



Appendix E: Time line for immigration detention policy 1989–2009

<i>Legislation/event</i>	<i>Policy implications</i>
<i>Migration Legislation Amendment Act 1989</i>	In the context of an increasing number of unauthorised boat arrivals from Indochina, the Act introduced significant changes to the system of processing boat people. It provided that an officer had discretion to arrest and detain a person suspected of being an 'illegal entrant', although detention was not mandatory.
<i>Migration Amendment Act 1992</i>	Introduced by the Keating Government with bipartisan support, the policy of mandatory detention was envisaged as a temporary and exceptional measure for a particular group of unauthorised arrivals or 'designated' persons who arrived by boat between 19 November 1989 and 1 September 1994. The period of detention was limited to 273 days. The Act also aimed to codify discretionary detention as it existed under the Migration Act so as to facilitate the processing of refugee claims, prevent de-facto migration and reduce costs of accommodation in the community.
<i>Migration Reform Act 1992</i>	Extended mandatory detention from a specified group to all who did not hold a valid visa. The Act established a new visa system making a simple distinction between a 'lawful' and 'unlawful' non-citizen. Under Section 13 of the Act, a migration officer had an obligation to detain any person suspected of being unlawful. The Act removed the 273 day detention limit which had applied under the <i>Migration Amendment Act 1992</i> . Overstayers could apply for a bridging visa which allowed them to stay in the community while their claims were assessed. The Act had bipartisan support.

<i>Migration Amendment Regulations (no. 12), 20 October 1999</i>	Introduced the Temporary Protection Visa (TPV) scheme which reduced the number of people detained. Temporary refugee status was granted for three years but without the level of access to government services provided under Permanent Protection visas.
<i>Migration Legislation Amendment (Immigration Detainees) Act 2001</i>	Expanded the powers of detention centres, providing that certain offences on the part of detainees are punishable under the Criminal Code, and that detainees must comply with screening and entry requirements. The amendment had qualified bipartisan support.
<i>Migration Legislation Amendment (Judicial Review) Act 2001</i>	Introduced a privative clause to exempt most decisions made under the Migration Act from judicial review. The amendment was not supported by the opposition.
<i>Migration Amendment (Excision from Migration Zone) Act 2001</i> <i>Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Act 2001</i>	The legislation amended the <i>Migration Act 1958</i> to excise the Christmas, Ashmore, Cartier and Cocos (Keeling) islands from Australia's migration zone, giving effect to the policy of offshore processing known as the 'Pacific Solution'. The new arrangements provided that unlawful arrivals were to be processed at offshore centres on Nauru and Manus Islands, and some on Christmas Island, circumventing their entitlement to Australia's migration visa and review processes. The legislation also provided for indefinite detention or, if refugee status was determined, for removal to a third country. There was bipartisan support for both Acts.
<i>Woomera Detention Centre closed, April 2003</i>	The Baxter immigration detention centre and the Port Augusta residential housing project in South Australia were opened to replace facilities in Woomera.
<i>Palmer Inquiry commenced, February 2005</i>	The Palmer Inquiry was opened to investigate the wrongful 11-month detention of Cornelia Rau, a German citizen holding Australian permanent residency, who was released from Baxter IDC into a psychiatric care facility. By May, it was revealed that 33 people had been wrongfully detained under the Migration Act, including one case of a woman forcibly deported and subsequently missing, Vivian Solon. By the end of the month over 200 cases of possible unlawful detention were referred to the Palmer inquiry.
<i>Migration Amendment (Detention Arrangements) (MADA) Act 2005</i>	Introduced in June 2005 with bipartisan support, the Act held that children would no longer be held in detention (IDCs) unless as a 'last resort'. Instead families with children could reside at a specified place in the community in accordance with a residence determination (grant of community detention) by the Minister. Under the legislation the Minister could specify alternative arrangements for a person's detention; impose conditions of

	<p>detention of that person; and grant a visa to a person who is in immigration detention. Ministerial reporting on, and six monthly review by the Commonwealth Ombudsman of the cases of detainees held over two years was also mandated.</p> <p>The MADA Act also introduced the Removal Pending Bridging Visa (RPBV), which allowed certain long-term detainees to live in the community, subject to agreeing to return home when the government determined.</p>
<i>Migration and Ombudsman Legislation Amendment Act 2005 (Cth)</i>	This Act empowered the Ombudsman to review the cases of people who had been in detention for two years or more, and set a 90-day time limit on decisions by the Minister on applications for protection visas and review by the Refugee Review Tribunal (RRT) of protection visa decisions. There was bipartisan support for the Act.
<i>Pacific Solution policy formally concluded February 2008</i>	<p>In February 2008, the Pacific Solution formally concluded when the last 21 asylum seekers at Nauru were resettled on the mainland and Nauru and Manus Island centres closed.</p> <p>Future unauthorised arrivals would, however, continue to be processed on Christmas Island, excised from Australia's migration zone.</p>
<i>Risk-based detention values announced, July 2008</i>	The Minister for Immigration and Citizenship announced seven immigration detention values on which reforms would be based, as outlined on 29 July 2008.
<i>Abolition of the Temporary Protection Visa, August 2008</i>	Temporary Protection Visa holders/applicants gained the right to apply for Permanent Protection Visas with immediate access to Newstart and Youth allowances, the Adult Migrant English Program (AMEP), age and disability pensions, family tax benefit, childcare benefit and the right to travel.
<i>Introduction of the Migration Amendment (Abolishing Detention Debt) Bill 2009. March 2009</i>	On 18 March 2009 a Bill was introduced in the Senate to abolish the detention debt regime imposed on immigration detainees. It will also waive any existing debts for current and former detainees. People convicted of people smuggling or illegal foreign fishing will still be liable for their costs of detention and removal. The liability for costs associated with the removal or deportation of unlawful non-citizens will also remain unchanged.