

CHAPTER 1

INTRODUCTION

Background

1.1 On 30 March 2004, the Senate Selection of Bills Committee referred the provisions of the Migration Amendment (Judicial Review) Bill 2004 to the Legal and Constitutional Legislation Committee ('the Committee') for inquiry and report by 15 June 2004.

Reasons for inquiry

1.2 The Senate Selection of Bills Committee gave the following reasons for referring the Bill to the Committee:

- to examine the constitutionality of the provisions in the Bill;
- to examine the provisions of the Bill relating to the time limits on judicial review for lodging of applications to the High Court, Federal Court and the Federal Magistrates Court;
- to examine the effect on the jurisdiction of the Courts of privative clause decisions;
- to examine if the provisions discriminate between asylum seekers and other migration applicants in relation to their rights of appeal; and
- to examine the mechanism for review of a migration decision that may be unlawful but is outside the 84 day appeal deadline.

Purpose of the Bill

1.3 The Explanatory Memorandum states that the Bill seeks to restore the original intention of the following procedural requirements:

- placing time limits on judicial review applications (sections 477 and 486A *Migration Act 1958*);
- provide the High Court, the Federal Court and the Federal Magistrates Court with exclusive jurisdiction in relation to migration applications (section 484 *Migration Act 1958*); and
- prohibit judicial review of decisions where a review on merits is available (section 476 *Migration Act 1958*).

Conduct of this inquiry

1.4 The Committee advertised the inquiry in the *Australian* newspaper on 7 and 21 April 2004 and wrote to over 50 organisations and individuals inviting submissions. The Committee received 19 submissions which are listed at Appendix 1.

1.5 A public hearing on the Bill was held in Canberra on 12 May 2004.

Acknowledgement

1.6 The Committee thanks those organisations and individuals who made submissions and gave evidence at the public hearing.

Note of references

1.7 References in this report are to individual submissions as received by the Committee, not to a bound volume. References to the Committee Hansard are to the proof Hansard. Page numbers may vary between the proof and the official Hansard transcript.