

IMMIGRATION (AMENDMENT NO. 2) BILL 2012**EXPLANATORY MEMORANDUM**

This Bill seeks to remove immigration restrictions on Australian and New Zealand citizens. The Government believes that allowing such citizens to invest, work or live on the island will provide welcome stimulation, and through stimulation of local demand assist, to reinvigorate the economy

The Bill follows recommendations of the Policy Paper “Policies to improve Immigration in Norfolk Island” issued in September 2012 by the Government. The principal effect of the Bill is, in the words of the Policy Paper “to remove the GEP process for Australian and New Zealand citizens and provide eligibility for residency status immediately upon application.”

The process that is followed is, again in the words of the Policy Paper, to provide that “Australian and New Zealand citizens will be granted an indefinite visitor permit on arrival on the island. The visitor permit will be without conditions or restrictions. Australian and New Zealand citizens on visitor permits will be allowed to start businesses, undertake work and rent private accommodation as they wish. At any time after arriving on the island they may apply for residency. The granting of residency will be approved providing they have joined the local Healthcare Scheme and complied with the requirements of the scheme. There will be no requirement for financial checks for Australian and New Zealand citizens.” A requirement to show “good character” will however be a requirement to be recognised as a resident.

Access to local benefit schemes by new immigrants in advance of the extension of the Australian Safety Net to the island has already been identified as potentially a serious financial risk. The existing Norfolk Island Healthcare Scheme is not self-sufficient, and relies upon a subsidy from the Government’s consolidated revenue for its annual operation. Similarly the Norfolk Island social welfare system is totally reliant upon consolidated tax revenue. Increased migration to the island will improve the financial viability of both schemes but will not solve the underlying structural deficit, and may add to it. This is particularly a concerning factor for the Healthcare scheme. These financial risks to the island’s Budget have been identified to the Australian Government and this Bill provides for the unrestricted entry permit system to reviewed within five years to assess any impact on these schemes.

As part of the changes, the Immigration Committee will be removed altogether and processes for various approvals that remain will be shifted to the Minister and the Immigration staff advising the Minister.

The Bill is divided into 4 clauses—

Clauses 1-3 provide for the usual short title, the commencement and reference to the Act being amended.

Clause 4 provides that items listed in the Schedule are amended as provided by each item.

The Schedule provides as follows—

Item 1 amends the definition section of the principal Act (section 4): it repeals the definition of the Committee (referring to the Immigration Committee) and inserts a new definition for “unrestricted entry permit” that refers to section 14A. Further amendments of section 4 insert the new reference to “unrestricted entry permit” into the definition of “permit” and in the definition of “resident” inserts reference to a new section 28A.

Item 2 repeals Part 2 of the principal Act which contains the 5 sections (6-10) that established the Immigration Committee.

Item 3 amends section 13 (Application for permits) to insert a new subsection (1A) that excludes persons who are Australian or New Zealand citizens.

Item 4 inserts a new section 14A prescribing the right to and grant of unrestricted entry permits—

Subsection (1) provides that when Australian and New Zealand citizens enter Norfolk Island, the Immigration Act applies to them as if they had been issued an unrestricted entry permit. There is no requirement for an actual permit to be issued.

Subsection (2) provides that an unrestricted entry permit remains in force until such time as the holder leaves the Island. There is no restriction upon such persons re-entering Norfolk Island and once again being unrestricted entry permit holders.

Subsection (3) makes it clear that an unrestricted entry permit holder is not restricted as to employment, carrying on or being concerned in a business or profession.

Subsection (4) provides that an unrestricted entry permit carries the same rights under any enactment as are provided to the holders of a general entry permit and reinforces this by providing that in all enactments reference to a general entry permit includes reference to an unrestricted entry permit. This provision encompasses regulations, rules and other subsidiary forms of legislation made under the authority of an enactment.

Subsection (5) provides for a review of the unrestricted entry permit system to be undertaken within five years of the amended Act coming into effect.

Item 5 repeals subsection 17A(1) that provides for Australian and New Zealand citizens applying for a general entry permit.

Item 6 provides amendments to section 19 to remove requirements for the involvement of the Immigration Committee and places the obligation to consider applications upon the Minister, the time limit imposed on the Committee is removed in respect of the Minister.

Item 7 inserts a new section 28A that covers residency by citizenship. This provision deals with Australian and New Zealand citizens who hold an unrestricted entry permit and who seek the status of a Norfolk Island Resident. In order to obtain this status a person who qualifies must establish that prescribed arrangements for medical services are in place and that the person is of good character. The requirement for undergoing a check of character has a 10 year sunset clause from the date of this amendment coming into force.

Item 8 inserts a new subsection 29(1B) that is intended to simplify the requirements for residency by declaration for general entry permit holders who received their permit as being a permanent resident of Pitcairn Island or by reason of a special relationship with Norfolk Island.

Item 9 inserts a reference to the new section 28A.

Item 10 amends section 31(a) to remove reference to the Immigration Committee.

Item 11 replaces the provisions of section 32 that deal with consideration of applications for residency by declaration to be made by the Immigration Committee and substitutes the requirement of consideration by the Minister.

Item 12 inserts a new section 33A to make it clear that persons who are not Australian or New Zealand citizens cannot apply for and cannot be granted residency under Part 5 of the Act.

Item 13 is a new transition provision – subsection 75(5) – that provides an Australian or New Zealand citizen who at the time of the coming into effect of this Act is the holder of a temporary entry permit or a general entry permit is deemed the holder of an unrestricted entry permit and therefore able to apply for residency should they wish to do so and the existing permit is cancelled.

Item 14 provides that maintenance guarantees required by section 82 are not required from unrestricted entry permit holders.

18 December 2012