

Page 2 of the Department's submission, under the heading "Immigration clearance status of non-citizen children born in Australia", contains a paragraph which states:

"The effect of these amendments is beneficial and merely confirms the position or interpretation that has been taken in the past despite some lack of clarity in the provisions."

This paragraph relates to the application of the amendments made by the Bill to sections 172 and 173 of the Migration Act 1958. The amendment to section 172 will provide that non-citizen children born in Australia are taken to have been immigration cleared if at least one parent was immigration cleared. The amendment to section 173 will provide that a non-citizen child born in Australia and granted a visa on birth is not taken to have entered Australia in a way which contravenes section 43. The application provision provides that these amendments apply to non-citizen children born in Australia on or after 1 September 1994. The date corresponds with the introduction of the relevant provisions and specifically the concept of 'immigration clearance' into the Act by the Migration Reform Act 1992.

Since the submission was forwarded to the Committee, it has become apparent that this interpretation has not always been taken in respect of non-citizen children born in Australia on or after 1 September 1994. It is therefore incorrect to say that the amendments merely confirm the position or interpretation that has been taken in the past. Rather, the amendments will clarify the legal position of these children. I note that it remains the case that the application of the amendments will be beneficial to any such children.