

17th June 2010

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT

Dear Sir/Madam

Thank you for an opportunity to make a submission to the Legal and Constitutional Affairs Committee on the matter of the Migration Amendment (Visa Capping) Bill 2010.

Something has to be done to make the GSM "pipeline" an orderly process where it can't be flooded disproportionately with one occupation at the expense blocking other needed occupations.

The power is an appropriate one to meet current circumstances.

However the power needs to be reasonable in its extent. The power itself needs to be "capped" and specific in its scope. That's the submission I wish to make.

1. The power needs to be time limited.

There is a need for a sunset provision. A termination date needs to be enacted with the power ceasing to exist at a reasonable date, eg six months. This also it has the effect of ensuring prompt action on the pipeline problem. The raw capping and ceasing power by the Minister should not become a permanent feature of the immigration legislation. Parliamentary intervention (with its checks and balances) should be necessary to reinstate the power only when circumstances warrant reinstatement. Any future Ministers may not be as restrained and sensitive in action as the present generation.

2. The power when invoked needs to be limited in scope and targeted to the problem clearly stated.

For particular occupations the actual target must be nominated in the legislation: GSM pipeline, ENS and RSMS queues and those secondary effects of capping and ceasing operations, the "spiking" in subsequent lodgements of protection visas and partner visas by those onshore with occupations threatened with capping and ceasing.

It is also submitted that the government action was extremely slow in addressing the obvious malfunctions generated by government non-feasance regarding, first, the MODL (cooks and hairdressers in particular) and, secondly, the disgraceful proliferation of the shonky CRICOS colleges. This disappointing whole of government failure (both Labor and Coalition, federal and state) should not now have the added to it the creation of a permanent legacy of a draconian capping and ceasing



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power that is too broad and open ended. But the Department of Immigration and Citizenship does now need a temporary and specific capping and ceasing power to address the problems caused by a whole of government failure. It is a positive development that the government now is boldly moving forward to address the problem and restore integrity to the migration process.

For the future there must be thought given as to how immigration should cease being a political football in Australia. The Department of Immigration needs insulation from the political process. It needs to be free to apply a stable policy without cabinet micro management and interference. It's expert advice to its Minister must be heeded. Or it needs to be independent and sheltered in a Commission structure. This politicising of immigration matters and micromanagement has stalled remedial action needed for the MODL responsiveness and the GSM pipeline problem. It's the root of the current problem.

Sincerely

Ron Dick
Principal