MIGRATION LEGISLATION AMENDMENT (WORKER PROTECTION) BILL 2008
Second Reading

Mr ROBERT (Fadden) (4.56 p.m.)—I rise to speak on the Migration Legislation Amendment (Worker Protection) Bill 2008. I begin by proudly reflecting on the coalition's migration record. It is a record that covers both the introduction of new visa classes, discussed extensively in this bill, and determining indeed who comes to this country and the manner in which they arrive. The arrival of people illegally into this country is one area where the coalition is very proud of its record. In 1999-2000 75 boats arrived. In 2000-01 54 boats arrived. We then saw a dramatic decrease. In the financial year ending 2002, six boats arrived. In 2003 zero boats arrived. In 2004 one boat arrived. In 2005 zero boats arrived. In 2006 four boats arrived. In 2007 five boats arrived. In 2008 three boats arrived. In the 2008-09 each year we have already seen seven boats—four picked up by Australian forces in Australian waters and three by Indonesia. This year has seen the highest number of illegal boat arrivals in seven or eight years, and the parliament quite rightly, as we have asked in question time, wants to know why.

In mid-August Minister Evans announced he was abolishing the temporary protection visas and closing offshore processing centres. The *Australian* on 3 October reported:

... one senior government official intimately familiar with people-smuggling networks ... who spoke on background, said while it was too early to say if this boat had sailed on the back of Labor's changes, a perception may have developed among people smugglers that Australia had softened its approach.

"I think there's a perception that we may have (softened), they're not quite sure," the official said. "They've certainly read statements, particularly by minister Evans, and I think they're interested in testing it."

The official said people smugglers had carefully tracked changes in Australian policy.

"The main change that they would have picked up is that we now don't have this temporary visa, we're moving straight into permanent protection," the official said. "That would be seen by them, I'm sure, as a softening, or as indicating a relaxation."

On 1 December the *Australian* reported the International Organisation for Migration chief-of-mission in Indonesia, Steven Cook, saying that:

... smugglers had tracked the policy changes and there had been a dramatic surge in smuggling in the past 12 months.

"People smugglers have clearly noted that there has been a change in policy and they're testing the envelope," he said.

"Up until about a year ago there was very little people-smuggling activity. Over the last year there's been a considerable up-kick. There have been boat arrivals in Australia, there's been interceptions here. There are rumours of a lot of organising going on."

Even Senator Faulkner in response to a question regarding Australia's border protection last Wednesday, 26 November, in the other place said that there would be reduced activity for Navy over the Christmas-New Year period. He said:

Over the Christmas period, half the patrol boat fleet will remain on duty protecting our borders ...

So the question is: why have we have seen an upsurge in the illegal boats coming into Australian waters we have not seen since the end of 2000-01? Could it be that the official recorded in the *Australian* on 3 October was correct and that there is a softening in Labor's policy on border security?

The smuggling of people is an abhorrence. It is something abhorred by all parliamentarians. The destruction, the death and everything else it brings with it are things that we should repudiate in the strongest possible terms. And we must do everything to ensure that boat people are not encouraged to come here and that operators of these dreadfully small, unsafe boats are not encouraged to smuggle people here. As a nation, we take in more refugees per head of population than any other country on the planet. We are incredibly generous with our refugee intake. There is no requirement for us to be, and we should not be, softening our border protection in any way, shape or form that may in any way send a signal that our borders are easier targets now because of a Labor government.

The coalition's record on 457 visas is also very strong. In 1996, the coalition introduced new visa categories to allow employers to sponsor skilled workers on a temporary basis for between three months and four years to help ease chronic labour shortages. The temporary business (long stay) visa 457 is a commonly used category. After a specified time, workers and their families can apply for permanent skilled migration if they so wish. The annual intake for the 457 visa program has steadily increased: in 1997-98 it was 15,000; in 2003-04 it was 22,370; in 2006-07 it was 46,680; and in February 2008 there were 125,390 457 visa holders in Australia, including 67,410 skilled workers and 57,980 family members. There are currently almost 19,000 employers using 457 visas. Nearly 30 per cent of 457 visa holders are employed in the state of New South Wales. Permanency can usually be applied for after four or so years. On average, 457 visa holders stay in this country for two years. Some 50 per cent move to permanent residence via the Employer Nomination Scheme or the Regional Sponsored Migration Scheme. The coalition's policy on this was incredibly strong and its record on this is incredibly strong. Unless the coalition had moved in these ways, there would have been no capacity to deal with the capacity constraints that had previously been experienced.

The objective of this bill is to amend the Migration Act 1958. Visa holders are currently sponsored by employers who must meet a series of undertakings. These undertakings are now to be specified in the new, yet-unseen regulations. This government is putting up, once more, a form of hollow-shell bill, saying: 'Those sponsored by employers must meet a range of undertakings—but we're not going to tell you what those undertakings are. We'll let you know at a later date—perhaps six months—through regulation. So we want the Australian people to take on trust that the regulations will be fair.' Well, having recently spoken on the Fair Work Bill, I know that, while Minister Gillard—indeed, the Prime Minister—stood in front of the Australian people and said that there would be no compulsory arbitration, no return to pattern bargaining and no change to the union right of entry, the Fair Work Bill changes all three. Duplicitous is what it is; to stand there and look the Australian people in the eye and say one thing and then to pass legislation that does something else is duplicitous. It is an act of gross hypocrisy—that is what it is.

This bill outlines a framework for a new system of statutory regulations. It widens the sanctions that can be applied if a breach of these occurs. It details a new system of monitoring, compliance and information sharing, and it sets out the transitional arrangements between the current scheme and the new scheme. With respect to sanctions, in addition to the current options of barring or suspending a sponsor for breaching an agreement, there will be new civil penalties, to a maximum of $6,600 for an individual and $33,000 for an incorporated body. The minister may also issue an infringement notice, with a fine of up to one-fifth of the maximum penalty. In terms of monitoring and compliance, the power of inspectors to investigate and monitor will be modelled on the Workplace Relations Act, with similar powers. With respect to information sharing, the minister will be able to reveal information about the sponsor to the visa holder and vice versa.

The bill also contains an amendment to the Tax Administration Act so that the commissioner can provide information to DIAC to find out if a company is indeed a good corporate citizen. There are also a range of transitional provisions. When the new regime comes into effect, all 457 visa sponsors will be moved to the new regime. The expected start date is somewhere in mid-2010.

While the broad framework for the bill has support from the coalition, a serious problem in the delay in the production of the regulations must be stated. For the regulations to take a further six months and for a bill to be passed—in some form of a hollow-shell of a bill—with regulations yet unseen, is simply extraordinary. Is the government simply not up to the task of producing the regulations, or is there something to hide? I guess we could look at the track record. When the government stands up and says, 'There will be no union right of entry; there'll be no compulsory arbitration; there'll be no return to pattern bargaining,' and we find those three are explicitly stated, I think we know the status of this government. It is duplicitous.

The April 2008 discussion paper of regulation options, released by DIAC, may give some idea of the potential new payment obligations that this Labor government will impose on employers. Some of these new options may include meeting all education costs of minors accompanying the worker; covering all medical costs, either through insurance or direct payment, including medical costs where the insurance company refuses to pay; paying any migration agent fees or other costs; paying all travel costs to the country; and paying any license or registration fees—and I can only assume that would include union fees, looking across the table at government members. As well, it is proposed that sponsors not be allowed to use 'temporary overseas labour during periods of lawful industrial action or to influence enterprise bargaining negotiations'. Why would you put that clause into a bit of legislation—sponsors may not be able to use 'temporary overseas labour during periods of lawful industrial action or to influence enterprise bargaining negotiations'?

This is a typical Labor amendment. Is there anything this government will not do to repay their union mates for getting elected? I can only assume that the Labor Party is indeed the political wing of the union movement, having seen the Fair Work Bill and some of the outrageous propositions being put in here—and, indeed, regulations that are not even being put forward. We can only surmise from the DIAC paper what they are, but they will certainly provide impositions against employers, because that is what Labor does.

The new framework refers to a new system of compliance and monitoring. We are concerned that employers not be frustrated by greater red tape. Prime Minister Rudd said that if there were any new red tape implemented, he would remove another piece of red tape. Well, he is on notice. If any red tape is added, we will be looking for what the offsets are. It would be disappointing if, again, he was to show that he is being duplicitous. There is also a proposal that 400-series temporary work visas, which have not required sponsors in the past—that is, for those staying fewer than three months—may require sponsors in the future, which will need processing and monitoring. This will put even greater pressure on an already strained DIAC system and introduce further red tape.

Whilst we provide tacit support for the broad framework, we are extremely concerned about the absence of the regulations. It would be detrimental to Australian employers—not that this union-dominated government has given much thought to Australian employers—if the costs of bringing in skilled labour and the time it takes leave us less competitive in a global market for the highly mobile skilled worker. The member for Eden-Monaro and the member for Bass, sitting opposite, are on notice: if your employers in your electorates face greater red tape because of what you are doing here, they will

vote with their feet. We condemn this government for its failure to produce regulations at this stage. We want to assure the government that the regulations will be given incredibly close scrutiny when they finally get around to tabling them in the House and indeed the Senate.