This submission relates to the Migration Amendment (Regulation of Migration Agents) Bill 2017 which is now before the Commonwealth Parliament.

By way of background, I run a small business based in a capital city providing immigration assistance to my clients. I have been registered as a migration agent for more than a decade. I run an honest business, stick to my legal obligations and have never been cautioned or sanctioned by the Office of the Migration Agents Registration Authority (OMARA) in all my years of practice as a migration agent. When I practise as a registered migration agent (RMA), I do not hold myself out to be a solicitor or legal practitioner, to avoid giving my clients and potential clients the impression that I am practising law.

Out of personal interest and improvement, I completed my legal studies as a part time mature student and was admitted to the Supreme Court of an Australian State a few years ago. I now hold a restricted practising certificate, whereby I can only practise law under supervision. As you may know, this is a standard condition on practising certificates for newly admitted lawyers.

If the Bill is passed in its current form, a lawyer holding any type of practising certificate will not be able to register or re-register as a migration agent. In fact, existing registered migration agents who hold a practising certificate will need to choose: give up the practising certificate to remain as an RMA, or de-register as a migration agent to continue holding a practising certificate.

This choice is not problematic for the majority of lawyers who:

1) hold an unrestricted (principal) practising certificate; or
2) are not registered as RMAs in the first place; or
3) do not wish to practise as a lawyer anyway, so giving up their practising certificate would be a non-issue.

This purported choice is not so problem-free for lawyers who:

1) are RMAs and have been RMAs for a long time, building up their RMA business from ground up; and
2) hold a restricted practising certificate, and is otherwise practising law (not necessarily migration law) elsewhere; and
3) would have to give up their main source of income (RMA activities) should they de-register as an RMA.

I am in the second category. The Bill's explanatory memorandum, in paragraph 50 on page 11, states clearly that a person in the second category would simply need to "adjust", making it look like a simple choice between one and the other. In practice, the choice is a stark one – the practical ramifications on existing established migration agencies cannot be overstated. Personally, I am looking at the choice between giving up my entire business just to retain my practising certificate, or to give up my practising certificate (something that took years of hard work and personal sacrifice to obtain) just so that I can continue to rely on my migration advice business which is the main source of income for my family unit.

I have previously suggested to the Law Council of Australia (who would have had some if not major input to how the Bill would be drafted) that *existing* RMAs be allowed to *optionally* re-register even if they hold a practising certificate. The Bill in its current form clearly does not allow for that and the powers-that-be had apparently considered this issue and decided it would be best to force these migration agencies out of business or out of the legal profession.

Additionally the Bill may be amended to:

1) restrict the *optional* re-registration of lawyer RMAs to those who hold a *restricted* (but not unrestricted) legal practising certificate, and/or
2) prohibit the initial registration of any non-RMA lawyer (holding any type of legal practising certificate) as a new RMA.

Those lawyers who hold an unrestricted legal practising certificate will no doubt exit OMARA's jurisdiction, leaving the few existing (and experienced) RMAs who are also junior lawyers holding a restricted practising certificate to continue to hold optional dual registration. I would imagine that the number of lawyers who opt to remain registered by OMARA would probably not number in the hundreds, although I do not have the statistics for this. Option 2 above would ensure that the number of RMAs holding a legal practising certificate would never increase but only decrease over time, if this is indeed the intended object of the Bill.

What I am proposing is merely to prevent a rather ironic outcome for highly experienced RMAs who, for one reason or another, have chosen to "upgrade" their legal knowledge and obtain a restricted practising certificate but may end up being "downgraded" if these RMAs are not entitled to *re*-registration with OMARA (therefore stripping them of their well-earned existing right to practise on their own as a migration agent).

The minority of lawyers who are RMAs and hold a restricted practising certificate would be severely disadvantaged by the Bill. I am not asking to be given extra entitlements which are unreasonable. All I ask is to be given the right to continue to earn a living as a migration agent while pursuing the

practice of law elsewhere. The Bill effectively removes a statutory entitlement to earn an honest living without any transitional provision or regard to the practical implications this may have on a very small minority of voiceless lawyers. I say "voiceless" because these are newly admitted lawyers who would not be in positions of seniority at organisations that claim to represent lawyers.

If my personal situation is insufficient to trigger compassion, another practical example may be an existing experienced RMA of many years' standing who then gets admitted to a State Supreme Court and takes out a restricted practising certificate to serve part time as an Army Reserve Lawyer - he or she will be precluded from re-registering as an RMA on the sole basis of being a holder of a practising certificate. I would imagine this is an outcome that serves no real positive purpose.

The Bill implements the recommendation of the 2014 Review Report, which recommended that Australia follow the New Zealand regime, where lawyers are barred from registering as immigration advisers (the NZ equivalent of RMAs). However, the difference in Australia is that there are *existing* RMAs, who have organised their professional and business affairs in good faith relying upon existing Commonwealth legislation. In New Zealand, lawyers were never able to register as immigration advisers from the very beginning, so there was never a question of harsh or severe consequences/choices for existing lawyers in the New Zealand immigration advisers' regime.

The Bill proposes a commence date of 1 July 2018. Business-as-usual for RMAs holding a restricted practising certificate is virtually impossible due to the possibility of choosing to remain operating as RMAs or to essentially cease to do so independently.

In closing, I wish to put on record that I am not disputing the correctness or incorrectness of removing lawyers from OMARA's jurisdiction. I am merely pointing out that one consequence of the supposed "deregulation" of lawyers may actually end up forcing some otherwise legitimate RMA small businesses to cease operating. Perhaps that may have been the intention of the original Bill as drafted, but surely the real impact on the livelihoods of a minority of RMAs who hold a restricted practising certificate cannot be just dismissed as collateral damage.