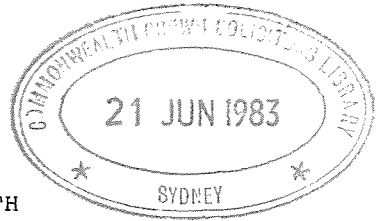


1983

THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA



HOUSE OF REPRESENTATIVES

MIGRATION AMENDMENT BILL 1983

EXPLANATORY MEMORANDUM

(Circulated by the Authority of the Minister for  
Immigration and Ethnic Affairs, the Honourable  
Stewart J. West MP)

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MIGRATION AMENDMENT BILL 1983

Purpose of the Bill

The Migration Amendment Bill 1983 is designed to remove the distinction between aliens and immigrants in relation to entry and deportation controls and to put all non-Australian citizens on the same footing in relation to those controls.

The proposed legislation will also make consequential and technical amendments.

Clause 1 :      Short Title

Clause 1 fixes the citation of the Amendment Act and identifies the Migration Act 1958 as the Principal Act (the Act).

Clause 2 :      Commencement

Clause 2 provides for the Bill to come into operation on a date to be fixed by Proclamation, to allow consequential amendments to other Acts of Parliament to be effected.

Clause 3 :      Title

Clause 3 amends the title to the Act to indicate that the Principal Act as amended deals with the entry into, and presence in, Australia of aliens, and the departure or deportation of aliens and certain other persons.

Clause 4 :      Interpretation

Paragraph 4 (a) amends the Act by omitting the definition of "alien".

Paragraph 4 (b) amends the Act by omitting the definition of "immigrant".

Paragraph 4 (c) inserts into the Act a definition of "non-citizen" to mean a person who is not an Australian citizen.

Paragraph 4 (d) amends the Act by omitting the definition of "protected person".

Paragraph 4 (e) amends the Act by inserting new provisions to enable the Minister to make valid decisions where at present only "officers" and "authorized officers" may take such decisions.

Clause 5 :      Heading to Part II

Clause 5 omits the heading to Part II and substitutes the heading "Part II - Entry, Presence and Deportation of Non-Citizens".

Clause 6 : Non-citizen not to enter Australia without entry permit

Clause 6 amends section 6 by omitting sub-section (2A) and effecting consequential and technical amendments.

Clause 7 : Conditions on which entry permits may be granted to non-citizens after entry into Australia

Clause 7 amends section 6A to effect consequential and technical amendments.

Clause 8 : Cancellation, expiration and renewal of entry permits

Clause 8 amends section 7 to effect a consequential amendment.

Clause 9 : Person to cease to be prohibited non-citizen if granted entry permit

Clause 9 amends section 10 to effect a consequential amendment.

Clause 10 : Deportation of non-citizens present in Australia for less than 10 years who are convicted of crimes

This clause repeals sections 12 and 13 and inserts a new section 12 to render liable to deportation any non-citizen who has, within 10 years of being granted permanent residence, committed a crime for which he has been sentenced to death, to imprisonment for life, or for a period of not less than one year.

The period of 10 years shall be determined on the basis of legal presence or the aggregate of periods of legal presence in Australia, of the person as a permanent resident. It shall, however, exclude a period for which the person was confined in a prison as a result of conviction for any offence. For the purpose of this 10-year period, a period of presence in Australia of the person as an Australian citizen shall be included, to avoid an unintended adverse effect against a non-citizen who, during the length of his legal presence in Australia, acquired Australian citizenship and subsequently lost it, either by choice or by operation of law.

The proposed section has no application with respect to prohibited non-citizens. It deals only with deportation of legal permanent residents who are non-citizens and who have committed crimes and have been sentenced as specified.

Clause 11 :     Deportation of non-citizens upon security grounds after report by Commissioner

This clause amends section 14 by omitting sub-sections (1) and (2). The clause inserts new provisions (new sub-section 14(1)) to empower the Minister to order the deportation of non-citizens as a result of conduct in Australia or elsewhere where it appears to the Minister that the conduct of a non-citizen has been such as to constitute a threat to the security of the Commonwealth or of a State or of any internal or external Territory. The Minister may also, subject to the section, order the deportation of the non-citizen under the new sub-section 14(2), where a non-citizen has been convicted of an enumerated offence under the Crimes Act 1914 or a prescribed offence against the law of a State or Territory.

Clause 12 :     Repeal of Section 15

Clause 12 repeals section 15.

Clause 13 :     Persons entering Australia to be prohibited non-citizens in certain circumstances

This clause amends section 16 to effect consequential amendments.

Clause 14 :     Deportation of prohibited non-citizens

This clause amends section 18 to effect a consequential amendment.

Clause 15 :     Deportation order to be executed

The clause amends section 20 by inserting a new sub-section to provide that a deportation order will not become invalid through any delay in the execution of the order.

Clause 16 : Duties of Master etc., of vessel or installation which brought deportee to Australia to provide passage

The clause amends section 21 to effect consequential and technical amendments.

Clause 17 : Offences in relation to entering or remaining in Australia

The clause amends section 27 to effect consequential and technical amendments.

Clause 18 : Persons concerned in bringing non-citizens secretly into Australia or harbouring prohibited non citizens

This clause amends section 30 to effect consequential amendments.

Clause 19 : False papers, etc

The clause amends section 31 to effect a consequential amendment.

Clause 20 : Minister or authorized officer may require prohibited non-citizen to leave Australia

This clause amends section 31A to effect a consequential amendment.

Clause 21 : Prohibited non-citizens etc. may be prevented from landing

This clause amends section 35 to effect a consequential amendment.

Clause 22 : Custody of prohibited non-citizen during stay of vessel in port

This clause amends section 36 to effect a consequential amendment.

Clause 23 : Custody of prohibited non-citizen during stay of aircraft in Australia.

The clause amends section 36A to omit the requirement to serve notice under the section within 24 hours after a person is taken into custody under the section and effects a consequential amendment.

Clause 24 :     Powers of entry and search

This clause amends section 37 to effect consequential amendments.

Clause 25 :     Arrest of prohibited non-citizen

The clause amends section 38 to effect a consequential amendment.

Clause 26 :     Heading to Division 6 of Part II

The clause amends the heading to Division 6 of Part II of the Act to read "Division 6 - Migration Agents".

Clause 27 :     Interpretation

The clause amends section 46 to alter the description of "an immigration agent" and an "immigrant" to "migration agent" and "non-citizen" respectively, and other minor consequential amendments.

Clause 28 :     Persons proposing to act as migration agents to give notice to Departments

The clause amends section 47 to effect a consequential amendment.

Clause 29 :     Minister may direct persons not to act as migration agents

The clause amends section 48 to effect a consequential amendment.

Clause 30 :     Persons not to describe themselves as registered or approved migration agents

The clause amends section 49 to effect a consequential amendment.

Clause 31 :     Migration agents liable to furnish particulars of fees etc

The clause amends sub-section 51(1) to effect a formal amendment.

Clause 32 :     Undertaking to provide passage to be carried out within a reasonable time

The clause amends section 52 to effect a consequential amendment.

Clause 33 : Proof of certain matters recited in deportation orders

The clause amends section 55 to effect consequential amendments.

Clause 34 : Migrant centres

The clause amends section 58 to effect consequential amendments and a minor technical amendment.

Clause 35 : Review of decisions

The clause amends section 66E by the omission of all references to section 13 and effects a consequential amendment.

Clause 36 : Additional amendments

The clause amends various sections of the Act as set out in the Schedule. These amendments substitute references to "immigrants" and "prohibited immigrants" with "non-citizens" and "prohibited non-citizens" respectively and include other minor amendments of a formal and consequential nature.

Clause 37 : Transitional provisions

The clause is a transitional provision which provides that a person who was, before the commencement of the amending Act, a prohibited immigrant within the meaning of the Migration Act 1958 shall be, for all purposes of the Act as amended, a prohibited non-citizen.

The clause also provides that an entry permit, visa or return endorsement that was in force immediately before the commencement of the amending Act shall have effect as if it had been granted under the provisions of the Act as so amended.

The clause provides that, in respect of a deportation order which had been made under the Act prior to the commencement of the amending Act and which had not been revoked before the commencement of the amending Act, the order continues in force as if the amendments made by the amending Act had not been made.



The clause provides that, where a prosecution for an offence against paragraph 27(1)(ab) of the Act alleged to have been committed prior to the commencement of the amending Act is instituted, it is a defence if the person charged satisfies the court that, after he became a prohibited immigrant within the meaning of the Act, a further entry permit applicable to him had come into force (whether before or after the commencement of the amending Act) or if the person satisfies the court that he had, prior to the commencement of the amending Act, ceased to be a prohibited immigrant by virtue of sub-section 7(4) of the Act.