

Government Needs to Rescind India Travel Ban Now

Hammond Taylor calls on Federal government to rescind disproportionate and discriminatory Biosecurity measures

Hammond Taylor, a leading Australian immigration law firm, has called upon the Federal government to rescind the newly implemented emergency determination under the Biosecurity Act 2015, which impose criminal and civil penalties upon Australian citizens and permanent-residents seeking to return to Australia from India.

The measures were announced at midnight on Friday by Minister for Health, the Hon Greg Hunt MP, who stated, the government would implement a 14 day pause on travellers entering Australia from India. The restrictions apply to Australian citizens and permanent-residents returning from India until 15 May on the basis of the spike in Covid-19 cases in that country. Penalties include civil penalties of up to \$66,600 and criminal sanctions of up to 5 years' imprisonment.

Hammond Taylor Partner, Jackson Taylor, stated, 'The measures set out under this bill are extraordinary. It is the first time, that we are aware of, that Australians have been prohibited from returning to their own country in the history of Federation.'

Mr Taylor went on to explain that the fundamental requirement under the Biosecurity Act is that restrictions imposed must be proportionate to the circumstances and that such extraordinary restrictions are likely to be unlawful on this basis. He explained that despite the potential for the laws to be invalid, they will continue to apply until overturned by a successful court challenge or rescinded by government.

'Australia has the means to ensure that returnees from India are quarantined appropriately, as has been the case during spikes in case numbers in Europe and the US. This suggests that arrangements to date have been largely appropriate. It therefore appears both discriminatory and disproportionate to implement these arrangements in response to the situation in India. There does not appear to be anything unique here that makes implementing criminal penalties on Australians, seeking to return to safety, appropriate. For those Australians in India at this time, it is critical the government withdraw these laws and allow them to return – failure to do so is tantamount putting their lives at risk,' said Taylor.

Hammond Taylor supports further development of the existing quarantine arrangements, including the development of national standards for quarantine, the creation of for purpose quarantine facilities and greater State / Federal cooperation, in light of the potential for the pandemic to continue for an extended period. 'There is nothing to suggest that the pandemic will be resolved until much of the world's population has been vaccinated. The establishment of a national quarantine network is likely to be one of the few solutions available to protect the health of the Australian population while achieving some degree of open borders.

Contacts

Jackson Taylor
+61 (0) 449 997 362
mailto: j.taylor@hammondttaylor.com.au