Migration_Legislation Amendment (Consequential Provisions) Bill 1989

Date Introduced: 26 October 1989
House: House of Representatives
Portfolio: Immigration, Local Government and Ethnic Affairs

Digest of Bill

Purpose
The Bill will make a number of amendments to the Migration Legislation Amendment Act 1989 (the Act) to correct unintended operations of that Act and to satisfy a promise made by the Minister during debate on that legislation.

Background
The Act introduced a large number of amendments to immigration law, including contentious amendments. The main purpose of the Act was to review the issuing procedures for entry permits and visas and the introduction of a review procedure which removed many of the powers from the Minister. Two of the more relevant matters implemented by the Act where the requirement that illegal entrants be deported after a period of grace has passed, and the possible removal of the Ministers discretion in regard to refugee status.

The other amendments contained in this Bill relate to very specific matters and will be dealt with in the main provisions. For further information on the immigration area, refer to the Digest for the Migration Legislation Amendment Bill 1989.

Main Provisions
The amendments to the Migration Act 1958 (the Principal Act) contained in Schedule 1 of the Bill will commence from the same time as the Act came into force (sub-clause 2(1)).

The amendments contained in the first Schedule are:

A definition of properly endorsed valid entry visa will be inserted into the Act. Currently, there is only a definition of properly endorsed valid entry permit while entry under visa is allowed on pre-checked flights (i.e. flights where immigration procedure is performed overseas) under section 9 of the Principle Act. This amendment will allow the visa to be endorsed overseas. The
amendment to section 11A of the Principle Act will place people entering under such documents in the same position as other regarding the circumstances where a non-citizen may become an illegal entrant due to providing false or misleading information.

Amendments to section 11E of the Principle Act deal with exempt visas, which are defined to be visas of a prescribed class. Where, under the regulations, a person is eligible for such a visa, it may be issued subject to any conditions allowed in the regulations. This aims to enable the quick issue of tourist visas.

Sub-section 17A(2) of the Principle Act provides that the Minister must deport an illegal entrant if satisfied that the person is liable for deportation. The amendment will require the Minister to follow prescribed procedures before becoming satisfied that the person is eligible for deportation. This amendment aims to address the difficulties arising from the removal of Ministerial discretion in certain deportations.

Sections 18 and 20 of the Principle Act will be amended to require people making decisions under these sections to consider only the prescribed matters. This aims to promote consistency.

The power to arrest a person who has escaped from custody will be made clear by amendments to paragraph 17(n) of the Principle Act.

Section 67 of the Principle Act will be amended to allow the regulations to fix fees to be charged for English language tests. Such a power previously appeared in section 67 of the Principle Act.

Schedule 2 of the Bill amends a number of other Acts. The amendments are purely technical and will not affect the operation of the immigration scheme.

For further information, if required, contact the Economics and Commerce Group.

30 October 1989

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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