

Submission to the Joint Standing Committee for Migration Regulation -
Regulation 4.31B

Although the figures are not available to the Migration Institute of Australia, it would be fair to conclude that the cost of recovery and administration is time consuming and extremely costly to the Commonwealth. The Board of the MIA through the Migration Agents Registration Authority functions is aware of a number of complaints regarding protection visa applications from applicants where there is absolutely no way of concluding that that person meets the definition of a refugee. In some cases applicants have seen this as a vehicle to access the Minister under section 417 of the Migration Act to ask him to intervene on the basis of other issues relating to humanitarian concerns (see MSI guidelines 225).

Although an applicant is not required to advance up-front the \$1,000 it is a requirement that that person pay back to the Commonwealth that amount of money if the person is refused by the Tribunal. It is clear that the fee of \$1,000 is not payable if the RRT sets aside the decision under review and that would also apply where the Minister intervenes under section 417.

If the aim of the Department was originally to deter applicants from applying from countries other than where one would expect persecution, then, this does not appear to have been successful. The MIA does not have the figures but DIMIA records may well show over a period of time an increase in protection visa applications since regulation 4.13B came into effect.

The Joint Standing Committee would be aware that if the \$1,000 becomes a debt to the Commonwealth and if an applicant reapplies for a visa, that debt must be repaid before any visa is approved.

There may have been in the past applicants who have been refused by DIMIA but there was a reasonable prospect of success in the Refugee Review Tribunal. Applicants may have not proceeded on the basis of the \$1,000 post fee applying because they simply do not have the funds to cover that amount

of money.

The MIA views this whole issue as problematic but at the same time we seek to put forward a possible solution.

The Department of Immigration would be aware of countries where there is a well founded fear of persons being persecuted. Suffice to say that certain countries could be gazetted whereby the \$1,000 post RRT fee would not apply. This is not to say that applicants from countries that are not gazetted would not be approved a protection visa. It merely reflects the logic behind recognizing countries where persecution is rife.

The MIA is of the view that applicants who are not from one of the gazetted countries should be required to pay a higher post refusal fee somewhere in the order of \$3,000.

In our opinion, the Joint Standing Committee should be conscious of not only the issue of the fee, and the administration of the scheme, but more so the abuse in the past by applicants who have purposely lodged protection visa applications knowing full well that the application will be rejected by both DIMIA and the RRT.

The Committee may view this as not being enough of a deterrent but the deterrent factor is only one issue. Another alternative would be to require applicants from non gazetted countries to put forward a bond in the order of the same amount, being \$3,000 and that the bond would be refunded to them if the application was successful. This would alleviate many concerns such as the administration and cost recovery.

The MIA will be only too happy to give more clarification should it be called upon.

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