

Purpose and content of the bills

Overview of the bills

- 2.1 The Migration (Visa Evidence) Charge Bill 2012 and Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 (hereafter, the Visa Evidence Charge Bills) will amend the *Migration Act 1958* (the Migration Act) to:
- impose a visa evidence charge to be payable for visa evidence requests by amendment of Migration Act Section 71; and
 - insert regulation making powers (Migration Regulations 1994) for the calculation of specific charges and their implementation.
- 2.2 The measures are to commence simultaneously on a day fixed by Proclamation after the Acts have received Royal Assent, or six months after that date.¹

Purpose of the bills

- 2.3 The Visa Evidence Charge Bills are introduced to address inconsistencies between the processes enabled by online visa validation and the Migration

1 Migration (Visa Evidence) Charge Bill 2012, Migration and (Visa Evidence) Charge (Consequential Amendments) Bill 2012, Section 2.

Act, which currently requires the Department of Immigration and Citizenship (DIAC) to supply hard copy visa evidence on the request of a visa holder.

- 2.4 Australia has a free electronic visa processing and validation service, known as Visa Entitlement Verification Online or VEVO, under which a visa holder and registered organisations, such as schools, employers and service providers, may verify an individual's visa status.²
- 2.5 However, section 70 of the Migration Act presently requires that:

Subject to the regulations, if a non-citizen is granted a visa, an officer is to give the non-citizen evidence of the visa.
- 2.6 In his second reading speech for the Migration (Visa Evidence) Charge Bill 2012, the Minister for Immigration and Citizenship Mr Chris Bowen MP advised that one third of visa holders request hardcopy evidence of their visa. During 2011 this amounted to 1. 365 million requests, 455 000 onshore and 910 000 offshore.³
- 2.7 Further, the processing of these visa evidence requests is the highest volume service conducted at immigration counters both in Australia and overseas.⁴ The request may be made at the time of the visa being issued or later, and the visa evidence is issued without cost to the visa holder.⁵
- 2.8 The Minister stated that the visa evidence charge is intended to discourage reliance on visa labels by immigration clients and foreign officials, and to promote the use of online visa validation under VEVO.⁶
- 2.9 The measures also advance the shift to a user pays model for visa services, under Visa Pricing Transformation. They are part of DIAC's broader five-year Transformation Program which prioritises automation of immigration services to increase global competitiveness.⁷

2 Department of Immigration and Citizenship (DIAC), 'About Your Visa', accessed 25 May 2012 at <www.immi.gov.au/visas/about-your-visa.htm>

3 Minister for Immigration and Citizenship, Mr Chris Bowen MP, Second Reading Speech, *House Hansard*, 9 May 2012, p. 4.

4 DIAC, Answers to Questions on Notice, Question 1 (d).

5 DIAC, Answers to Questions on Notice, Question 1 (d).

6 Minister for Immigration and Citizenship, Mr Chris Bowen MP, Second Reading Speech, *House Hansard*, 9 May 2012, p. 4, and see explanatory memoranda for the bills.

7 DIAC Transformation Program, accessed 2 June 2012 at <www.immi.gov.au/about/department/perf-progress/transformation/>

The Migration (Visa Evidence) Charge Bill 2012

- 2.10 The Migration (Visa Evidence) Charge Bill 2012 provides for the imposition of a charge for requests for evidence of a visa, and for indexation of that charge as follows:
- Clauses 3 and 4 provide that visa evidence is payable in relation to a request made inside or outside Australia (extra-territorial operation);
 - Clause 5 provides basic definitions for the Act;
 - Clause 6 provides that a visa evidence charge is payable under s.71 of the Migration Act, as amended by the Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 (detailed below); and
 - Clause 7 sets a maximum charge limit of \$250 for a visa evidence request and a mechanism for annual indexation of the visa evidence charge limit, to be based on the Consumer Price Index, after 30 June 2013.

The Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012

- 2.11 The Migration (Visa Evidence) Charge (Consequential Amendments) Bill 2012 amends the Migration Act to implement the visa evidence charge. The legislation will also enable calculation of different charges for different classes of visa and for nil charges.
- 2.12 The Bill repeals current provisions and introduces two new sections, s.70 and s.71, under Subdivision AE of Part 2 of the Migration Act.
- 2.13 Migration Act s.70 currently provides that a migration officer is to give a non-citizen evidence of a visa on request. The new section will specify:
- that a non-citizen who holds a visa, or certain other persons (such as a parent or guardian), may request evidence of a visa (s.70(1));
 - that the request must be made in a prescribed way, lodged in the prescribed place and be accompanied by the charge payable (s. 70(2)); and
 - that the request may be withdrawn before the evidence is provided (s.70 (3)).

2.14 Section 71 currently provides that evidence of a visa is to be given in the prescribed way, depending on circumstances. The new section provides:

- that a person who makes a request for evidence of a visa under s.70 is liable to pay a visa evidence charge (s.71(1));
- that the amount charged should not exceed the visa charge limit (s.71(2));
- that regulations be made enabling different charges for different circumstances and visas, for nil charges and for calculation of charges (s.71(3)).

2.15 Specifically, articles (a) to (f) of s.71(3) indicate that the regulations may apply different charges, singly or in combination, to:

- (a) specify a different amount of visa evidence charge for different prescribed forms of evidence of a visa;
- (b) specify a different amount of visa evidence charge in relation to different classes of visas;
- (c) specify a different amount of visa evidence charge for different methods of payment of the charge;
- (d) specify a different amount of visa evidence charge where the person elects to have the request dealt with expeditiously;
- (e) specify a different amount of visa evidence charge for requests made in different circumstances;
- (f) specify circumstances in which the amount of the visa evidence charge is nil...

2.16 New subsections 71A and 71B respectively provide that:

- visa evidence should be issued in a timely manner on request (providing the request is not withdrawn nor the visa out of date); and
- that regulations may be made to address the particular circumstances of a request, the methods of payment and for payments to be made on behalf of the Commonwealth and for remissions, refunds or waivers, and exemptions from the payment.

2.17 Section 71B(2) further prescribes that regulations may set the form of the evidence to be given, and that the Minister be able to reject a specific passport or travel document for the purposes of the legislation.