

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

MIGRATION LEGISLATION AMENDMENT BILL (No. 5) 1994
MIGRATION AGENTS REGISTRATION (APPLICATION) LEVY AMENDMENT
BILL 1994
MIGRATION AGENTS REGISTRATION (RENEWAL) LEVY AMENDMENT
BILL 1994
IMMIGRATION (EDUCATION) CHARGE AMENDMENT BILL 1994

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated by authority of the Minister
for Immigration and Ethnic Affairs,
Senator the Hon. Nick Bolkus)



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OUTLINE

The Migration Legislation Amendment Bill (No. 5) 1994 ("the MLAB (No 5)") proposes a number of amendments to the *Migration Act 1958* ("the Act") and the *Immigration (Education) Act 1971* ("the Immigration Education Act"). The proposed amendments relate to the:

- . implementation of certain recommendations of the Committee for the Review of the System for Review of Migration Decisions ("CROSROMD");
- . creation of Deputy Principal Member and Senior Member positions in the Refugee Review Tribunal ("RRT");
- . transfer of responsibility for setting remuneration for Immigration Review Tribunal ("IRT") and RRT members to the Remuneration Tribunal;
- . automatic fee indexation; and
- . extension of the business skills visa cancellation regime to the new business skills visas.

2 The Immigration (Education) Charge Amendment Bill 1994, the Migration Agents Registration (Application) Levy Amendment Bill 1994 and the Migration Agents Registration (Renewal) Levy Amendment Bill 1994 propose amendments which relate to the automatic indexation of the charge and levy amounts imposed under the principal Acts.

3 The Bills were drafted on the assumption that they would receive Royal Assent before 1 July 1995. On that basis:

- . the CROSROMD amendments were to commence on 1 July 1995 and apply to IRT applications made on or after that date;
- . the automatic fee indexation amendments were to commence on 1 July 1995 and apply to Adult Migrant English Program enrolments (in relation to the Immigration Education Act amendments contained in the MLAB (No 5)) and to visa applications (in relation to the Immigration (Education) Charge Act amendments), Migration Agents Registration Scheme ("MARS") initial registration or MARS renewal applications made on or after 1 July 1995; and
- . all other amendments were due to commence on Royal Assent.

4 The proposed amendments to the Bills would amend the commencement and application dates as follows:

CROSROMD amendments:

- commencement on Royal Assent;
- to apply to IRT applications made on or after Royal Assent;

automatic fee indexation amendments:

- commencement on Proclamation (subject to automatic commencement six months after Royal Assent if no Proclamation had been made by then);
- to apply to applications made on or after commencement.

FINANCIAL IMPACT STATEMENT

5 The amendments to the MLAB (No 5) Bill in relation to the Immigration Education Act are designed to maintain the revenue generated under the Act.

6 The amendments made to the Migration Agents Registration (Application) Levy Amendment Bill 1994 and the Migration Agents Registration (Renewal) Levy Amendment Bill 1994 are designed to maintain in real terms the total revenue gained from the migration agents registration (application) levy and the migration agents registration (renewal) levy respectively.

7 The amendments made to the Immigration (Education) Charge Amendment Bill 1994 are designed to maintain in real terms the relative share of the costs of providing English language tuition borne by the taxpayer, and the relative share of the costs borne by the consumers of the service.

MIGRATION LEGISLATION AMENDMENT BILL (No. 5) 1994**NOTES ON INDIVIDUAL CLAUSES****Amendment 1 Commencement**

This amendment proposes to omit subclause 2(2) of the Bill and substitute a new subclause which provides that the commencement day is to be fixed by Proclamation for those proposed amendments in Schedule 2. Schedule 2 proposes amendments to the *Immigration (Education) Act 1971* to provide for the indexation of fees imposed under that Act.

This amendment also proposes to insert a new subclause 2(3) to provide that where Schedule 2 does not commence within 6 months after Royal Assent, Schedule 2 is to commence the day after the end of that 6 months.

Amendment 2 Application of certain amendments relating to Immigration Review Tribunal

This amendment proposes to amend clause 5 of the Bill by omitting "1 July 1995". This was the proposed date by which applications for review of decisions must be received by the Immigration Review Tribunal. It is now proposed that they must be received by the date on which this section commences, that being the date of Royal Assent.

Amendment 3 Application of amendments of the *Immigration (Education) Act 1971*

This amendment proposes to amend clause 9 of the Bill by omitting "1 July 1995". This was the proposed date on which the amendments in Schedule 2 will apply to enrolments. It is now proposed that Schedule 2 will apply to enrolments made on or after the day on which this amendment commences, that being the date fixed by Proclamation or the day after 6 months from Royal Assent if not proclaimed before.

MIGRATION AGENTS REGISTRATION (APPLICATION) LEVY AMENDMENT BILL 1994

NOTES ON INDIVIDUAL CLAUSES

Amendment 1 Commencement

This amendment proposes to omit clause 2 of the Bill and substitutes two new subclauses. Subclause (1) provides for a commencement day to be fixed by Proclamation. Subclause (2) provides that where the commencement does not occur within 6 months of the day of Royal Assent, commencement will occur the day after that 6 months.

Amendment 2 Repeal and substitution of section 6

This amendment proposes to amend subclause 3(2) of the Bill by omitting "1 July 1995" as the day on which the indexation formula will apply to registration applications. The amendment proposes that the indexation formula will apply to registration applications made on or after the day the section commences.

MIGRATION AGENTS REGISTRATION (RENEWAL) LEVY AMENDMENT BILL 1994

NOTES ON INDIVIDUAL CLAUSES

Amendment 1 Commencement

This amendment proposes to omit clause 2 of the Bill and substitutes two new subclauses. Subclause (1) provides for a commencement day to be fixed by Proclamation. Subclause (2) provides that where the commencement does not occur within 6 months of the day of Royal Assent, commencement will occur the day after that 6 months.

Amendment 2 Repeal and substitution of section 6

This amendment proposes to amend subclause 3(2) of the Bill by omitting "1 July 1995" as the day on which the indexation formula will apply to registration applications. The amendment proposes that the indexation formula will apply to renewal applications made on or after the day the section commences.

IMMIGRATION (EDUCATION) CHARGE AMENDMENT BILL 1994**NOTES ON INDIVIDUAL CLAUSES****Amendment 1 Commencement**

This amendment proposes to omit clause 2 of the Bill and substitutes two new subclauses. Subclause (1) provides for a commencement day to be fixed by Proclamation. Subclause (2) provides that where the commencement does not occur within 6 months of the day of Royal Assent, commencement will occur the day after that 6 months.

Amendment 2 Amount of English Education Charge

This amendment proposes to amend subclause 3(2) of the Bill by omitting "1 July 1995" as the day on which the indexation formula applies to visa applications. The amendment proposes that the indexation formula will apply to visa applications made on or after the day the section commences.

