

RECOMMENDATIONS

Recommendation 1

3.208 In light of the limited information available to the committee, the committee recommends that the Bill should not proceed.

Recommendation 2

3.209 In the event that the Bill proceeds, the committee recommends that the Bill be amended to ensure consistency with previous changes to Australia's refugee determination system including, but not limited to, government responses to the Palmer, Comrie and Commonwealth Ombudsman's reports. In particular:

- specifying a reasonable time period in which the Minister must determine protection visa applications for asylum seekers detained in offshore processing centres;
- specifying that asylum seekers who are found to be refugees after being processed offshore will be resettled in Australia if resettlement in other countries is not available;
- applying the principle that children should only be detained as a measure of last resort;
- providing for asylum seekers who are detained and processed offshore with access to independent legal advice and legal representatives to assist them in making their protection visa applications, as well as access to community welfare and support organisations;
- providing for the Minister to grant a visa to an asylum seeker detained in offshore processing centres regardless of whether they have applied or are eligible for a visa;
- providing for the Minister to determine that an asylum seeker detained in offshore processing centres may reside in a place other than a detention centre (for example, community housing);
- providing for reports by DIMA to the Commonwealth Ombudsman or Australian Parliament on asylum seekers detained in offshore processing centres; and
- providing asylum seekers who are detained and processed offshore with a right to have a negative decision on their protection visa application independently reviewed on the merits.

Recommendation 3

3.210 The committee further recommends that the review of special measures relating to the treatment and accommodation of women, children and families on Nauru currently being undertaken by the Federal Government be completed.

Recommendation 4

3.211 The committee recommends that the review currently being undertaken by the Federal Government, in relation to special measures for women, children and families on Nauru should include specific consideration of the impact of offshore processing arrangements on children.

Recommendation 5

3.212 In the event that the Bill proceeds, the committee recommends that the Bill be amended to specifically provide for independent scrutiny of offshore processing arrangements by the Commonwealth Ombudsman to ensure that offshore processing arrangements are subject to an equivalent level of independent oversight and scrutiny as onshore processing arrangements.

Recommendation 6

3.213 The committee recommends that the provision for independent scrutiny of offshore processing arrangements by the Commonwealth Ombudsman set out in Recommendation 5 should provide express authority to the Commonwealth Ombudsman for proper access to offshore processing centres located in any 'declared' countries. Given the sovereignty issues involved in any such extra-territorial activities by government officials, this may require the negotiation of appropriate government-to-government agreements.

Recommendation 7

3.214 In the event that the Bill proceeds, the committee recommends that the Bill be amended to specifically provide that the requirement in Part 8C of the *Migration Act 1958* for the Commonwealth Ombudsman to provide reports on persons held in detention for more than two years also applies in relation to all persons held in offshore processing locations.

Recommendation 8

3.215 In the event that the Bill proceeds, and prior to the Bill proceeding, the committee recommends that the Federal Government undertake a full costing in relation to the measures contained in the Bill.

Recommendation 9

3.216 In the event that the Bill proceeds, the committee recommends that the Bill be amended to include a sunset period of eighteen months for review of the Bill's operation and practical effect.

Recommendation 10

3.217 In the event that the Bill proceeds, the committee recommends that the Bill be amended by inserting an express requirement for a public and independent review of its operation and effect at the end of the sunset period referred to in Recommendation 9.