

CHAPTER 2

OVERVIEW OF THE BILL

2.1 This chapter provides a background to the Bill, and then outlines the main provisions of the Bill

Background

2.2 On 11 December 2006, the Australian Government announced the introduction of a test for certain applicants for Australian citizenship. This announcement followed a consultation process conducted by the then Department of Immigration and Multicultural Affairs (now the Department of Immigration and Citizenship (the Department)).

2.3 That consultation process began on 17 September 2006, when the Australian Government released a discussion paper entitled *Australian Citizenship: Much more than a ceremony* (the discussion paper). The discussion paper sought the Australian community's views on the merits of introducing a formal citizenship test. Among other matters, the discussion paper sought comment on four key questions:

1. Should Australia introduce a formal citizenship test?
2. How important is knowledge of Australia for Australian citizenship?
3. What level of English is required to participate as an Australian citizen?
4. How important is a demonstrated commitment to Australia's way of life and values for those intending to settle permanently in Australia or spend a significant period of time in Australia?¹

2.4 The consultation period ran for two months, closing on 17 November 2006. In total 1644 written responses to the discussion paper were received, with 1486 from individuals and 158 from organisations. A series of face to face consultations were also held in Perth, Melbourne, Brisbane, Sydney, Hobart, Darwin and Adelaide. These consultations were reportedly attended by some 129 representatives from a range of government, business and community groups.²

2.5 The *Summary Report on the Outcomes of the Public Consultation on the Merits of Introducing a Formal Citizenship Test* (Summary Report) reported that there was overall support for the introduction of a formal citizenship test, with 60% of

1 Australian Government, *Australian Citizenship: Much more than a ceremony Discussion Paper*, September 2006, p. 14. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007).

2 Australian Government, *Summary Report on the Outcomes of the Public Consultation on the Merits of Introducing a Formal Citizenship Test*, Available at: http://www.minister.immi.gov.au/media/responses/citizenship-test/summary_report_citizen_test_paper.pdf, p. 1 (accessed 19 June 2007).

respondents supporting a test.³ In addition, an opinion poll reported in *The Australian* newspaper on 1 January 2007, found that 85 percent of respondents were in favour of the knowledge of English being a requirement to become an Australian citizen.⁴ Another poll conducted in September 2006 found that 77 percent of respondents favoured a formal citizenship test.⁵

Overseas examples

2.6 As noted in the Department's discussion paper, many other countries already have formal testing arrangements for citizenship, including Canada, the Netherlands, the United Kingdom, the United States of America and South Korea. Some of these have been in place for some time – for example, Canada has had written testing arrangements since 1994, and the United States' arrangement was introduced in the late 1980s.⁶

2.7 The four countries considered in detail in the discussion paper (Canada, the Netherlands, the United Kingdom and the United States of America) test for knowledge and for language skills. The discussion paper identified ten 'themes' on which applicants for citizenship are tested for knowledge. The themes include rights and responsibilities of citizenship; the legal system; equality of men and women; and values of the society.⁷ Written and oral tests are used to assess competence in the national language, but, except in the United States of America, a test may be waived where the applicant has demonstrated competence in the national language such as by the possession of an appropriate diploma. In the United States of America applicants for citizenship may be granted an exemption based on age and a long period of permanent residency and may be permitted to take the knowledge component of the test in a language of their choice.

2.8 In the United Kingdom and the Netherlands applicants take on-line tests using computer-based programs. The discussion paper lists six 'key characteristics of this approach which may be useful in the Australian context'. The list includes the facility to randomly select questions from a larger pool of questions, which would protect the

3 p. 2.

4 Parliamentary Library, "Australian Citizenship Amendment (Citizenship Testing) Bill 2007", *Bills Digest No. 188 2006-07*, 19 June 2007, pp 7-8.

5 Katherine Betts and Bob Birrell, "Making Australian Citizenship Mean More", *People and Place*, vol. 15, no. 1, 2007, p. 53.

6 Australian Government, *Australian Citizenship: Much more than a ceremony, Discussion Paper*, September 2006, pp 9-10. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007). See also *Committee Hansard*, 16 July 2007, p. 9.

7 Australian Government, *Australian Citizenship: Much more than a ceremony, Discussion Paper*, September 2006, p. 12. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007).

integrity and rigour of the testing arrangements; electronic marking; and the potential to conduct the test anywhere in the country.⁸

2.9 All four countries provide for exemptions or make special provisions for certain people. These exemptions or provisions typically relate to the age or health of the applicant, the length of residence, the individual's level of literacy or the level of disability.⁹

2.10 Each of the four countries sets a 'pass mark' for the knowledge test, ranging from 60 percent in Canada and the United States of America to 75 percent in the United Kingdom. The Canadian test includes three mandatory questions – two on the right to vote and nominate for elected office and one on voting procedures.¹⁰

2.11 The four countries also impose charges for applications for citizenship. The charge may include a fee for processing the test or there may be a separate fee for the test.¹¹ All four countries provide material in paper form or electronically, including sample questions, to help applicants prepare for the test.¹²

Key Provisions

2.12 The Bill proposes to amend the *Australian Citizenship Act 2007* (the Act) to require applicants for Australian citizenship by conferral to have successfully completed a citizenship test in order to be eligible to become Australian citizens.

2.13 Subsection 21(2) of the Act currently sets out the general eligibility provisions for citizenship. These include that applicants:

- understand the nature of their application for citizenship;

8 Australian Government, *Australian Citizenship: Much more than a ceremony Discussion Paper*, September 2006, p. 16. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007).

9 Australian Government, *Australian Citizenship: Much more than a ceremony Discussion Paper*, September 2006, pp 20, 22, 24-25, 26. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007).

10 Australian Government, *Australian Citizenship: Much more than a ceremony Discussion Paper*, September 2006, pp 20, 22, 24, 26. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007).

11 Australian Government, *Australian Citizenship: Much more than a ceremony Discussion Paper*, September 2006, pp 21, 23, 25, 26. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007).

12 Australian Government, *Australian Citizenship: Much more than a ceremony Discussion Paper*, September 2006, pp 21, 23, 25, 27. Available at: http://www.citizenship.gov.au/news/citizenship-test/DIMA_Citizenship_Discussion_Paper.pdf (accessed 19 June 2007).

- possess a basic knowledge of the English language; and
- have an adequate knowledge of the responsibilities and privileges of Australian citizenship.

2.14 The Bill proposes to amend subsection 21(2) to add a requirement that an applicant has an adequate knowledge of Australia (proposed paragraph 21(2)(f)).

2.15 Proposed subsection 21(2A) will provide that successful completion of a test will enable the Minister to be satisfied that applicants understand the nature of their application for citizenship, possess a basic knowledge of the English language, and have an adequate knowledge of Australia and of the responsibilities and privileges of Australian citizenship. The EM states that 'there is no other way for these criteria to be satisfied, other than by successfully completing a test.'¹³

2.16 Proposed new subsection 23A(1) provides that the Minister must approve a citizenship test by written determination. Proposed subsection 23A(7) provides that the determination is not a legislative instrument under the *Legislative Instruments Act 2003* (and therefore not disallowable by parliament).

2.17 The EM states that the Minister may approve more than one test. It explains that this allows for some people, for example those with low literacy levels, to be given the opportunity to demonstrate that they meet the criteria in proposed paragraphs 21(2)(d), (e) and (f) in a different way from the majority of prospective citizenship applicants.¹⁴

2.18 The written determination must also specify what amounts to successful completion of the test (proposed subsection 23A(2)). The EM states that 'in considering the test or tests to be approved, the Minister may decide that certain mandatory questions must be answered correctly'.¹⁵ In his second reading speech, the Minister stated that:

The test is expected to be computer based and consist of 20 multiple-choice questions drawn randomly from a large pool of confidential questions. Each test is expected to include three questions on the responsibilities and privileges of Australian citizenship. The pass mark is expected to be 60 per cent including answering the three mandatory questions correctly. A person will be able to take the test as many times as required in order to pass.¹⁶

13 p. 4.

14 p. 4; see also Department of Immigration and Citizenship, *Submission 30*, p. 2.

15 p. 4.

16 The Hon. Kevin Andrews MP, Minister for Immigration and Citizenship, *House Hansard*, 30 May 2007, p. 4; see also Department of Immigration and Citizenship, *Submission 30*, p. 2.

2.19 Persons will be required to satisfy eligibility criteria to be able to sit a citizenship test. New subsection 23A(4) provides that the determination may provide that a person is not eligible to sit the test unless:

- the person is a permanent resident; and
- the Minister is satisfied of the identity of the person.

2.20 The EM states that the Minister's determination (under proposed subsection 23A(1)) may set out other criteria not mentioned in new subsection 23A(4) which a person must satisfy to be eligible to sit a citizenship test.¹⁷

2.21 There will also be exemptions from the test requirements in certain circumstances. In particular, people under 18 or over 60, and those with a permanent physical or mental incapacity which prevents them from understanding the nature of the application, will not be required to sit the test.¹⁸ These categories of people already have separate eligibility criteria for citizenship, which are currently set out in subsections 21(3), (4) and (5) of the Act (and which are not proposed to be amended by the Bill). The EM also states that special arrangements will be made for people whose literacy skills mean they have difficulty undertaking a test. It explains that this issue will be covered by the Minister's determination.¹⁹

2.22 The Department stated in its submission that 'the test questions will assess knowledge of Australian history, culture and values based on information contained in a citizenship test resource book'. The Department explained that the resource book would be free and 'widely available' in paper, electronic and audio visual formats.²⁰ The Minister stated in his second reading speech that this book 'is currently being drafted and will be released once completed.'²¹

2.23 However, the Department indicated that the proposed test questions themselves would be kept confidential on the basis that this would:

...help to encourage prospective citizens to develop an adequate knowledge of Australia and the rights and privileges of citizenship as required by the legislation, rather than simply rote learning the answers.²²

2.24 The EM states that the estimated cost to implement and administer the citizenship test is \$107.4 million over 5 years.²³ The Department stated in its

17 p. 5.

18 The Hon. Kevin Andrews MP, Minister for Immigration and Citizenship, *House Hansard*, 30 May 2007, p. 4.

19 EM, p. 5 and proposed subsection 23A(6).

20 *Submission 30*, pp 2-3.

21 The Hon. Kevin Andrews MP, Minister for Immigration and Citizenship, *House Hansard*, 30 May 2007, p. 4.

22 *Submission 30*, p. 3.

submission that there will be an increase in the citizenship application fee for those who sit the test – from \$120 to \$240.²⁴

23 p. 1.

24 *Submission 30*, p.4; see also proposed subsection 46(1A). The fee for an application for citizenship by conferral for people who are not required to sit a test will remain at \$120.