



RESTAURANT
& CATERING
AUSTRALIA

SAVOUR
AUSTRALIA

A U S T R A L I A

Restaurant & Catering Australia
is a Federation of State

Associations, all working
together on national issues, on
behalf of their members.

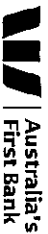
Gold Foundation
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Southcorp Wines

Tucker Seabrook

24 April 2006

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Sir / Madam

**RE: Inquiry into the Migration Amendment (Employer
Sanctions) Bill 2006**

Restaurant and Catering Australia (R&CA) is the peak national association representing the interests of Australia's 28,900 restaurant and catering businesses.

The Association acknowledges the tabling of the above Bill and the referral of the Bill to the Senate Legal and Constitutional Legislation Committee. Given the timelines for submission, the R&CA provides some comments herein, as a full submission has not been possible in the short period allowed.

Restaurant & Catering Australia has two core concerns in relation to the Bill and the likely implementation of the administrative and regulatory arrangements that follow from its implementation. R&CA has discussed this Bill with the Department of Immigration and Multicultural Affairs and has examined the content of the Explanatory Memorandum.

The two central concerns are the likelihood of employers being caught inadvertently and the level of compliance burden in work rights checking.

Restaurant & Catering Australia considers that the terms 'knowingly or recklessly' allowed for the very subjective concept of 'reckless' to be proven rather than the more appropriate 'knowingly'. The Association believes that 'knowingly' alone should be used on the basis that the real issue is whether the employer knows they are employing illegal workers.

In relation to regulatory burden, the R&CA believes that the process envisaged for work rights checking is overly onerous. The Association considers the lack of integration of Government systems (not enabling the one check of work rights through the ATO) creates significant additional compliance burden and that Government is seeking to shift this load to employers without any attempt to improve its own process to assist in the compliance effort.

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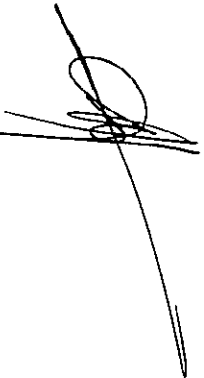
Further, as suspected (with 49% of restaurateurs having access to the internet), the on-line checking does not strike a chord with restaurateurs and caterers. The fax in option is better accepted, however, there was still some concern over the imposition of additional administrative load on these small businesses.

In summary, Restaurant & Catering Australia could support the proposed approach to fault offenses for illegal workers if the criteria were changed to those employers 'knowingly allowed an illegal worker to perform work' AND the process of work rights checking was simplified to reduce the administrative burden placed on restaurant and catering businesses.

Restaurant & Catering Australia believes that all businesses should comply with the regulations that they are subject to and that businesses that knowingly do the wrong thing should be punished. The Association also considers that Government should make compliance achievable. The way in which this Bill is currently presented (and the implementation is envisaged) makes compliance overly onerous and in many cases unlikely.

A representative from the Association would be happy to speak to this paper should it be required.

Yours faithfully

A handwritten signature in black ink, appearing to be 'John Hart', written over a horizontal line.

John Hart
Chief Executive Officer
Restaurant & Catering Australia