



Legislative Statement: Foreign Affairs (Consular Loans) Amendment Bill

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

Overview:

This legislative statement supports the first reading of the Foreign Affairs (Consular Loans) Amendment Bill.

The Bill provides express statutory authority for the Minister of Foreign Affairs to continue the practice of issuing consular loans in exceptional circumstances to New Zealand citizens and permanent residents in distress overseas as a last resort.

The Ministry of Foreign Affairs and Trade's (the Ministry) long-standing practice of issuing consular loans did not require express authority under the Public Finance Act 1989 until that Act was amended in 2013.

For over 25 years, the Ministry has assisted New Zealanders in distress overseas by providing temporary financial assistance by way of a consular loan to them when they had no other means of financial assistance and their immediate health and safety was at risk. The Bill is necessary to continue this long-standing practice, as well as validating the consular loans granted by the Ministry, in good faith, after the Public Finance Act 1989 was amended in 2013, and before the Ministry received delegated authority in 2020 to lend money under the Public Finance Act 1989.

Key provisions of the Bill

There are two key provisions of the Bill:

1) 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.

The ambit of New Zealand's consular functions, for the purpose of assessing whether a loan would be appropriate, is set out in the Ministry's policy for providing temporary financial assistance. The new proposed section 12A(2)(c) of the Foreign Affairs Act therefore intends to allow the operationalisation of this policy. The policy provides that loans may be issued to New Zealand citizens or permanent residents, and their accompanying family members, only for a certain range of specified needs and

circumstances, and only if they are in distress overseas and have no alternative means of finance; and provided certain other criteria are met (mostly related to assurance that a loan can likely be recovered). Under the policy the circumstances in which a loan may be made to a permanent resident are narrower than for citizens.

2) 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).