



**Australian Government**

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**Department of Immigration and Citizenship**

**Senate Legal and Constitutional Affairs Committee**

**Inquiry and report into the Migration Amendment (Unauthorised  
Maritime Arrivals and Other Measures) Bill 2012**

**Public Hearing – 31 January 2013**

**Responses to Questions on Notice**

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## QUESTION TAKEN ON NOTICE (No. 1)

*Senator Crossin asked:*

Can you tell us how many asylum seekers have arrived on the mainland by sea to date for 2012-13? [...] How many have arrived by air during that same period?

*Answer:*

It is estimated that 98 irregular maritime arrivals (IMAs) arrived on the mainland in the 2012–13 program year (to end 31 January 2013).<sup>1</sup>

In the 2012–13 program year (to end September 2012), 1,988 Protection visa (PV) applications were lodged by non-IMAs who had arrived in Australia by air. Non-IMA PV lodgement statistics for the October to December quarter of 2012 are not yet available.

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<sup>1</sup> This estimate of mainland arrivals excludes persons who are not offshore entry persons (non-OEPs) whose vessel was intercepted at or near an excised offshore place but were taken to the mainland for operational or medical reasons. Information about locations of vessel interceptions is provided to the department by partner agencies.

## QUESTION TAKEN ON NOTICE (No. 2)

*Senator Crossin asked:*

Senator Crossin: Just refresh my memory, though: in which legislative instrument is there a requirement for that annual report? I know we have dealt with something in the last six or eight months. We have had a number of bills, but I remember—

Ms Parker: The legislative instruments tabling—yes, I am—

Senator Crossin: Wasn't it the designation of the offshore processing—

Dr Southern: As part of the—

Ms Parker: Yes, that has to be tabled—definitely.

Senator Crossin: Yes. The requirement that the place is tabled and can be disallowed, but—

Dr Southern: And then is there a further requirement for the minister to report back on—

Senator Crossin: Isn't there the reporting requirements about—

Ms Parker: I do not believe so, but I will just double check.

(...)

Senator Crossin: Perhaps I will leave it with you. I had a feeling there was something. I know the minister is obliged to notify the parliament of a designated offshore area, and that is a disallowable instrument. I think what we are looking at is something that goes into a bit more detail than that.

*Answer:*

### *Reporting requirements under current legislation*

Pursuant to section 198AC of the Migration Act 1958 (the Act), the Minister is required to lay a number of documents before Parliament in relation to his or her designation of a regional processing country.

Subsection 198AC(2) of the Act provides an exhaustive list of documents to be laid before Parliament by the Minister within 2 sitting days of each House of the Parliament after the day on which the designation is made (subsection 198AC(3)). These include:

- a copy of the designation; and
- a statement of the Minister's reasons for thinking it is in the national interest to designate the country to be a regional processing country, referring in particular to any assurances of a kind referred to in paragraph 198AB(3)(a) that have been given by the country; and
- a copy of any written agreement between Australia and the country relating to the taking of persons to the country; and

- a statement about the Minister's consultations with the Office of the United Nations High Commissioner for Refugees in relation to the designation, including the nature of those consultations; and
- a summary of any advice received from that Office in relation to the designation; and
- a statement about any arrangements that are in place, or are to be put in place, in the country for the treatment of persons taken to the country.

Subsection 198AE(1) of the Act provides that if the Minister thinks it is in the public interest to do so, the Minister may, in writing, determine that section 198AD does not apply to an offshore entry person.

If the Minister makes a determination under subsection 198AE(1) of the Act, subsection 198AE(4) requires the Minister to cause to be laid before each House of Parliament a statement that:

- sets out the determination; and
- sets out the reasons for the determination, referring in particular to the Minister's reasons for thinking that the Minister's actions are in the public interest.

#### *Reporting requirements under proposed amendments – UMA Bill*

Under the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012 (UMA Bill), subsection 198AE(1A) is inserted to include an express power to vary or revoke a determination made under subsection 198AE(1) if the Minister thinks it is in the public interest to do so. It is proposed that any variation or revocation pursuant to proposed subsection 198AE(1A) will also be reported to Parliament under subsection 198AE(4). This means that if the Minister varies or revokes a determination, the same tabling requirements for making a determination apply to a variation or a revocation of a determination.

On 27 November 2012, the Honourable Member for Lyne, Rob Oakeshott MP, introduced an amendment to the UMA Bill in the House of Representatives.

The amendment seeks to introduce section 198AI to the Act requiring the Minister, as soon as practicable after 30 June in each year, to lay before each House of Parliament a report setting out:

- the activities conducted under the Bali Process during the year ending on 30 June; and
- the steps taken in relation to people smuggling, trafficking in persons and related transnational crime to support the Regional Cooperation Framework during the year ending on 30 June; and
- the progress made in relation to people smuggling, trafficking in persons and related transnational crime under the Regional Cooperation Framework during the year ending on 30 June.

This amendment was agreed to by the House of Representatives. The UMA Bill as amended by the House of Representatives is currently in the Senate.

## QUESTION TAKEN ON NOTICE (No. 5)

*Senator Wright asked:*

How many asylum seekers arrived on the Australian mainland by sea, to date for the 2012-13 year, and per year for the last five financial years? How many asylum seekers have arrived by air in the same period? How many asylum seekers have arrived at an excised offshore place in the same period?

*Answer:*

It is estimated that 164 irregular maritime arrivals (IMAs) arrived on the mainland between July 2008 and January 2013.<sup>1</sup> Of these, 98 arrived on the mainland in the 2012–13 program year (to 31 January 2013).

Between July 2008 and January 2013, 31,510 IMAs arrived at an excised offshore place. Of these, 12,422 arrived at an excised offshore place in the 2012–13 program year (to 31 January 2013).

Between 2008–09 and 2012–13 program years (to end September 2012), 26,419 Protection visa (PV) applications were lodged by non-IMAs who had arrived in Australia by air. Of these, 1,988 non-IMAs lodged PV applications in the 2012–13 program year (to end September 2012). Non-IMA PV lodgement statistics for the October to December quarter of 2012 are not yet available.

More information is provided in the tables below.

Table 1: Mainland arrivals

Program year	Mainland arrivals estimate	Other arrivals	Total arrivals
2008-09	12	973	985
2009-10	0	5 327	5 327
2010-11	9	4 741	4 750
2011-12	45	8 047	8 092
2012-13 (YTD 31 January)	98	12 422	12 520
Total for period	164	31 510	31 674

Table 2: Non-IMA Protection visa lodgements

Program year	2008-09	2009-10	2010-11	2011-12	Jul-Sep Quarter 2012-13	Total for period
Non-IMA PV lodgements	5 072	5 986	6 337	7 036	1 988	26 419

<sup>1</sup> At the Senate Committee hearing on 31 January 2013, Dr Wendy Southern PSM, Deputy Secretary Policy and Program Management Group, stated that 211 IMAs had arrived on the mainland between July 2008 and October 2012. This revised estimate of 164 mainland arrivals excludes persons who are not offshore entry persons (non-OEPs) whose vessel was intercepted at or near an excised offshore place but were taken to the mainland for operational or medical reasons. Information about locations of vessel interceptions is provided to the department by partner agencies.

## **QUESTION TAKEN ON NOTICE (No. 6)**

*Senator Wright asked:*

The Explanatory Memorandum states that the financial impact of the Bill is low and will be met by existing resources within the Department (p.3). Please provide details regarding the cost to date and any anticipated costs of the regional processing centres in Nauru and Manus Province. Please explain how these costs will be affected by the measures contained in the Bill.

*Answer:*

Ongoing costs associated with regional processing centres will not be affected by the measures contained in the Bill.

As at 31 January 2013, costs recorded in DIAC financial systems for regional processing arrangements are \$70.8 million for Nauru and \$20.8 million for Manus Island. There may be outstanding or delayed invoices, which are not reflected in these costs.

Anticipated costs associated with regional processing arrangements include transfers, operating costs (service provision, centre operations, DIAC staff management, and facilities management), visa charges, returns and removals program, advisory body, duties, levies and freight. The Department of Immigration and Citizenship is yet to finalise funding for regional processing arrangements.