

Dear Senate members,

I can understand where the minister is coming from in proposing this bill, as indeed, migration system has been a shambles in recent years. Rather than one individual or party being fully responsible, I believe this mess was caused by oversight from different organisations in trying to meet Australia's current needs at the time.

Policy need to evolve with time, and our immigration system is no exception. We obviously need to put the Australian population first and manage migration accordingly. My hats off to the minister for getting this bit right.

The concern I have is with ceasing previously made applications. If you read the small print on the application form which the applications signed to in good faith clearly states that the application will be processed according to the rules at the time when the application was lodged. The government, by introducing capping and ceasing, would be acting illegally by not abiding with the conditions it set itself. This would undoubtedly undermine our credibility internationally once the issue is taken up by the one of the major international media outlets such as the BBC and CNN.

If we, for a moment, assume that the government does not think the coverage in international media to be a concern, I wonder if it has planned and budgeted for the numerous rightful lawsuits that will definitely arise. In any court and with whatever argument, the government is unlikely to win because it has already signed a contract with the applicants that their applications will be considered on the criteria that were valid on the day of application – and none of the spin and arguments provided by the government is going to change this fact. The cost, if the claimants sue for all of their costs, interests and emotional distress, could potentially run into billions of dollars for us, the taxpayers.

Even if we unconstitutionally block access to the Australian courts for the affected people, imagine what happens if they litigated Australia at, say, the European or international courts. We technically would not need to comply, but the fallout could be immense. We are proud Australians, but it is a reality we need the rest of the world a lot more than they need us.

I agree with the fundamental conceptualisation of the bill. I would argue that it can be applied for current students as Australia gave them a visa to study, and it (hopefully) is not stated in their visa condition that they have rights to permanent residency after completion of their studies. I also agree with the bill for future applicants as well as long as they are well-informed. The only aspect of the bill I strongly don't agree with is the retrospectivity against the rule of law.

On a last note, I would urge the Senators to closely evaluate the ramifications of an attempt by the UK immigration to apply retrospective rules to their highly skilled migrant program. The case was fought in the high court in London, and expectedly, the government had to rescind its decision.