



Australian Government

Department of Immigration and Multicultural and Indigenous Affairs

Senator Marise Payne
Chair
Senate Legal and Constitutional Legislation Committee
Parliament House
CANBERRA ACT 2600

- 9 JUN 2004

Dear Senator Payne

At the Senate Legal and Constitutional Legislation Committee hearing on 26 May 2004, I gave evidence relating to provisions in Migration regulations under which temporary protection visa holders can be provided with early access to a permanent protection visa. (The *Hansard* reference is Legal & Constitutional page 27).

In my evidence, I advised that the power of the Minister to set a shorter period of time within which a temporary protection visa holder was prevented from obtaining a permanent protection visa was not a discretion and was subject to a broad public interest test. Since giving that evidence, I have checked the relevant legislation and have realised that I was mistaken. The relevant provision of the Migration regulations describes the period within which a temporary protection visa holder is prevented from obtaining a permanent protection visa as:

... the lesser of:

- (a) a continuous period of 30 months; and*
- (b) a shorter period specified in writing by the Minister in relation to the applicant*

There is no public interest test for the use of the power.

I regret the error in my evidence to the Committee and trust that the information above serves to clarify the provision

Yours sincerely

Robert Illingworth
Assistant Secretary
Onshore Protection Branch

8 June 2004