



# Legal and Constitutional Affairs Legislation Committee

## Inquiry into Migration Legislation Amendment (Regional Processing Cohort) Bill 2019 [Provisions]

Department of Home Affairs responses to Questions on Notice.

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**HOME AFFAIRS PORTFOLIO  
DEPARTMENT HOME AFFAIRS**

PARLIAMENTARY INQUIRY QUESTION TAKEN ON NOTICE:

*Legal and Constitutional Affairs Legislation Committee inquiry into the Migration Legislation Amendment (Regional Processing Cohort) Bill 2019 [Provisions]*

30 August 2019

**QoN Number: SCLA/001**

**Subject:** Regional Processing - Separated Families

**Question Submitted by:** Nick McKim

**Question:**

Senator McKIM: Good afternoon, and thanks for appearing before the committee. I wanted to start by taking you to the statement of compatibility with human rights and refer you to the third page of that, which is page 24 in the broader package of materials associated with this bill, and draw your attention to the sentence that says 'where the noncitizen has family members who have been granted a visa to enter or remain in Australia, this may result in separation or the continued separation of a family unit'. How many families are in that situation at the moment?

Ms Sullivan: We don't have exact data on how many people are split up, and that's largely because family compositions change over time. We see families separate and come together in different ways, so the data has been quite dynamic. Prior to the hearing, we've certainly asked that question of our stats area. Anecdotally, we know that it's a relatively small number. We're aware of about 10 to 20 cases where that is the case. But the data wasn't collected in the first instance in a way that captured that information, and it requires a manual aggregation for us to do that, which is going through about 2½ thousand records. Based on some of the questions we've heard, it is something that we are trying to collect.

Senator McKIM: So you are trying to collate that manually at the moment?

Ms Sullivan: Yes.

Senator McKIM: Could I ask you to take that question on notice, please, and provide the response?

Ms Sullivan: It won't necessarily be entirely accurate—it could be 22 versus 23. It's a manual process.

Senator McKIM: I do understand that, and I appreciate that, but could you do that to the best of your capacity? And perhaps at a particular point in time—today, for example, would be my suggestion.

Ms Sullivan: Yes. I'll take it on notice.

**Answer:**

Fourteen families (including babies born to stateless parents in Australia who have attained Australian citizenship and babies born to a permanent resident or citizen parent in Australia) would be separated by the provisions in the *Migration Legislation Amendment (Regional Processing Cohort) Bill 2019*.

Note: the Department has applied the definition of member of the family unit as prescribed by 1.12 of the *Immigration Regulations 1994*.

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**PARLIAMENTARY INQUIRY QUESTION TAKEN ON NOTICE:**

*Legal and Constitutional Affairs Legislation Committee inquiry into the Migration Legislation Amendment (Regional Processing Cohort) Bill 2019 [Provisions]*

30 August 2019

**QoN Number:** SCLA/002

**Subject:** Regional Processing - Asylum Seekers post 19 July 2013

**Question Submitted by:** Nick McKim

**Question:**

Senator McKIM: I just want to explore that a little bit. Firstly, I'll just ask you to confirm that, in fact, not everyone who arrived by boat in Australia to seek asylum post-19-July-2013 was actually transferred to Manus or Nauru. There were a lot of people who were in that situation who were allowed to remain in Australia—is that correct?

Ms Sullivan: I wouldn't say 'a lot of people'. There was a small number of people, yes.

Senator McKIM: Do you know how many?

Ms Sullivan: No, but I can take that on notice.

**Answer:**

The implementation of regional processing arrangements has meant that, in some cases, individuals arriving at different times may be subject to different policy settings and situated in different locations.

Additionally, transferees are required to undergo a pre-transfer assessment, including health assessment, prior to transfer to a regional processing country. An individual must meet the requirements of the pre-transfer assessment prior to being transferred.

A subsequent interrogation of departmental systems has identified that between 19 July 2013 and 22 August 2019, 5,191 individuals arrived illegally to Australia by boat. Of those individuals, 2,074 were not transferred to a regional processing country.

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*Legal and Constitutional Affairs Legislation Committee inquiry into the Migration  
Legislation Amendment (Regional Processing Cohort) Bill 2019 [Provisions]*

30 August 2019

**QoN Number:** SCLA/003

**Subject:** Regional Processing - Families at risk of being separated

**Question Submitted by:** Nick McKim

**Question:**

Senator McKIM: Okay, so you're talking about third-country resettlement here. I'm asking specifically about the current situation where some families are in the circumstance where parts of their immediate families have been in Australia for many years; they have children at school; the adults have work and are contributing members of the Australian community. They may be physically reunited now, but the risk is that the government will return one or more members of those families to Papua New Guinea or Nauru and, therefore, break up those families again. That is a valid observation, is it not?

Ms De Veau: It's valid to the extent that if some of the families have come here under one of the temporary transfer provisions, like 198B, and others have not, for those that have been brought here for a temporary purpose under 198B there ultimately will be an obligation for that temporary purpose to have been extinguished and for return to the regional processing country to be enlivened. If they were all here under that mechanism—even if they might have come in different ways—then they won't be split. It would only be if some of them have not arrived back from a regional processing country by dint of a temporary transfer but have otherwise been here.

Senator McKIM: That's right.

Ms De Veau: That's correct.

Senator McKIM: So do you know how many families are in that situation?

Ms Sullivan: No.

Senator McKIM: Could you take that on notice?

Ms Sullivan: Yes.

**Answer:**

Ten families would be split if the Government returned all unauthorised maritime arrivals to a regional processing country at the conclusion of their temporary purpose in Australia. This does not include four families involving Australia citizen children.

Note: the Department has applied the definition of member of the family unit as prescribed by 1.12 of the *Immigration Regulations 1994*.

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**PARLIAMENTARY INQUIRY QUESTION TAKEN ON NOTICE:**

*Legal and Constitutional Affairs Legislation Committee inquiry into the Migration Legislation Amendment (Regional Processing Cohort) Bill 2019 [Provisions] .*

30 August 2019

**QoN Number:** SCLA/004

**Subject:** Regional Processing - Medical Transfers

**Question Submitted by:** Kim Carr

**Question:**

Senator KIM CARR: That's right. When was the last time you returned someone?

Ms Sullivan: In 2017. It's been a year or so, or a year and a half. That person voluntarily returned to Nauru.

Senator KIM CARR: One voluntary. Thank you. These people that have transferred their family—we can take that. How many are family?

Ms Sullivan: I can take that on notice.

**Answer:**

- a. The last transfer of a transitory person from Australia to a regional processing country following the conclusion of the temporary purpose was in April 2018 to Nauru.
- b. The persons returning in Nauru was not a member of a family unit.

Note: the Department has applied the definition of member of the family unit as prescribed by 1.12 of the *Immigration Regulations 1994*.

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**PARLIAMENTARY INQUIRY QUESTION TAKEN ON NOTICE:**

*Legal And Constitutional Affairs*

30 August 2019

**QoN Number: SCLA/005**

**Subject:** Regional Processing - Medical Transfers-Forms of Detention

**Question Submitted by:** Kim Carr

**Question:**

Senator KIM CARR: They're under their own supervision. You've got 176 in various forms of detention?

Ms De Veau: Which may include an alternative place of detention for medical purposes.

Senator KIM CARR: How many are in hospital?

Ms De Veau: I don't have the statistics for that.

Senator KIM CARR: Can you get that figure for me?

Ms Sullivan: Yes.

Senator KIM CARR: And break that down?

Ms Sullivan: I will have to take that on notice.

Senator KIM CARR: Of course you will. I appreciate that; you're not going to have that in your head.

Ms De Veau: Perhaps I can come back to finish the answer in relation to your question, which was why they are in detention. The answer is that they're brought here in detention under the act—

Senator KIM CARR: I understand the point. You will see the method to my madness in due course.

Ms De Veau: If I can just finish this answer, because it is important. The question was why. The second point is that once in Australia, there is a bar in relation to whether they can receive a visa unless that bar is granted.

Senator KIM CARR: Absolutely. That's exactly right.

Ms De Veau: So it's the combination of those two things. That answers the question that you asked.

**Answer:**

At 26 August 2019, of the 1084 transitory persons transferred to Australia from a regional processing country for a medical or related purpose, none are in hospital.

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30 August 2019

**QoN Number:** SCLA/006

**Subject:** Regional Processing - Temporary Protection visas Issued to People in Regional Processing Centres

**Question Submitted by:** Kim Carr

**Question:**

Senator KIM CARR: No. Perhaps I'll rephrase the question, because clearly I'm vague at times. Let's get this straight. We've agreed there are 1,127 people who were sent to regional processing centres. We have acknowledged that there are 1,084 here today under 198 transfers. So we can get that categorisation clearly. Just in my own mind, of the 1,127 people that were transferred to regional processing centres, how many of them ended up with TPVs?

Mr Willard: I don't have that figure, Senator.

Senator KIM CARR: You don't have it. Was it many?

Mr Willard: I would have to take it on notice.

Senator KIM CARR: Come on. What, is it common?

Mr Willard: The transfer occurs under section 198.

Senator KIM CARR: They come into Australia under 198. How many of them end up with a TPV?

Mr Willard: I would have to take that on notice.

**Answer:**

The figure of 1,127 as reported in Hansard is incorrect; there were 3,127 people taken to a regional processing country, as identified in the Departmental submission to the Committee. Of the 3,127 illegal maritime arrivals taken to a regional processing country, 52 have been granted a Temporary Protection visa or a Safe Haven Enterprise visa.