

# CHAPTER 1

## INTRODUCTION

### Background and purpose of the Bill

1.1 On 11 May 2006, the Senate referred the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 (Bill) to the Senate Legal and Constitutional Legislation Committee for inquiry and report by 13 June 2006.

1.2 The Bill proposes to amend the *Migration Act 1958* (Migration Act) to expand the offshore processing regime introduced in 2001, which currently applies to offshore entry persons and transitory persons. Under the Bill, the offshore processing regime will also apply to all persons arriving at mainland Australia (meaning other than at an excised offshore place) unlawfully by sea on or after 13 April 2006. The concept of 'offshore entry person' will be replaced by the concept of 'designated unauthorised arrivals'.

1.3 The Bill will also deem certain air arrivals to be entry by sea so that persons who travel most of the way to Australia by sea but travel the last leg by air, before entering (on or after 13 April 2006) and who become unlawful on entry, will be taken to have entered Australia by sea. According to the Explanatory Memorandum (EM), this is to cover situations where persons are airlifted into Australia at the end of their sea journey.<sup>1</sup>

1.4 The EM states that the Bill 'provides the flexibility to the Government to move a wider group of people to offshore processing centres' which is 'designed to operate as a disincentive to people who arrived on the mainland unauthorised by boat to defeat the existing excision provisions'.<sup>2</sup> Further, 'nearly 9,000 people arrived unauthorised by boat in the two years to June 2001 but, following the legislative changes made in 2001, less than 200 people have arrived although they have targeted areas which [are] not excised'.<sup>3</sup> The EM also claims that '(a)s a rule of thumb, there was a saving of around \$50,000 for each person whose unauthorised arrival was avoided. The Government believes that these changes will further reduce the incentive for unauthorised boat arrivals reducing costs further'.<sup>4</sup>

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1 p. 2.

2 EM, p. 5.

3 EM, p. 5.

4 EM, p. 5.

## **Conduct of the inquiry**

1.5 The committee advertised the inquiry in *The Australian* newspaper on 12 May 2006, and invited submissions by 22 May 2006. Details of the inquiry, the Bill, and associated documents were placed on the committee's website. The committee also wrote to 117 organisations and individuals.

1.6 The committee received 136 submissions which are listed at Appendix 1. Submissions were placed on the committee's website for ease of access by the public.

1.7 The committee held a public hearing in Canberra on 26 May 2006 and in Sydney on 6 June 2006. A list of witnesses who appeared at the hearings is at Appendix 2 and copies of the Hansard transcripts are available through the Internet at <http://aph.gov.au/hansard>.

## **Acknowledgement**

1.8 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings.

## **Note on references**

1.9 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.