

1986

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MIGRATION AMENDMENT BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Immigration and Ethnic Affairs,
the Honourable Chris Hurford, M.P.)

OUTLINE

It is proposed to insert a new section after section 6 of the Act. The new section will be section 6AAA.

Section 6AAA will provide for the status of children born in Australia who, once the Australian Citizenship Amendment Act 1986 commences, will not be Australian citizens because neither of their parents is an Australian citizen or permanent resident of Australia.

The new section will provide that a non-citizen child born in Australia will be deemed to be included in the temporary entry permit or to have the same immigration status as his or her parents or, if the entry permits or the status of the parents differs, to be included in the permit or have the status more favourable to the child.

The amendment has no financial impact.

NOTES ON CLAUSES

Clauses 1 and 2

1. The first two clauses of the Bill provide for the short title and commencement of the amendment. The Act will come into operation on the day on which the Australian Citizenship Amendment Act 1986 commences, because the amendment provides for the status of children born in Australia who will not be Australian citizens once the Australian Citizenship Amendment Act commences.

Clause 3

Paragraph 6AAA(a)

2. The paragraph provides that an Australian-born non-Australian citizen shall be deemed to have entered Australia at the time of his or her birth. It is intended that the status of such children will follow that of the parents as set out in paragraphs 6AAA(b), (c) or (d). Where both parents are prohibited non-citizens, the child will similarly assume that status.

Paragraph 6AAA(b)

3. The paragraph provides that where one of the parents of an Australian-born non-citizen holds a temporary entry permit the child will be deemed to be included in that temporary entry permit. The provision will confer the more favourable status on the child of a temporary entry permit holder and a prohibited non-citizen.

Paragraph 6AAA(c)

4. The paragraph provides that where the parents of an Australian-born non-citizen hold the same temporary entry permit (usually because the parents hold only one passport) the child will be deemed to be included in that temporary entry permit.

Paragraph 6AAA(d)

5. The paragraph provides that where both parents of an Australian-born non-citizen hold temporary entry permits the child will be deemed to be included in the temporary entry permit of longer duration or, if the parents' temporary entry permits are of the same duration and expire on the same date, in both temporary entry permits. In the latter case, the child will be deemed to be included in both temporary entry permits to avoid difficulties of arbitrarily nominating one or other parent.