

1988

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MIGRATION AMENDMENT BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Immigration,
Local Government and Ethnic Affairs,
The Hon A C Holding MP)

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MIGRATION AMENDMENT BILL 1988

GENERAL OUTLINE

The purpose of this Bill is to amend the Migration Act 1958. The principal amendments are designed to repeal references to the immigration clearance fee, to amend the definition of "officer", and to bring the power to grant an entry permit into line with the power to grant a visa.

2 The provisions referring to the immigration clearance fee are to be repealed as the fee is to be abolished. The airlines pre-existing liabilities concerning the immigration clearance fee are not affected by this amendment.

3 The definition of "officer" has been amended in order to limit the inappropriately wide range of powers currently exercisable by any officer of the Department or any person who is an officer for the purposes of the Customs Act 1901. The most appropriate way of achieving this is by enabling the Minister to exclude certain officers and classes of officers from exercising specified powers.

4 The provision referring to the granting of an entry permit to a non-citizen, subsection 6(2) of the Act, is also amended in order to restrict the exercise of that power to an officer expressly authorised for that purpose. This will bring the provision into line with the provision relating to the grant of a visa, section 11A of the Act.

Financial Impact Statement

5 The abolition of the Immigration Clearance Fee (\$5) from 1 July 1988 should be viewed in the context that the Government has agreed that a \$5 share of the new and reduced Departure Tax of \$10 will be notionally allocated towards migration costs incurred in processing international passengers. The revenue from such an allocation is estimated to be \$18.45M in 1988/89, which roughly equates to revenue forgone from repealing the Immigration Clearance Fee.

Abbreviations

6 The following abbreviations are used in this Explanatory Memorandum:

Act	:	<u>Migration Act 1958</u>
Bill	:	Migration Amendment Bill 1988
Department	:	Department of Immigration, Local Government and Ethnic Affairs

NOTES ON INDIVIDUAL CLAUSES

Clause 1: Short Title

Clause 2: Commencement

7 These amendments shall come into operation on 1 July 1988.

Clause 3: Interpretation

8 This clause provides that the definitions of "officer" in subsection 5(1), paragraphs (a) and (b), are to be omitted. New provisions are inserted which provide that an "officer" of the Department or for the purposes of the Customs Act 1901 will be an "officer" for the purposes of the Act unless the Minister specifies otherwise in writing.

9 This provision is aimed at enabling the Minister to exclude certain officers and classes of officers from exercising specified powers. This is necessary as currently even the most junior officers, irrespective of their duties or responsibilities, could validly issue an entry permit to a person seeking entry to Australia, arrest a person suspected of being a prohibited non-citizen or search aircraft and ships for stowaways or persons suspected of seeking to enter Australia illegally. It is inappropriate for all officers to have such considerable powers. It is more appropriate that such wide ranging powers should flow from administrative necessities and the appropriate responsibilities.

Clause 4: Non-citizen not to enter Australia without entry permit

10 This clause substitutes "authorised officer" for "officer" in subsection 6(2). This subsection now provides that an officer may grant an entry permit to a non-citizen only if authorised to do so.

Clause 5: Immigration clearance fee

11 This clause repeals section 34A of the Act, which established the immigration clearance fee. This repeal does not affect airlines' pre-existing liabilities concerning the immigration clearance fee.

Clause 6: Regulations

12 This clause deletes paragraphs (cb) and (cc) of subsection 67(1), thus abolishing the power of the Governor-General to make certain regulations relating to the collection of the immigration clearance fee by international air operators and the payment of those fees to the Commonwealth. This regulation-making power has become unnecessary in view of the repeal of section 34A of the Act.