



Legislative Statement: Foreign Affairs (Consular Loans) Amendment Bill - Second Reading

This legislative statement is presented to the House in accordance with Standing Order 272. J.17

Overview:

1. This legislative statement supports the second reading of the Foreign Affairs (Consular Loans) Amendment Bill.
2. The Foreign Affairs (Consular Loans) Amendment Bill will create a permanent, delegable, statutory authority for the Minister of Foreign Affairs to issue consular loans to New Zealand citizens and their immediate family members, and in rare cases, permanent residents who are overseas facing exceptional circumstances.
3. The Bill re-establishes legislative authority for a long-standing practice and retrospectively validates consular loans issued between 2013 (when a Public Finance Act amendment inadvertently impacted the Ministry of Foreign Affairs and Trade's legal basis to issue consular loans), and 15 June 2020 (when the Minister of Finance provided temporary delegated authority for the provision of consular loans).
4. Continuing to rely on the delegated authority provided by the Minister of Finance under s65L would not be appropriate as a long term solution. The legislation is needed to create ongoing certainty around the Ministry of Foreign Affairs and Trade's ability to provide temporary financial assistance in the form of a consular loan which are secured against Undertakings to Repay (UTRs agreed with the recipient on the basis that the loan must be repaid).

Key provisions of the Bill

There are two key provisions of the Bill:

5. Eligibility and criteria to be met before a consular loan can be issued

Clause 5 (new proposed section 12A of the Foreign Affairs Act):

- Section 12A gives the Minister of Foreign Affairs the ability to issue consular loans to a New Zealand citizen, permanent resident or an individual assisting a citizen or permanent resident on any terms and conditions the Minister thinks fit, if the Minister is satisfied that:
 - A citizen or permanent resident is in distress; and
 - Exceptional circumstances exist; and
 - Lending money would provide short term assistance consistent with New Zealand's consular functions.

6. Retrospectively validating consular loans

Clause 4 (transitional, savings and related provisions):

- A new Schedule 1 of the Foreign Affairs Act which retrospectively validates consular loans issued by the Ministry between 18 July 2013 and 15 June 2020 (being the period in which there was no express statutory authority to issue consular loans).
7. The Commencement clause states that the Amendment Act will come into force on the day after the date of Royal assent.