

Inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019

Submission to Legal and Constitutional Affairs
Legislation Committee

12 August 2019

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Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.¹

The ALA office is located on the land of the Gadigal of the Eora Nation.

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have provide this submission to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the *Migration Amendment (Repairing Medical Transfers) Bill 2019* ('the bill').
2. The ALA notes from the Minister's Second Reading Speech that the bill repeals the provisions inserted by the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* ('the Medevac law'). The ALA submits that there is no justification to repeal these provisions. According the ALA submits that the bill should not pass in its current form.

The provisions of the Medevac law

3. The ALA submits that the provisions introduced by the Medevac law provide an appropriate balance between Australia's border protection and ensuring that there is an humane and medically centred approach to responding to refugees and persons seeking asylum in need of urgent medical attention. The ALA notes that the Medevac law in no way provides for permanent resettlement in Australia.
4. The ALA notes that the provisions introduced by the Medevac law state that in the event of a refugee or person seeking asylum requiring urgent medical assistance, two independent Australian doctors can recommend their temporary transfer to Australia. To make this recommendation, the doctors must be of the clinical opinion that it is necessary to remove them from Manus Island or Nauru in order to provide appropriate treatment, which they are not otherwise receiving.
5. The provisions also provide for the Minister to decide whether to approve the transfer or not. The Minister has 72 hours to make this decision. If the Minister refuses, the medical transfer application is then reviewed by the Independent Health Advisory Panel. The Panel is a group of medical experts and includes both Australian Government and independent doctors. The Panel will assess the medical transfer application within 72 hours and either recommend that the transfer be approved or refused.
6. If the Panel recommends that the transfer should be approved, the Minister has 24 hours to approve or refuse the transfer. The Minister can only refuse the transfer if he reasonably believes that:

- a. it is not necessary to transfer the person for treatment or assessment;
 - b. transferring the person would harm Australia's security; or
 - c. the person has a substantial criminal record and the person would expose the Australian community to a serious risk of criminal conduct.
7. The ALA strongly supports the provisions enacted by the Medevac Law as it created an independent medical assessment process, based on the orders of two independent Australian doctors, taking medical decisions out of the hands of politicians and bureaucrats. The ALA notes that under the amended provisions, the Minister retains discretion to refuse Medevac applications on national security or character grounds in every case.
8. The ALA notes that there is no evidence that the Medevac law provisions are being abused by refugees and people seeking asylum. According to the Medical Evacuation Response Group as of May this year, just 40 people had been transferred to Australia under these laws, despite an average of 11 applications being made per day.

Conclusion

11. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the *Migration Amendment (Repairing Medical Transfers) Bill 2019*. The ALA submits that the bill should not be passed in its current form.

Andrew Christopoulos

President

Australian Lawyers Alliance