

SUBMISSION

1. The proposed amendments in their intent to achieve the objects as set out in the explanatory memorandum and the second reading speech are supported.
2. I seek, however to raise a slight inconsistency in the language of the proposed amendments which may form the basis of disputation as to what the relevant Tribunal must do and how it must do it.
3. Sections 359B and 424B in their present form refer to the giving of “additional information” or the commenting on “information” and in their proposed amended forms to the “comments or the response” to an invitation to “comment or respond to information”.
4. The relevant term is “information”.
5. The proposed sections 359AA and 424AA introduce an obligation on the relevant Tribunal to (where it chooses to do so) give orally to the applicant appearing before it, because of a relevant invitation, clear particulars of any information that the Tribunal considers would be the reason, or a part of the reason, for affirming the decision that is under review.
6. The introduction of the term “clear particulars of any information” appears to create a distinction and divergence between what the Tribunal must do under sub-paragraph (a) and what it must then do under 359AA(b) and 424AA(b) which relates to the broader concept of “the information” and may place a greater responsibility on the Tribunal than was contemplated.
7. The use of the word “it” where appearing in the current form of sections 359A and 424A relates back to the existing term “particulars of any information” or in the proposed amended form to “clear particulars of any information” and this provides a specific limitation on what the Tribunal must then do under these sections.
8. To avoid confusion, and perhaps future disputation, it is respectfully suggested that the words “the information” in the proposed clauses 359AA(b) and 424AA(b) where appearing be deleted and

substituted by the word "it", as is the case in sections 359A and 424A following their proposed amendment.

9. Similarly, the term "the information" in the second last line of sections 359A(3) and 424A(2A) should also be deleted and substituted by the word "it".
10. A final advantage is a small reduction in the number of words (14) used to effect the legislative change.

Dated: 3 January 2007



.....
Dale James Kemp
Partner
Dibbs Abbott Stillman Solicitor
Level 8, 123 Pitt Street, Sydney
fl: (02) 82339500