

Hamiltons Migration

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Australian Parliament

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Dear Senators

Migration Amendment (Regulation of Migration Agents) Bill 2019 – Submission

Insofar as the Bill prohibits certain legal practicing certificate holders from registering as Migration Agents, it is an unwarranted and anti-competitive restraint of trade.

All legal practicing certificate holders should be able to register as migration agents if they want to. Being a registered migration agent is a marketable qualification and a signifier of expertise in the field.

Also, consumers should be able to choose between a solicitor who is not registered, and one who has this added qualification. The prohibitive model obscures differences in the skill level of solicitors working in migration.

The Bill had to be contorted to provide exceptional registration for restricted practicing certificate holders for up to two years, and their further registration for another two years. This would not be necessary if all practicing certificate holders could register as agents. The exceptions actually add to the administrative burden for MARA.

It has been argued that allowing dual registration would create confusion as to whether the applicable State Law Society or MARA is responsible for disciplining breaches of the applicable codes. This is not very persuasive. I am sure the MARA and the Law Societies can work out a protocol in situations where two codes have been breached.

The only other rationale for this prohibitive model in the Kendall Review was that it is how other countries operate. That is also unpersuasive.

By way of disclosure, I am legally qualified and could have a practicing certificate if I wished, however that is not my current business model, I am happy working as a Registered Migration Agent. But I might change my mind. People should not have their future options closed off because of this Bill, especially when it lacks countervailing importance.

Kind regards
Genevieve Hamilton
31 January 2020

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