



Refugee Council of Australia

August 27, 2009

Dear Senator,

On August 19, Senator Concetta Fierravanti-Wells moved a motion to disallow Migration Amendment Regulations 2009 (No. 6). I am writing to explain why the Refugee Council of Australia believes the regulations should remain in force.

The regulations amend the work rights arrangements for certain Bridging Visa subclasses, replacing the 45-day rule with a set of arrangements which aim to encourage compliance with the visa application process. This change is broadly in line with a recommendation made in May 2009 (with support from Labor, Liberal and Greens Parliamentarians) by the Joint Standing Committee on Migration:

That the Australian Government reform the bridging visa framework to grant all adults on bridging visas permission to work, conditional on compliance with reporting requirements and attendance at review and court hearings.

The destitution experienced by asylum seekers as a result of the 45-day rule has been a grave concern to the Refugee Council of Australia and its members for the past 12 years. Many charitable, faith-based and voluntary organisations have put enormous amounts of effort into raising funds and finding resources to give basic levels of assistance to people who have been prevented from supporting themselves while their status is resolved. The volunteers in these organisations have been motivated by their concern for fellow human beings and their sense of outrage that this policy could leave people starving on Australian streets. The destitution experienced by asylum seekers affected by the 45-day rule has been widely documented, in reports, reviews and inquiries by bodies including the Joint Standing Committee on Migration

This policy has been counter-productive for all concerned. Those affected by the 45-day rule and ultimately found to be owed protection have often begun their time as permanent residents of Australia in circumstances of absolute poverty and/or debilitated by the conditions which they have endured while awaiting resolution of their status. In many cases, people have experienced family breakdown, deteriorating mental and physical health, loss of work skills and despair. Those found not to require protection have been left with no means to return with dignity to their country of origin. During the visa resolution process, applicants have struggled to find independent advice and the means even to travel to Immigration Department offices for interviews or to pay for incidental costs associated with their applications. The devastation associated with a policy of enforced destitution has made it much more difficult to find common ground when, for instance, a negotiated voluntary return was the best outcome.

The 45-day time limit for applying for Protection Visas was arbitrary and affected many people with a need for protection. Many people did not apply within 45 days because they did not know about or understand the asylum application process in Australia or because new threats emerged in their home country some time after they arrived in Australia. This is borne out by advice from the Department of Immigration and Citizenship that 36 per cent of asylum seekers

who lodge a protection claim more than 45 days after arrival in Australia are found to be owed our protection. For those who apply within 45 days, the recognition rate is 20 per cent. This information undermines the argument that the 45 day rule is an effective mechanism for mitigating ill-founded claims.

We believe that any concerns regarding potential abuse of our protection system are best managed by swift and fair status resolution processes, which result in a timely visa grant where our protection obligations are invoked or a departure (whether voluntary or via removal) where grounds do not exist for a person to remain in Australia. Several highly effective measures for achieving this aim – such as the Department of Immigration’s case management framework, and tighter primary and merits review decision making timeframes – were introduced by the Howard Government. We believe that changes to the bridging visa system that enable asylum seekers to support themselves while their claims are swiftly assessed, while also encouraging compliance with status determination, will greatly aid achievement of a robust, humane and cost-effective immigration system.

The Refugee Council urges you to oppose the motion to disallow Migration Amendment Regulations 2009 (No. 6). We would be only too happy to discuss this matter further with you or to supply additional information.

Yours faithfully

A handwritten signature in black ink, appearing to read "Paul Power". The signature is fluid and cursive, with the first name "Paul" being more prominent than the last name "Power".

Paul Power
Chief Executive Officer