

2002-2003-2004

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Migration Amendment (Judicial Review)  
Bill 2004**

**No.     , 2004**

*(Immigration and Multicultural and Indigenous Affairs)*

**A Bill for an Act to amend the *Migration Act 1958*,  
and for other purposes**



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1     **A Bill for an Act to amend the *Migration Act 1958*,**  
2     **and for other purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Migration Amendment (Judicial*  
6                     *Review) Act 2004*.

7     **2 Commencement**

8                     (1) Each provision of this Act specified in column 1 of the table  
9                     commences, or is taken to have commenced, in accordance with  
10                    column 2 of the table. Any other statement in column 2 has effect  
11                    according to its terms.  
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**Commencement information**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	

1 Note: This table relates only to the provisions of this Act as originally  
2 passed by the Parliament and assented to. It will not be expanded to  
3 deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not  
5 part of this Act. Information in this column may be added to or  
6 edited in any published version of this Act.

### 7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or  
9 repealed as set out in the applicable items in the Schedule  
10 concerned, and any other item in a Schedule to this Act has effect  
11 according to its terms.

1  
2 **Schedule 1—Amendments relating to judicial**  
3 **review**

4 **Part 1—Amendments**

5 *Administrative Decisions (Judicial Review) Act 1977*

6 **1 Paragraph (da) of Schedule 1**

7 Repeal the paragraph, substitute:

- 8 (da) a privative clause decision within the meaning of subsection  
9 5(1) of the *Migration Act 1958*;

10 *Migration Act 1958*

11 **2 Subsection 5(1) (definition of *privative clause decision*)**

12 Repeal the definition, substitute:

13 *privative clause decision* (except in section 474) means:

- 14 (a) a privative clause decision within the meaning of subsection  
15 474(2); or  
16 (b) a purported decision that would be a privative clause decision  
17 within the meaning of subsection 474(2) if there had not  
18 been:  
19 (i) a failure to exercise jurisdiction; or  
20 (ii) an excess of jurisdiction;  
21 in the making of the purported decision.

22 For the purposes of paragraph (b), *decision*, when used in the  
23 expression *purported decision*, includes anything listed in  
24 subsection 474(3).

25 **3 After subsection 477(1)**

26 Insert:

27 (1AA) The Federal Court may, by order, extend that 28 day period by up  
28 to 56 days if:

- 29 (a) an application for that order is made within 84 days of the  
30 notification of the decision; and

1 (b) the Federal Court is satisfied that it is in the interests of the  
2 administration of justice to do so.

3 **4 After subsection 477(1A)**

4 Insert:

5 (1B) The Federal Magistrates Court may, by order, extend that 28 day  
6 period by up to 56 days if:

7 (a) an application for that order is made within 84 days of the  
8 notification of the decision; and

9 (b) the Federal Magistrates Court is satisfied that it is in the  
10 interests of the administration of justice to do so.

11 **5 Subsection 477(2)**

12 Omit “The Federal Court”, substitute “Except as provided by  
13 subsection (1AA) or (1B), the Federal Court”.

14 **6 Section 478**

15 Omit “section 477”, substitute “subsection 477(1) or (1A)”.

16 **7 Section 479**

17 Omit “section 477”, substitute “subsection 477(1) or (1A)”.

18 **8 Subsection 480(1)**

19 Omit “section 477”, substitute “subsection 477(1) or (1A)”.

20 **9 Section 481**

21 Omit “section 477”, substitute “subsection 477(1) or (1A)”.

22 **10 Subsection 486A(1)**

23 Omit “35 days of the actual (as opposed to deemed) notification”,  
24 substitute “28 days of the notification”.

25 **11 After subsection 486A(1)**

26 Insert:

27 (1A) The High Court may, by order, extend that 28 day period by up to  
28 56 days if:

29 (a) an application for that order is made within 84 days of the  
30 notification of the decision; and



1 (b) the High Court is satisfied that it is in the interests of the  
2 administration of justice to do so.

3 **12 Subsection 486A(2)**

4 Omit “The High Court”, substitute “Except as provided by  
5 subsection (1A), the High Court”.

6 **13 Subsection 486A(2)**

7 Omit “35 day”, substitute “28 day”.

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2 **Part 2—Application of amendments**

3 **14 Application of amendments**

4 (1) The amendments made by this Schedule apply in relation to a decision  
5 of an administrative character made, purportedly made, proposed to be  
6 made, or required to be made, as the case may be, after the  
7 commencement of this item.

8 (2) For the purposes of subitem (1), *decision* includes anything listed in  
9 subsection 474(3) of the *Migration Act 1958*.