

# What the China – Australia Free Trade Agreement really says about temporary skilled workers

## No need to advertise for Australian workers

### ChAFTA Chapter 10

3. In respect of the specific commitments on temporary entry in this Chapter, unless otherwise specified in Annex 10-A, **neither Party shall:**
- (a) impose or maintain any limitations on the total number of visas to be granted to natural persons of the other Party; or
  - (b) **require labour market testing, economic needs testing or other procedures of similar effect as a condition for temporary entry.**

### ChAFTA Annex 10-A

#### CONTRACTUAL SERVICE SUPPLIERS OF CHINA

9. Entry and temporary stay shall be granted to contractual service suppliers of China for a period of up to four years, with the possibility of further stay.

10. A contractual service supplier of China means a natural person of China who has trade, technical or professional skills and experience and who is assessed as having the necessary qualifications, skills and work experience accepted as meeting Australia's standards for their nominated occupation and is:

- (a) an employee of an enterprise of China that has concluded a contract for the supply of a service within Australia and which does not have a commercial presence within Australia; or
- (b) engaged by an enterprise lawfully and actively operating in Australia in order to supply a service under a contract within Australia.

## No need for skills assessment

### Side Letter on Skills Assessment: 1-2

The Parties undertake to cooperate to streamline relevant skills assessment processes for temporary skilled labour visas, including through reducing the number of occupations currently subject to mandatory skills assessment for Chinese applicants for an Australian Temporary Work (Skilled) visa (subclass 457). **Australia will remove the requirement for mandatory skills assessment for the following ten occupations on the date of entry into force of the Agreement.**

Automotive Electrician [321111]  
Cabinetmaker [394111]  
Carpenter [331212]  
Carpenter and Joiner [331211]  
Diesel Motor Mechanic [321212]  
Electrician (General) [341111]  
Electrician (Special Class) [341112]  
Joiner [331213]  
Motor Mechanic (General) [321211]  
Motorcycle Mechanic [321213]

**The remaining occupations will be reviewed within two years of the date of entry into force, with the aim of further reducing the number of occupations, or eliminating the requirement within five years.**

## Wages and Conditions for projects over \$150 million negotiated with Department of Immigration and Border Protection

### MOU on Investment Facilitation Arrangement

1. An IFA for a project will be established between the Department of Immigration and Border Protection (DIBP) of Australia, or its equivalent, and a project company (the “project company”) in accordance with the provisions of this Memorandum of Understanding (“MOU”).

#### Establishment of IFA

2. The project company will be eligible to establish an IFA where:
- a single Chinese enterprise owns 50% or more of the project company; or, where no single enterprise owns 50% or more of the project company, a Chinese enterprise holds a substantial interest in the project company;
  - there is a proposed infrastructure development project (“the project”) by the project company with an expected capital expenditure of A\$150 million over the term of the project;
  - the project is related to infrastructure development within the food and agribusiness; resources and energy; transport; telecommunications; power supply and generation; environment; or tourism sectors;
4. The areas which will be subject to negotiation between DIBP and the project company in respect of the eligible project will include:
- the occupations covered by the IFA project agreement;
  - English language proficiency requirements;
  - qualifications and experience requirements; and
  - calculation of the terms and conditions of the Temporary Skilled Migration Income Threshold (TSMIT). *(Currently \$53,900).*
6. Following agreement between DIBP and the project company on the areas referred to in paragraph 4, an IFA will be executed in a timely manner in the form of a deed of agreement... **There will be no requirement for labour market testing to enter into an IFA.**
7. The IFA will be valid for four years from date of execution with the possibility of extension.

#### Issue of Visas under IFAs

8. Once the IFA is executed, direct employers (including, where applicable, the project company) on the eligible project can seek the endorsement of the project company to enter into a labour agreement under the IFA with DIBP to sponsor and nominate temporary skilled workers to be engaged on the project. A labour agreement will be entered into in a timely manner and will set out the number, occupations and terms and conditions under which temporary skilled workers can be nominated, consistent with the terms of the IFA, and the sponsorship obligations associated with the labour agreement, including any requirements for labour market testing. *Note this means that labour market testing at this point is optional, not mandatory.*

**These quotes show there is no obligation to test if local skilled workers are available, and no limits on numbers of temporary skilled workers for projects over \$150 million, who could be paid at minimum rates lower than rates paid to skilled local workers on similar projects. These commitments are unacceptable and should be rejected.**