

1992

THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA

SENATE

MIGRATION AMENDMENT BILL (No 4) 1991

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendment to be Moved on behalf of the  
Government

(Circulated by authority of the Minister  
for Immigration, Local Government  
and Ethnic Affairs,  
the Hon G Hand MP)

# MIGRATION AMENDMENT BILL (No.4) 1991

## OUTLINE

The amendment provides for the removal of the amendment to subsection 181(1)(j).

2 The original amendment sought, erroneously, to employ the formula in subsection 4B(3) of the Crimes Act 1914 which allows a penalty specified for a natural person to be increased fivefold when applied to bodies corporate after conviction. No reduction in the level of penalty was intended.

## FINANCIAL IMPACT STATEMENT

3 The amendment will have no financial impact.

## NOTES ON SUPPLEMENTARY CLAUSES

### Clause 5, Schedule 2: Amendments of Penalty Provisions

1 The amendment provides that the paragraph entitled "Subsection 181(1)(j)" is to be deleted.

2 The original amendment to the Regulation making powers in subparagraph 181(1)(j) of the Migration Act reduced the maximum prescribed penalty to be paid by a person as an alternative to prosecution for a breach of section 76 [the carriage of persons to Australia without documentation] from \$3000 to \$600.

3 The original amendment sought, erroneously, to employ the formula in subsection 4B(3) of the Crimes Act 1914 which permits a prescribed penalty for a natural person upon conviction to be increased fivefold when applied to a body corporate upon conviction.

4 The formula in the Crimes Act 1914 only applies where a conviction has been obtained. It is not applicable to subsection 181(1)(j) which provides for a maximum penalty to be applied by way of administratively issuing an infringement notice. This is an alternative to prosecution and does not incur a conviction.

5 The omission of the proposed amendment will maintain the status quo in respect of the regulations that may be made imposing the penalty to be paid by a person as an alternative to prosecution under section 76.



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