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BILLS DIGEST

Digest No. 1710

Immigration Bill 2007 (Supplementary Order Paper 2009 No 32)

Date of Introduction:	08 August 2007
Portfolio:	Immigration
Select Committee:	Transport and Industrial Relations
Date report presented:	21 July 2008
SOP No 32 released:	17 September 2009
Published: 22 September 2009 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	<p>Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status.</p> <p>Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.</p>

Purpose

The aim of the Bill is to restate or reform the law of New Zealand in relation to immigration and to modernise and simplify it. The existing legislation is the Immigration Act 1987 (the 1987 Act) .

The Bill as introduced is described in [Bills Digest 1538](#).

The Bill as reported by the Select Committee is described in [Bills Digest No 1684](#).

Main changes proposed

SOP 32 makes many detailed or clarificatory amendments to the Bill. The following appear to be the more important proposals.--

Rights of New Zealand citizens to enter New Zealand

The Bill provides generally that no New Zealand citizen requires a visa or may hold a visa, except a New Zealand citizen who is a national of one or more other countries and who wishes to enter New Zealand other than as a New Zealand citizen.

SOP 32 proposes that this provision be limited to those who have not:

- been granted New Zealand citizenship; or
- been registered as a New Zealand citizen by descent under Section 7(2) of the Citizenship Act 1977; or
- been issued with an evidentiary certificate under Section 21 of the Citizenship Act 1977 confirming that he or she is a New Zealand citizen (*amending Clause 7*).

Comment

"The Bill is amended to reflect the intent that generally a New Zealand citizen will not hold a visa. The amendment recognises that there are some people who are New Zealand citizens by operation of law, but who will have no evidence to prove that is the case (as they have not registered or sought an evidentiary certificate from the Department of Internal Affairs). This class of person may hold a visa"¹.

Claims for refugee status

The Bill provides that in determining whether to accept a claim for refugee status for consideration, a refugee and protection officer may take into account whether:

- in light of any international arrangement or agreement, the claimant may have lodged, or had the opportunity to lodge, a claim for refugee status in another country;
- in light of any international arrangement or agreement, the claimant may have lodged, or had the opportunity to lodge, a claim for protection in another country.

SOP 32 proposes another matter to be taken into account: whether one or more of the circumstances relating to the claim were brought about by the claimant "acting otherwise than in good faith" and "for a purpose of creating grounds for recognition under [Clause] 119 [(headed: 'Recognition as refugee')]" (*amending Clause 125(1) of the Bill by inserting new paragraph (c)*).

Warrants of commitment where detention is beyond six months

SOP 32 proposes that where an application for a further warrant of commitment, if granted, would result in a person being continuously detained under consecutive warrants for a period of more than six months, a District Court Judge must issue a further warrant of commitment if satisfied that the person's "deportation or departure" is prevented by some action or inaction of the person" and that "... no exceptional circumstances exist that would warrant release" (*amending Clause 285 by substituting subclause (2)*).

¹ SOP No 32, Proposed amendments to Immigration Bill, Explanatory note, p. 103.

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