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THE PARLIAMENT OF THE COMMONWEALTH
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HOUSE OF REPRESENTATIVES

MIGRATION (HEALTH SERVICES) CHARGE BILL 1991

MIGRATION AMENDMENT BILL (No 3) 1991

EXPLANATORY MEMORANDUM

Circulated by authority of the Minister for
Immigration, Local Government and Ethnic Affairs

The Hon Gerry Hand MP

MIGRATION (HEALTH SERVICES) CHARGE BILL 1991
MIGRATION AMENDMENT BILL (No 3) 1991

OUTLINE

The Migration (Health Services) Charge Bill 1991 imposes a new charge on applicants for the grant of a visa or entry permit in respect of which there is required to be given an assurance of support is an essential criterion in relation to the applicant (relevant visa or entry permit). The Bill also provides that the charge may, in the alternative, be paid by the person who provides the assurance.

2 Key terms used in the Bill are defined and, as with the Migration Act 1958, the Bill extends to the Coral Sea Islands Territory, the Territories of Cocos (Keeling) Islands and Christmas Island.

3 The Bill raises a charge of \$822 to be paid in respect of a relevant visa or entry permit which has been applied for on or after 21 August 1991. After commencement of the Act however, there will be a prohibition against the grant of a relevant visa or entry permit by the Minister until such time as the charge has been paid.

4 The charge is indexed against the All Group Consumer Price Index. The charge is therefore subject to increase where the indexation factor in any relevant year, calculated from 21 August 1992, is greater than one. The charge cannot fall below its highest level. The application of the indexation factor will result in the charge being rounded off to the nearest dollar.

5 A person who has paid the charge for a relevant visa is exempted from paying the charge which would have arisen in respect of a relevant entry permit which corresponds with the class of visa granted.

6 In addition, the withdrawal of an application for a visa or entry permit will result in an exemption from the payment of the charge.

7 The Migration Amendment Bill (No 3) 1991 gives effect to the provisions of the Migration (Health Services) Charge Act 1991 and will therefore commence on the same day as that Act.

8 It amends section 24 and 34 of the Migration Act 1958 which relate to the granting or refusal of visas and entry permits respectively. In the case of each section this Bill introduces a requirement for the Minister to provide an applicant seeking to enter or remain in Australia with a notice in writing stating that the grant of the class of visa or entry permit applied for cannot take place unless the charge payable under the Migration (Health Services) Charge Act 1991 has been paid.

9 The notices will apply only to those classes of visas or entry permits in respect of which an assurance of support is an essential criterion in relation to the person seeking to enter or remain in Australia.

10 The Bill contains a prohibition on the Minister granting a visa or an entry permit until the charge is paid.

11 In addition the regulation-making power in the Migration Act 1958 is amended to provide for the refund of charges paid under the Migration (Health Services) Charge Act 1991.

FINANCIAL IMPACT STATEMENT

12 The \$822 charge for each person represents an estimated 50% contribution toward the cost to the Commonwealth of providing access to medical, hospital and pharmaceutical benefits to assured persons during their first two years in Australia. This results in additional estimated revenue to the Commonwealth of \$9.9m in a full financial year.

NOTES ON INDIVIDUAL CLAUSES

MIGRATION (HEALTH SERVICES) CHARGE BILL 1991

Clause 1 Short Title

1 Provides that the Act is to be cited as the Migration (Health Services) Charge Act 1991.

Clause 2 Commencement

2 This clause provides for the commencement of the Act on the day it receives Royal Assent.

Clause 3 Interpretation

3 The terms 'entry permit', 'charge', 'index number', 'relevant year' and 'visa' are each defined:

- . 'entry permit' and 'visa' are given the same meanings as in the Migration Act 1958
- . 'charge' is given meaning by reference to the amount payable under the provisions of clause 6 of the Bill and calculated in accordance with the formulae provided in that clause
- . 'index number' in respect of a quarter is the weighted average All Group Consumer Price Index number published by the Australian Statistician in respect of that quarter. The quarter which is to be used for the purpose of calculation under clause 6 is the March quarter
- . 'relevant year' is the 12 month period commencing on 21 August 1992 and each subsequent period of 12 months thereafter.

Clause 4 Act to extend to certain Territories

4 As with the Migration Act 1958, this Act will apply to the Coral Sea Islands Territory and the Territories of Cocos (Keeling) Islands and Christmas Island.

Clause 5 Imposition of Charge

5 This clause provides for the charge under clause 6 to be paid where a person has applied for a visa or entry permit on or after 21 August 1991. Provision is made in paragraph 5(1)(a) for payment of the charge where a grant has been made before commencement of the Act.

6 Sub Clause 5(2) makes it clear that the charge is only payable in respect of the grant of a visa or entry permit of a class in which it is an essential criterion that an assurance of support has to be provided.

7 In addition sub clause 5(3) provides that the charge may be paid either by an applicant or by the person who gives the assurance of support in respect of the applicant.

8 On commencement of the Act there is to be a regime whereby an application for the relevant class of visa or entry permit which has not yet been granted is to be subject to a notification procedure. In the case of a visa application, the Minister is to include in the notice which goes to the applicant a stipulation that the grant cannot be made until payment of the charge has been made. In the case of entry permits, a notice is to be sent to the applicant indicating that the grant may not be made before the specified charge has been paid.

9 Corresponding amendments have been made to the Migration Act 1958 to give effect to these procedures.

10 The charge is raised only in respect of those classes of visas or entry permits under the Migration Regulations which provide as one of the essential criteria to be satisfied before the grant may take place that an assurance of support must be given in relation to the applicant who is seeking to enter or remain in Australia.

11 At present the classes of visas and entry permits which are subject to the charge are:

Visa Class 103	Parent Visa in which the balance of family test has been met
Visa Class 104	Preferential family visa in respect of orphan minors, special need relatives, remaining relatives and aged dependants
Visa Class 206	Lebanese concession visa
Entry Permit Class 804	Aged parent (after entry) entry permit where the balance of family test is met
Entry Permit Class 806	Compassionate grounds entry permit in respect of orphan minors, special need relatives, remaining relatives and aged dependants

12 Subparagraph 5(b)(iii) of the Bill provides that the obligation to pay the charge arises where the applicant would be granted either a visa or entry permit of the appropriate class but for the outstanding payment of the charge. This means that the criteria for the grant of the particular visa or entry permit have all been met but for the payment of the charge.

Clause 6 Amount of Charge

13 Sub Clause 6(1) provides for a charge of \$822 to be payable.

14 Sub clauses 6(2)-(6) provide for the charge to be indexed and the formula for the calculation of the charge where the indexation factor in a quarter is greater than one. Specifically:

- sub clause 6(2) provides that where the indexation factor in a particular year is more than one, the charge will be multiplied by that factor to calculate the applicable charge to be paid in that year. This means that after the first year of operation the indexation factor will be multiplied by the base charge of \$822 - see paragraph 6(2)(a)(i) - and in subsequent years the indexation factor will be multiplied by the figure which has been substituted for the base charge of \$822 - see paragraph 6(2)(a)(ii). Paragraph 6(2)(b) allows the figure so calculated to be rounded to the nearest dollar.

So for example, if after the first year of operation the indexation factor is 1.003 the calculation of the charge for the following year will be $1.003 \times \$822 = \824.47 . With the rounding up procedure the product of \$824.47 becomes \$824. \$824 becomes the substituted figure addressed in paragraph 6(2)(a)(ii). In the year which follows therefore, the indexation factor will be multiplied by \$824. If however the figure calculated to 3 decimal points had resulted in a product of say \$825.53 the rounding up procedure would result in a substituted charge of \$826.

The effect of this is that the substituted charge then becomes the minimum level of the charge. It will only be increased when the next indexation factor is greater than one whereupon the next substituted charge will become the minimum level of the charge and so on.

- Sub clause 6(3) provides for the calculation of the indexation factor for a relevant year calculated to 3 decimal points. This is achieved by dividing the index number of one March quarter by the index number for the March quarter of the previous year.

- . Sub clause 6(4) gives the formula for calculating the indexation factor. The calculation of the number is made to four decimal points, and where the fourth decimal point is greater than four, the third decimal point is increased by one and the fourth decimal point falls away. Thus a figure calculated to four decimal places such as 1.0036 will result in the indexation factor being 1.004.
- . Sub clause 6(5) makes provision for the use of the first index number published by the Australian Statistician in the event that the statistician revises a previous figure. This formula allows for the smooth administration of the charge in any given year. Any correction that is necessary would be reflected when determining the indexation factor in the subsequent year when the index numbers are divided according to the provisions of sub clause 6(3). This sub clause is subject only to the provisions of sub clause 6(6).
- . Sub clause 6(6) provides that where the Australian Statistician changes the reference base for the Consumer Price Index before or after the commencement of clause 6 use is made only of the index numbers published in terms of the new reference base.

Clause 7 Exemptions from charge

15 This clause provides for an applicant to be exempt from the payment of the charge where the applicant, having been granted a visa in respect of which the charge has already been paid, applies for an entry permit of an equivalent class to the visa held.

16 In addition, this clause provides that applicants who withdraw their applications are exempted from paying the charge.

MIGRATION AMENDMENT BILL (No 3) 1991

Clause 1 Short Title

1 Provides that Act is to be cited as the Migration Amendment Act (No 3) 1991 and cites the Migration Act 1958 as the Principal Act.

Clause 2 Commencement

2 Provides for the Act to commence on the same day as the Migration (Health Services) Charge Act 1991.

Clause 3 Grant or refusal of visas

3 This clause amends section 24 of the Principal Act and makes the operation of subsection 24(3) subject to the operation of new subsection 24(3B). It also includes a new paragraph 3(aa) which in the case of visa applicants who have to satisfy an assurance of support as an essential criterion, obliges the Minister to include in the paragraph 3(a) notice that is normally sent to visa applicants a statement that the visa cannot be granted unless the charge payable under the Migration (Health Services) Charge Act 1991 has been paid.

4 New section 24(3B) provides that the Minister has no power to grant a visa if the charge payable under the Migration (Health Services) Charge Act 1991 has not been paid. New sub section 24(3A) provides that the reference to a requirement for an assurance of support means that the provision of such an assurance is an essential criterion to be satisfied before a visa may be granted.

Clause 4 Grant or refusal of entry permits

5 This clause amends section 34 of the Principal Act in subsection (3) by requiring that when regulations make it an essential criterion that an applicant seeking to enter or remain in Australia is supported by an assurance of support, the applicant be given a written notice stating that an entry permit cannot be granted unless the charge payable under the Migration (Health Services) Charge Act 1991 has been paid.

6 As in the case of section 24 of the Principal Act amendment section 34 is also amended by the insertion of a new subsection (3B) which provides that the Minister has no power to grant an entry permit if the charge under the Migration (Health Services) Charge Act 1991 has not been paid. New sub section 34(3A) provides that the reference to a requirement for an assurance of support means that the provision of such an assurance is an essential criterion to be satisfied before an entry permit may be granted.

Clause 5 Regulation

7 This clause amends section 181 of the Principal Act whereby the regulation making power is amended by inserting new paragraph (i) to permit regulations to be made to provide for the remission, refund or waiver of charges under the Migration (Health Services) Charge Act 1991.

