

24<sup>th</sup> October 2008

Committee Secretary  
Senate Legal and Constitutional Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Dear Sir/Madam

**RE: Inquiry into the Migration Legislation Amendment  
(Worker Protection) Bill 2008**

This submission is in relation to the issues persisting in regional areas in regards to skills shortages and the removal of truck drivers from the list of eligible occupations for regional deployment of Subclass 457 visa holders.

The removal of truck drivers from the list of eligible occupations came into effect on 1 July 2008 by decree of the Minister for Immigration and Citizenship, Senator the Hon Chris Evans.

While our company does not have a lot of experience in relation to immigration matters, I felt it pertinent to provide the Senate Legal and Constitutional Committee with some examples of the absolute frustrations we have experienced in relation to migration sponsorship and the most unfortunate debate that has unfolded in relation to the removal of truck drivers from the list of eligible occupations.

Nolan's Interstate Transport is a family owned and operated business based in Gatton in regional Queensland. We are primarily a road transport company, predominantly transporting perishable refrigerated and non-refrigerated food products to Brisbane, Sydney, Melbourne and Adelaide on a daily basis. We have 4 depots situated throughout Australia and employ more than 230 staff.

Our involvement in the Subclass 457 visa sponsorship, was some years ago when a young Dutch national presented at our company looking for a job as a truck driver.

The first of the issues we faced in the sponsorship process was confusing and absolutely convoluted nature of what to do, how to go about doing it and who to contact in the Government to assist with the sponsorship.

After numerous telephone calls, relentless hours of work, an oversupply of paperwork (unfortunately, not an uncommon issue for road transport operators) and resolution to almost insurmountable hurdles put before both our company and the



prospective employee, we were successful in eventually securing employment rights for this very educated and well trained Dutch National.

Notwithstanding the difficulties of the process of sponsorship, it was not until this young's man Subclass 457 visa was to expire on 3 July 2008 that the real trouble commenced.

We were advised the Subclass 457 visa could not be renewed because of the removal of truck drivers from the list of eligible occupation, and that the only option we had was to seek a continuing sponsorship arrangement through the Regional Sponsorship Migration Scheme, which we successfully although not easily achieved.

This company has been in business for over 100 years, and I have never been more confused and frustrated by the overwhelming amount of bureaucracy, paperwork, difficulty and time this process has taken, not to mention the lost productivity to our business.

Senators will be particularly alarmed by this statements coming from an interstate trucking operator if they have had the opportunity to be briefed on and appreciate the complexity and difficulty caused by 'national' implementation on 27 September 2008 of four separate interpretations of model heavy vehicle driver fatigue legislation by four state governments. In relation to the decision to remove truck drivers from the list of eligible occupations for regional deployment of Subclass 457 visa holders, you may be aware there was a working group established by the former Minister for Immigration and Citizenship, the Hon Kevin Andrews MP, to review and make recommendations to the minister in regards to this issue. Contrary to statements made by Government officials I have dealt with, you should be aware that this decision was not supported by the trucking industry and that the overwhelming majority of the members of the Australian Trucking Association were adamant in their opposition to the decision of the working group.

The Road transport sector is in desperate need of experienced truck drivers and by experience I refer that the driver:

- Has a number of years experience of driving the vehicle that he/she is intending to drive
- Has a current and valid license
- Has been on-road tested and approved by the company
- Is provided on-going training and education to ensure legal compliance and professional on-road behaviour

In smaller regional areas and particularly in our region in the south-east of Queensland drivers are being encouraged into the mining industries by the employers who are capable of supporting much higher average wages than those industries not directly benefiting from commodity price increases resulting from the resources boom.

In light of this, it seems to me to be an extraordinarily peculiar decision that in removing truck drivers from the list of eligible occupations for the Subclass 457 visa program, the Minister has made exemptions to the removal order for truck drivers who are to be employed by mining companies. It is an open question, why would the Minister remove the ability of regionally-based road transport companies to access the Subclass 457 visa program, while allowing an exemption for the mining industry who have been partially responsible for the truck driver crisis imposing on my business and on other trucking companies?

It is to be assured to the Committee that the engagement truck drivers through the Subclass 457 visa holders has not been used to replace or undercut the rates paid to Australian drivers. In the regional areas particularly, we were facing no other alternative and this has now been removed. There is singularly only one outcome for our business of not being able to recruit truck drivers – breaking the terms of contract with our customers and parking trucks in our depots.

The drivers employed in our business on Subclass 457 visas received the same rates of pay and are afforded precisely the same conditions as our current workers and there has never been any intention to use the program as a means for accessing cheap labour.

I am appalled at the Ministers decision to remove truck drivers from the Subclass 457 visa program and am beginning to wonder how it is that our company and other companies like ours are beginning to have our rights eroded in respect of our ability to maintain a going concern of our businesses. And I am further appalled by the insistence of Government officials that the removal of truck drivers was supported by the industry. It was not. It was heavily opposed by the overwhelming majority of the members of the Australian Trucking Association and I would take great appreciation in the correction of this fact being articulated to the officials in the Department of Immigration and Citizenship.

Just prior to the 1 July 2008 removal, we were approached by a young couple from the UK who was seeking to temporarily relocate with his wife to regional Australia to work as a truck driver. The nominee took it upon himself travel to Australia and obtain an Australia multi-combination license, of which the immigration officer advising him on the matter advised he required. He visited our company and we agreed to revisit the immigration process and sponsor his Subclass 457 visa application. Both he and his wife were happy to make the change and the preparations were being commenced. We were also happy to welcome this husband and wife team to our local community. Sadly this option has been removed due to the Ministers decision..

I can not stress to the Committee enough that we as an employer in a regional community need workers. We are prepared and willing to train, educate and look after Subclass 457 visa holders as we would to an Australian resident. As employers we have a right, as other employers are granted, to contact English speaking and experienced drivers for jobs that simply are unable to be filled in our community.

I urge this Committee to thoroughly consider the plight of real world business, particularly in regional areas, struggling to fulfill the terms of contracts and maintain their operations as a going concern. In this, consideration must be given to the dislocated processes being conducted by the Department of Immigration and Citizenship. Further and urgent consideration is also required of the Ministers recent decision to remove truck drivers from the list of eligible occupations for regional deployment of Subclass 457 visa holders.

Yours sincerely

**NOLAN'S INTERSTATE TRANSPORT**

A handwritten signature in dark ink, appearing to read 'Darren', followed by a long horizontal line extending to the right.

Darren Nolan  
Compliance Manager