent employee roles. Professional contractors have deliberately chosen a project-based contractor style of working and have no desire to take up permanent employment. This is reflected in the extremely low rate of uptake by professionals where this has been offered.

The administrative burden and cost in going through this process is an impediment for the professional, the recruitment firm and company involved. It holds back the ease of

hiring and movement between roles in the way all parties want. Companies and governments also increasingly need project-based work which doesn't carry ongoing employment past the project end date. Casual conversion options are not appropriate in this context.

One solution is to introduce an income cap above which casual conversion laws don't apply – in a similar way to the income cap for recent provisions limiting fixed term contracts.

2. Labour hire

APSCo very much supports a national scheme for labour hire licensing but neither that scheme, nor any state scheme, should catch highly skilled professional contractors. Labour hire licensing laws were rightly set up to protect those who are vulnerable to issues such as wages theft and workplace health and safety risks, and they should continue to do that. But these vulnerable workers are very different to highly skilled well-paid tertiary-qualified professionals who are highly capable of negotiating their own terms. These professionals are different to “labour hire”.

What our members are experiencing with some of the state licensing regimes are perverse situations such as needing to pay thousands of dollars in a labour hire licensing fees for placing a professional in a short-term engagement because there is not pro rating to recognise instances where an individual may only be working for a few days.

An income cap to remove application to highly paid workers is not necessarily the answer when designing the new national licensing scheme as we recognise that there are some highly paid workers in construction and mining for instance where it is appropriate that labour hire licensing still applies given WHS issues etc.

A better solution when designing a national licensing scheme is to look at perhaps incorporating the South Australian model which only includes certain industries. A national scheme might additionally also exclude highly skilled professionals, for example those with university degree qualifications as a basis for labour hire licensing not applying.

It is important that professional services contracting does not carry extra administrative burdens and costs like labour hire licensing fees. These only serve to hamper the agility and ease of attracting and hiring highly skilled contractors needed for Australia's future

These existing laws require changes to ensure they continue to protect those they are designed to protect, while removing coverage of highly skilled professionals. These same types of issues should also be avoided when it comes to workplace relations legislation currently under consideration.

In terms of how to introduce the above distinction within both current and proposed legislation, a minimum income threshold that can be pro-rated (in the same way as described below) is an option that should be explored, with the exception of the national labour hire licensing scheme where an approach such as the alternative outlined in point 2 above should be explored.

Conclusion

Ensuring the distinction between professional and less skilled contractors is especially important in the present environment. COVID and border closures have significantly exacerbated skills gaps and international competition for staff in professional areas ranging from cyber experts to green energy specialists and locum doctors. The need to ensure no barriers to placement of these highly skilled contractors-in both workplace relations and migration settings- has never been greater. It is essential to ensuring the growth and productivity of our nation.

APSCo would be pleased to provide a briefing to you on any aspect of this submission and would welcome the opportunity to participate in further consultations. Please do not hesitate to contact me

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About APSCO

Since its United Kingdom launch in 1999 the Association of Professional Staffing Companies (APSCo) has sought to differentiate the professional recruitment market from labour hire agencies and those recruiting less skilled labour, while advocating for the raising of standards across both markets. APSCo membership is available only to quality organisations committed to providing multiple references and adherence to a strict [Code of Conduct](#).

The economic importance of flexible, agile contracting to highly skilled and evolved labour markets, all of which are keen to capitalise on the opportunities of the fourth industrial revolution, digitisation, and the transition to net zero, remains a key message today across all APSCo entities.

APSCo Australia was established in 2016, following a merger with Information Technology Contract and Recruitment Association (ITCRA). We are proud to have 155 members and 35 affiliate organisations, supporting the professional recruiting industry across multiple sectors and states. Our members range from SME's to the largest global, listed companies recruiting into (permanent and contract) professional roles across ICT, accountancy, finance, marketing, media, medical and other areas.

As the only recruitment body with an international footprint, with offices in Asia, UK and Germany, APSCo has a unique position and insight into international labour markets and how Australia compares. It is essential that governments here continue to look at all options to ensure Australia has a labour market fit for the future. Such options must include the recognition of flexible, agile, highly skilled contracting and access to international, high-skilled, independent workers that will help to fill Australian skills gaps across the economy.