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1 May, 2002



Mr Noel Gregory
Acting Secretary
Australian Senate Legal and
Constitutional Committee
Parliament House
CANBERRA ACT 2600

BY EMAIL TO: noel.gregory@aph.gov.au

Dear Mr Gregory

Migration Legislation Amendment Bill (No. 1) 2002

I refer to the amended submission of the Law Institute's Migration Committee on the above Bill dated 10 April 2002.

Nicole Hogg has drawn to my attention that during his evidence before the Committee on 9 April 2002, Mr Walker of DIMIA advised that contrary to the interpretation in our submission, s.48(3) is intended to be limited to on-shore applications.

Nicole has raised this matter with Michael Clothier and Erskine Rodan on behalf of our Migration Committee. They are of the view that s.48(3) is at best ambiguous and that if this provision is intended to be limited to on-shore applications, this should be expressly set out in the legislation. Our Committee would have no objection to the legislation if it were limited in this way.

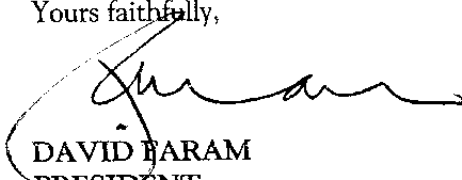
Messrs Clothier and Rodan have also stressed that regardless of the interpretation of s.48(3), our Committee's criticism stands in relation to the limited number of prescribed visas referred to in Regulation 2.12 (see paragraph 4 of Annexure A of our amended submission). Our Committee is concerned that while the terms of s.48 have not changed over time, changes to the Regulations have progressively restricted the number of substantive visas that can be applied for without resort to the 'Auckland shuffle', thereby creating a more oppressive regime. For example, the requirement that applicants for an aged parent, aged dependent relative, last remaining relative or carer visa who are already on-shore must apply for a visa off-shore has caused substantial hardship to families in Australia.



Although the current *Bill* does not in itself affect the prescribed classes of visas under Regulation 2.12, our Committee considers it an appropriate time to reconsider the limitations under the existing regime in relation to s.48.

If you require further information regarding our submission, please do not hesitate to contact Nicole Hogg.

Yours faithfully,


DAVID FARAM
PRESIDENT
LAW INSTITUTE OF VICTORIA