

CHAPTER 1

INTRODUCTION

Background

1.1 On 7 December 2006, the Senate referred the Migration Amendment (Review Provisions) Bill 2006 (the Bill) to the Standing Committee on Legal and Constitutional Affairs, for inquiry and report by 20 February 2007.

Purpose of the Bill

1.2 The Bill proposes to amend the *Migration Act 1958* (the Act) by altering the obligations of the Migration Review Tribunal (MRT) and the Refugee Review Tribunal (RRT, and together the Tribunals) in according procedural fairness to applicants.

1.3 The focus of the inquiry has been on two key amendments in the Bill. Firstly, these amendments would allow the Tribunals to accord procedural fairness to review applicants during a hearing by:

- orally giving clear particulars of any adverse information that the Tribunal considers would be the reason, or part of the reason, for affirming the decision that is under review, and inviting the applicant to comment on or respond to the information; and
- inviting the applicant to comment on or respond to the information.

1.4 Secondly, the amendments provide that the obligation to give an applicant information, and invite comment on or a response to the information, *does not* extend to information already provided by the applicant to the Department of Immigration and Citizenship (the Department), as part of the process leading to the decision under review, other than information that the applicant has given orally to the Department.¹

1.5 According to the Explanatory Memorandum (EM), the principal purpose of the amendments proposed by the Bill is to ensure that applicants are still provided with procedural fairness while giving flexibility to the Tribunals in how they meet their obligations under the Act.²

Conduct of the inquiry

1.6 The committee advertised the inquiry in *The Australian* newspaper on the 12 December 2006 and 7 February 2007, and invited submissions by 19 January 2007.

1 EM, p. 1, paragraph 1.

2 p. 3, paragraph 12.

Details of the inquiry, the Bill, and associated documents were placed on the committee's website. The committee also wrote to approximately 40 organisations and individuals inviting submissions.

1.7 The committee received 16 submissions which are listed at Appendix 1. Submissions were placed on the committee's website for ease of access by the public.

1.8 The committee held a public hearing in Sydney on 31 January 2007. A list of the witnesses who appeared at the hearing is at Appendix 2 and copies of the Hansard transcript are available through the Internet at <http://aph.gov.au/hansard>.

Acknowledgement

1.9 The committee thanks those organisation and individuals who made submissions and gave evidence at the public hearing.

Note on references

1.10 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.