



**Australian
Human Rights
Commission**

Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017

**AUSTRALIAN HUMAN RIGHTS COMMISSION SUBMISSION TO THE SENATE
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

11 October 2017

ABN 47 996 232 602
Level 3, 175 Pitt Street, Sydney NSW 2000
GPO Box 5218, Sydney NSW 2001
General enquiries 1300 369 711
Complaints info line 1300 656 419
TTY 1800 620 241

Australian Human Rights Commission
www.humanrights.gov.au

Table of Contents

1	Introduction.....	3
2	Summary	3
3	Recommendations.....	4
4	Relevant human rights obligations	4
5	The Commission’s detention inspections	5
6	Visa cancellations under s 501	6
7	Disproportionate use of restrictive measures	6
8	Broad power to determine prohibited items	8
9	Access to alternative communication facilities.....	9
10	Expanded power to conduct strip searches	11

1 Introduction

1. The Australian Human Rights Commission makes this submission to the Senate Standing Committee on Legal and Constitutional Affairs in its Inquiry into the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017 (the Bill).

2 Summary

2. The Commission welcomes the opportunity to make a submission to this inquiry.
3. The Bill proposes to insert a new s 251A into the *Migration Act 1958* (Cth) (Migration Act) to enable the Minister to determine, by legislative instrument, things to be prohibited in immigration detention facilities. The Minister will have discretion to prohibit not only things that are already illegal to possess (such as narcotic drugs) but also anything the possession of which the Minister is satisfied 'might be a risk to the health, safety or security of persons in the facility, or to the order of the facility'. A note in the legislation expressly states that things that might be considered to pose such a risk include everyday items such as mobile phones, SIM cards, computers and other electronic devices.
4. The Bill also proposes to provide a legislative basis to conduct searches for prohibited things (including searching a person's clothing and property under their immediate control, searching their room and searching their personal effects); and provides for additional search powers including the use of detector dogs. The Bill would extend the power to conduct strip searches to include strip searches for items determined to be prohibited things.
5. The Commission acknowledges that the increase in the number of people in immigration detention due to visa cancellations under s 501 of the Migration Act has created significant challenges for the Department of Immigration and Border Protection and staff of immigration detention facilities, including in relation to safety and security.
6. However, the Commission considers that the broad application of restrictive measures such as those proposed in the Bill may lead to unreasonable limitations on human rights in some circumstances. In particular, the proposed power for the Minister to declare items prohibited in immigration detention facilities may lead to restrictions on the possession of items that do not present a significant risk to safety and security.
7. The Commission considers that prohibiting the possession of mobile phones in immigration detention facilities engages and limits a range of human rights. While efforts have been made to provide people in detention with access to alternative communication channels, access remains inconsistent across the detention network and these channels may not provide an equivalent substitute for mobile phones.

8. The Commission also considers that an expansion of the scope of the power to conduct strip searches should be accompanied by the introduction of effective external oversight of the use of this power.

3 Recommendations

Recommendation 1: That the Bill not be passed in its current form.

Recommendation 2: That the Bill be amended to stipulate that items that do not present inherent risks to safety and security may only be prohibited in immigration detention:

- on the basis of individual risk assessments
- where there is evidence that the person has used or is reasonably likely to use the item in a manner that presents clear risks to safety or security; and
- where those risks cannot be managed in a less restrictive way.

Recommendation 3: The Australian Government should ensure that all people in immigration detention have adequate opportunities to communicate with people outside detention.

Recommendation 4: That the Australian Government reconsider its policy regarding the use of mobile phones in immigration detention facilities, with a view to restricting mobile phone usage only in response to unacceptable risks determined through an individualised assessment process.

Recommendation 5: The Commission recommends that Bill be amended to provide that:

- the Department must maintain a log of the conduct of strip searches including details about the compliance with each of the requirements of ss 252A and 252B of the Migration Act
- the Department must notify the Commonwealth Ombudsman when it receives a complaint about the conduct of a strip search
- the Commonwealth Ombudsman have the power to inspect the records of the Department in relation to the conduct of strip searches for the purpose of reviewing the Department's processes for conducting strip searches and dealing with complaints
- the Commonwealth Ombudsman must conduct an annual review and prepare a report about the comprehensiveness and adequacy of the Department's internal processes relating to strip searches to be tabled in Parliament
- the Commonwealth Ombudsman have the power to conduct ad hoc reviews into the way in which strip searches are conducted at any time.

4 Relevant human rights obligations

9. Australia is obliged under articles 9(1) and 10(1) of the *International Covenant on Civil and Political Rights* (ICCPR) to, respectively, uphold the right to security of the person and ensure that people in detention are treated with

humanity and respect for the inherent dignity of the human person.¹ Australia also has obligations under article 7 of the ICCPR and articles 2(1) and 16(1) of the *Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) not to subject anyone to torture or to cruel, inhuman or degrading treatment or punishment, and to take effective measures to prevent these acts from occurring.²

10. These obligations require Australia to ensure that people in detention are treated fairly and reasonably, and in a manner that upholds their dignity. They should enjoy a safe environment free from bullying, harassment, abuse and violence. Security measures should be commensurate with identified risks, and should be the least restrictive possible in the circumstances, taking into account the particular vulnerabilities of people in detention.
11. Australia also has a range of obligations under the ICCPR relevant to communication between people in detention and their family members, friends, representatives and communities outside detention. These include the right to freedom of expression including the right to seek, receive and impart information and ideas (article 19(b)); the right to freedom of association with others (article 22); and the right of ethnic, religious and linguistic minorities, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion and to use their own language (article 27).³ Under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), Australia also has an obligation to uphold the right to take part in cultural life (article 15(1)(a)).⁴
12. In addition, Australia has obligations under articles 23(1) of the ICCPR and 10(1) of the ICESCR to afford protection and assistance to the family as the natural and fundamental group unit of society.⁵ Australia also has obligations under article 17(1) of the ICCPR and article 16(1) of the *Convention on the Rights of the Child* (CRC) not to subject anyone to arbitrary or unlawful interference with their privacy, family or correspondence.⁶
13. These obligations require Australia to ensure that detention does not have a disproportionate impact on people's ability to express themselves, communicate and associate with others, and remain in contact with their family members, friends, representatives and communities. People in detention should be able to receive regular visits, and should have access to adequate communication facilities (such as telephones and computers) as well as news and library services. The fact that immigration detention cannot be undertaken for a punitive purpose heightens the importance of minimising the impingement on the human rights of people who are detained.

5 The Commission's detention inspections

14. The Commission has conducted inspections of immigration detention facilities in Australia since the mid-1990s. This has included periodic monitoring of detention facilities across the country⁷ and three major national inquiries into immigration detention.⁸ The purpose of the Commission's detention monitoring work is to ensure that Australia's immigration detention system complies with this country's obligations under international human rights law.

15. During 2017, the Commission has conducted inspections of all purpose-built immigration detention facilities on the Australian mainland and on Christmas Island.⁹ The concerns outlined in this submission are based on the findings of these inspections.

6 Visa cancellations under s 501

16. Under s 501 of the Migration Act, the Minister or their delegate can refuse or cancel a visa on the basis that the person does not pass the 'character test'.¹⁰ The *Migration Amendment (Character and General Visa Cancellation) Act 2014* (Cth), which came into effect in December 2014, significantly broadened the scope of s 501. Since then, there has been a significant increase in visa refusals and cancellations on character grounds.¹¹
17. Consequently, the number of people in detention due to visa cancellation has also increased. In several of the detention facilities inspected by the Commission in 2017, people who had had their visas cancelled under s 501 comprised the largest cohort in the facility.
18. As noted above, the increased number of people in detention due to visa cancellations under s 501 has created significant challenges for the Department of Immigration and Border Protection and staff of detention facilities. During inspections in 2017, the Commission gathered evidence suggesting that the increase in the number of people in detention who had previously been involved in serious criminal activity has at times placed the safety of staff and people in detention at risk, and led to increased difficulties in preventing the entry of prohibited items (such as illicit drugs).
19. As also noted above, Australia is obliged under international law to ensure that people in immigration detention enjoy a safe environment free from abuse and violence. The Commission acknowledges that the fulfilment of this obligation may at times require the use of restrictive measures. Circumstances in which the use of restrictive measures may be justified include where a person has been individually assessed as posing a high risk to the safety of others, or has consistently disregarded reasonable facility rules and operating procedures (such as rules relating to the use of illicit drugs).
20. However, the broad application of restrictive measures to the entire detention population – that is, without reference to the specific risk posed by particular categories of people in detention – is unlikely to be necessary or proportionate to potential safety and security risks in all cases. As such, the Commission is concerned that the new measures proposed in the Bill may lead to unreasonable limitations on human rights.

Recommendation 1: That the Bill not be passed in its current form.

7 Disproportionate use of restrictive measures

21. A key rationale for the measures proposed in the Bill is that people whose visas have been cancelled under s 501 of the Migration Act are, as a group,

Australian Human Rights Commission
Prohibiting Items in Immigration Detention Facilities, Senate Inquiry – 11 October 2017

likely to pose a significant risk to facility security and the safety of others. However, there are three key problems with this rationale.

22. First, the Bill applies to all people in immigration detention, not only to those who have had visas cancelled under s 501. That is, other people in detention who also would be subject to these restrictions include: people who arrived by boat to seek asylum; people who overstayed their visa; people whose visa was cancelled on non-character grounds; and people who were refused entry at an Australian airport.
23. The Commission acknowledges that some people in these groups may present risks to safety or security, even if they have not had a visa refused or cancelled on character grounds. However, it is likely that many of these individuals pose little or no risk to safety or security. As such, the Commission is concerned that the blanket application of restrictive measures to all people in detention, regardless of their individual circumstances, may not be a necessary, reasonable or proportionate response to the identified risks.
24. Secondly, of the cohort of people whose visas have been cancelled under s 501, some present a risk of violence and others present little or no risk. Yet the Bill assumes a homogenous, high risk profile.
25. During the Commission's detention inspections in 2017, the Commission met with people who have had visas cancelled following conviction for serious violent offences (such as assault and child sex offences) as well as people who have had their visas cancelled following conviction for less serious, non-violent crimes (such as traffic offences and receiving stolen goods). As such, there is a significant degree of variation among people whose visas have been cancelled under s 501 with regard to the risk they pose to safety and security.
26. People whose visas have been cancelled under s 501 may be subject to immigration detention even in circumstances where the criminal justice system does not require them to be detained. The Commission met with people in immigration detention who have been detained after being released from prison; people who have been convicted of a crime but given a good behaviour bond rather than a custodial sentence; people who have been charged with a crime and granted bail; and people who have had their visa cancelled as a result of crimes committed some years earlier, but have long since been released from prison.
27. The grounds on which a person's visa can be cancelled under s 501 are very broad, and include circumstances where the person has not been convicted or even accused of criminal activity. For example, a person can have their visa cancelled under s 501 on the basis of their suspected association with a person, group or organisation suspected of involvement in criminal conduct; or on the basis that they may engage in criminal conduct in the future.¹²
28. Consequently, the Commission considers that it would not be reasonable to assume that all (or even most) people whose visas have been cancelled under s 501 will automatically pose a risk to safety or security, and thus may be reasonably subject to highly restrictive measures.

29. A third problem is that there appear to be less restrictive measures than those provided for in the Bill, which would achieve the Government's aim.
30. Most of the detention facilities inspected by the Commission in 2017 either already have capacity to accommodate people in separate compounds for the purposes of risk management, or are currently undergoing refurbishment to introduce this capacity. As such, the Commission anticipates that there should be sufficient capacity within the detention network to implement differentiated risk management approaches, including in relation to prohibited items and screening procedures.

8 Broad power to determine prohibited items

31. The Bill stipulates that the Minister may declare items prohibited if their possession is either prohibited by law, or 'might be a risk to the health, safety or security of persons in the facility, or to the order of the facility'.¹³ The Bill lists several examples of items that may fall into the latter category, including mobile phones, SIM cards, computers and electronic devices, medications and material that could incite violence, racism or hatred.
32. The Statement of Compatibility with Human Rights provides that '[t]he Minister will specify by legislative instrument under the proposed new power in section 251A that mobile phones and Subscriber Identity Module (SIM) cards will be "prohibited things"'.¹⁴
33. The Commission considers that these provisions could potentially be applied to a wide range of items, including in circumstances where the possession of these items does not present a significant risk. For example, while possession of a weapon may be reasonably likely to present a risk to safety or security regardless of circumstances, this may not be the case for items such as a mobile phone or an electronic device.
34. The Commission acknowledges that items can have more than one use, including an innocuous use as well as a use that can threaten safety and security. For example, the Explanatory Memorandum accompanying the Bill indicates that mobile phones have been used by some individuals in detention 'to coordinate and assist escape efforts, as a commodity of exchange, to aid the movement of contraband, and to convey threats'.
35. Where there is clear evidence that items have been used in such a manner, prohibiting their possession on an individualised basis may be a reasonable measure. However, blanket restrictions on the possession of items that do not present an inherent risk to safety or security may not be reasonable, particularly when many of the individuals affected have never used these items in a manner that threatens safety or security.
36. In addition, the proposed provisions set a relatively low threshold for determining prohibited items, in that the Minister only need be satisfied that the thing 'might' pose a risk to safety or security. The Minister need not be satisfied that the thing is *likely* to present a risk, let alone that the thing is likely to present a risk in any particular circumstances that relate to a detention facility or group of people in detention. The Minister's power is also not

conditioned on any nexus between prohibiting the item in question and addressing the risk the Minister has identified.

37. The Bill would also permit the Minister to prohibit a thing on the basis that it presents a risk to 'the order of the facility'. The Commission considers that provision could allow for the prohibition of items on an unreasonable basis.
38. For example, the Explanatory Memorandum notes that mobile phones have been used by people in detention to 'coordinate internal demonstrations to coincide with external protests'. Provided that such demonstrations are non-violent and do not threaten safety or security, it may not be reasonable to prohibit possession of items simply on the basis that they may facilitate peaceful protest activity.
39. The Commission considers that the possession of items which do not present inherent risks to safety and security should only be prohibited in immigration detention:
 - on the basis of individual risk assessments
 - where there is evidence that the person has used or is reasonably likely to use the item in a manner that presents clear risks to safety or security; and
 - where those risks cannot be managed in a less restrictive way.
40. The Commission acknowledges that, in cases where possession of item is generally prohibited by law (as is the case with illicit drugs or child pornography, for example), it would not be unreasonable to prohibit possession of the item within immigration detention facilities.

Recommendation 2: That the Bill be amended to stipulate that items that do not present inherent risks to safety and security may only be prohibited in immigration detention:

- **on the basis of individual risk assessments**
- **where there is evidence that the person has used or is reasonably likely to use the item in a manner that presents clear risks to safety or security; and**
- **where those risks cannot be managed in a less restrictive way.**

9 Access to alternative communication facilities

41. The Statement of Compatibility with Human Rights accompanying the Bill asserts that the proposed prohibition on the possession of mobile phones in detention facilities would not unreasonably limit human rights, on the basis that other communication channels are readily available to people in detention (including landline telephones, internet access, facsimile machines, postal services and visits).

Australian Human Rights Commission
Prohibiting Items in Immigration Detention Facilities, Senate Inquiry – 11 October 2017

42. The Commission acknowledges the efforts of the Australian Government to provide increased access to alternative communication facilities in immigration detention (such as through installing additional landline phones, and through introducing a Skype program at the Christmas Island detention facility). However, based on the Commission's recent detention inspections, it is clear that access to communication facilities varies across the detention network.
43. In most immigration detention facilities, for example, computers are located in common areas (often within accommodation compounds) and can be accessed at any time of day. At the Yongah Hill Immigration Detention Centre, however, computers are located in a dedicated room in the main facility complex and can only be accessed on a rostered basis. At the time of the Commission's visit in May 2017, people detained at the facility were allocated ten hours of computer access per week.
44. The Commission acknowledges that facility staff had made efforts to ensure the rostering system had some flexibility. For example, staff indicated that people could request changes to the roster if they were not able to make it at their allocated time, or needed additional hours to manage legal matters or on compassionate grounds. Despite these efforts, however, people detained at the Yongah Hill Immigration Detention Centre generally have fewer opportunities to access the internet (including to communicate with people outside detention) than those detained in other facilities.
45. Similarly, people at most detention facilities are able to receive visits from relatives, friends and members of the community. At the Christmas Island Immigration Detention Centre, however, people in detention generally do not receive visits, or do so very infrequently, due to the prohibitive cost of travel to and from Christmas Island. The Commission acknowledges that the limited opportunities for visits on Christmas Island are due to logistical issues. Nonetheless, people detained on Christmas Island have fewer opportunities to communicate with people outside detention than those detained in more accessible facilities.
46. The Commission is also concerned that providing access to additional landline phones is not equivalent to permitting possession of mobile phones. For example, most landline telephones in immigration detention facilities are located in public areas. While facilities for private phone calls are generally available, they are often accessible on request rather than on demand and cannot be accessed at all times.
47. Additionally, a number of people interviewed by the Commission during detention inspections have reported that it is more expensive for them to stay in touch with family members and friends when using landline phones. While local calls from facility landlines are free, phone cards are required for international calls. The cost of calls when using these cards was reported to be significantly higher than under a mobile phone plan, and had a particular impact on people whose family members or friends lived overseas.
48. The Commission therefore considers that prohibiting the possession of mobile phones engages and limits a range of human rights, including those relating to privacy, freedom of expression and association, and protection of the family.

While efforts have been made to provide access to alternative communication channels, access remains inconsistent across the detention network and these channels may not provide an equivalent substitute for mobile phones.

49. The Commission considers that, should the Bill be passed, additional measures will be necessary to ensure that people in detention have adequate opportunities to communicate with people outside detention. This may include:
- ensuring that computers are accessible at any time of day
 - limiting the use of detention in remote areas (especially Christmas Island)
 - increasing access to facilities for private phone calls
 - providing access to free or low-cost international phone calls.
50. Overall, however, the Commission considers that prohibiting all mobile phone use may restrict access to external communication to a greater degree than is necessary to ensure safety and security. The Commission reiterates that access to items such as mobile phones should be restricted only to the extent necessary, and on an individualised basis rather than in a blanket manner.

Recommendation 3: The Australian Government should ensure that all people in immigration detention have adequate opportunities to communicate with people outside detention.

Recommendation 4: That the Australian Government reconsider its policy regarding the use of mobile phones in immigration detention facilities, with a view to restricting mobile phone usage only in response to unacceptable risks determined through an individualised assessment process.

10 Expanded power to conduct strip searches

51. The Migration Act already contains a power to conduct strip searches of people in immigration detention in certain circumstances.¹⁵ At present, this power is limited to circumstances where an officer suspects on reasonable grounds that a detainee has concealed:

- a. a weapon;
- b. another item capable of being used to inflict bodily injury; or
- c. an item capable of being used to help the detainee, or any other detainee, escape from immigration detention,

and the officer suspects on reasonable grounds that it is necessary to conduct a strip search of the person to recover the weapon or item.

52. Strip searches must be authorised. For detainees 18 years old or over, authorisation is to be provided by the Secretary, the Australian Border Force Commander or an SES Band 3 employee in the Department. For detainees

Australian Human Rights Commission
Prohibiting Items in Immigration Detention Facilities, Senate Inquiry – 11 October 2017

over 10 years but under 18 years old, authorisation is to be provided by a magistrate.¹⁶

53. There are rules for conducting a strip search, including that it:
- a. must not subject the detainee to greater indignity than is reasonably necessary to conduct the strip search
 - b. must be conducted in a private area
 - c. must be conducted by an authorised officer of the same sex as the detainee
 - d. must not be conducted in the presence or view of a person who is of the opposite sex to the detainee
 - e. must not be conducted in the presence or view of a person whose presence is not necessary for the purposes of the strip search
 - f. must not be conducted on a detainee who is under 10
 - g. if the detainee is at least 10 but under 18, or is incapable of managing his or her affairs—must be conducted in the presence of the detainee's parent or guardian or another person capable of representing the detainee's interests and who, as far as is practicable in the circumstances, is acceptable to the detainee
 - h. must not involve a search of the detainee's body cavities
 - i. must not involve the removal of more items of clothing, or more visual inspection, than the authorised officer conducting the search believes on reasonable grounds to be necessary to determine whether the thing being searched for is present
 - j. must not be conducted with greater force than is reasonably necessary to conduct the strip search.¹⁷
54. The Bill in its current form will significantly expand the circumstances in which strip searches may be undertaken. They will not be limited to searches for weapons or items that could be used in an escape, but will be able to be carried out to search for any 'prohibited thing' determined by the Minister, for example SIM cards.¹⁸
55. The Statement of Compatibility with Human Rights properly recognises that this expansion of strip search powers engages article 10 of the ICCPR, dealing with the right of detained people to be treated with humanity and with respect for their inherent dignity.¹⁹
56. The Commission is concerned that the expansion of the scope of strip search powers has the potential to result in such searches becoming routine. An investigation by the Queensland Ombudsman of the use of strip search powers at Townsville Women's Correctional Centre has shown how the

exercise of these powers can become unreasonable when not subject to adequate oversight.²⁰

57. Independent oversight of the use of restrictive measures is central to ensuring that such measures are applied in a reasonable and proportionate manner.
58. There are models of oversight in other laws that could be used to ensure that these powers are being used appropriately. For example, Part V, Division 7 of the *Australian Federal Police Act 1979* (Cth) provides for a system of independent oversight by the Commonwealth Ombudsman of certain functions of the Australian Federal Police (AFP), including the way in which the AFP deals with complaints about inappropriate use of force.

Recommendation 5: The Commission recommends that Bill be amended to provide that:

- **the Department must maintain a log of the conduct of strip searches including details about the compliance with each of the requirements of ss 252A and 252B of the Migration Act**
- **the Department must notify the Commonwealth Ombudsman when it receives a complaint about the conduct of a strip search**
- **the Commonwealth Ombudsman have the power to inspect the records of the Department in relation to the conduct of strip searches for the purpose of reviewing the Department's processes for conducting strip searches and dealing with complaints**
- **the Commonwealth Ombudsman must conduct an annual review and prepare a report about the comprehensiveness and adequacy of the Department's internal processes relating to strip searches to be tabled in Parliament**
- **the Commonwealth Ombudsman have the power to conduct ad hoc reviews into the way in which strip searches are conducted at any time.**

¹ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) arts 9(1), 10(1)

² *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 7; *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987) arts 2(1), 16(1).

³ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) arts 19(b), 22, 27.

⁴ *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 15(1a).

⁵ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 23(1); *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 10(1).

⁶ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 17(1); *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 16(1).

⁷ Reports from previous monitoring visits to immigration detention facilities can be found on the Commission's website at <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/immigration-detention-reports-and-photos>

⁸ Human Rights and Equal Opportunity Commission, *Those who've come across the seas: Detention of unauthorised arrivals* (1998). At <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/those-who've-come-across-seas-detention> (viewed 29 September 2017); Human Rights and Equal Opportunity Commission, *A last resort? National Inquiry into Children in Immigration Detention* (2004). At <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/projects/last-resort-report-national-inquiry-children> (viewed 29 September 2017); Australian Human Rights Commission, *The Forgotten Children: National Inquiry into Children in Immigration Detention* (2014). At <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/projects/national-inquiry-children-immigration-detention-index> (viewed 29 September 2017).

⁹ Facilities visited by the Commission in 2017 include: Adelaide Immigration Detention Centre; Brisbane Immigration Transit Accommodation; Christmas Island Immigration Detention Centre; Maribyrnong Immigration Detention Centre; Melbourne Immigration Transit Accommodation; Perth Immigration Detention Centre; Villawood Immigration Detention Centre; and Yongah Hill Immigration Detention Centre. The Commission has not conducted inspections of non-facility-based alternative places of detention or the third country processing facilities in Nauru and Manus Island, Papua New Guinea during 2017.

¹⁰ *Migration Act 1958* (Cth), s 501.

¹¹ Department of Immigration and Border Protection, *Key visa cancellation statistics* (n.d.). At <http://www.border.gov.au/about/reports-publications/research-statistics/statistics/key-cancellation-statistics> (viewed 29 September 2017).

¹² *Migration Act 1958* (Cth) ss 501(6b), (6d).

¹³ Proposed s 251A(2), Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017 (**Bill**), Sch 1, item 2.

¹⁴ Explanatory Memorandum, Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017, p 25.

¹⁵ Migration Act, s 252A.

¹⁶ Migration Act, s 252A(3).

¹⁷ Migration Act, s 252B.

¹⁸ Sch 1, items 16-20 of the Bill.

¹⁹ Explanatory Memorandum, Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017, p 27.

²⁰ Queensland Ombudsman, *The Strip Searching of Female Prisoners Report: An investigation into the strip search practices at Townsville Women's Correctional Centre*, September 2014. At <http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2014/5414T6082.pdf> (viewed 27 September 2017).