



**Parliamentary
Joint Committee on
Human Rights**

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Senator the Hon Ursula Stephens

Mr Dan Tehan MP

Senator Matt Thistlethwaite

Mr Kelvin Thomson MP

Senator Penny Wright

***Migration Legislation Amendment (Regional
Processing and Other Measures) Act 2012
and related bills and instruments***

Date Monday, 17 December 2012
Start 9.00 am
Venue Committee Room 2S1
Parliament House, Canberra

9.00 am	Department of Immigration and Citizenship Dr Wendy Southern PSM, Deputy Secretary, Policy and Program Management Group Ms Vicki Parker, First Assistant Secretary, Expert Panel Implementation Ms Kate Pope PSM, First Assistant Secretary, Community Programs and Children Mr Ken Douglas, First Assistant Secretary, Detention Infrastructure and Services
10.00 am	Members of the Expert Panel on Asylum Seekers Air Chief Marshal Angus Houston AC AFC (Ret'd) Mr Paris Aristotle AM Professor Michael L'Estrange AO
<i>11.00 am</i>	<i>Morning tea</i>
11.15 am	United Nations High Commissioner for Refugees Mr Richard Towle, Regional Representative for Australia, New Zealand, Papua New Guinea and the Pacific
12.00 pm	Professor Mary Crock Miss Hannah Martin
<i>12.45 pm</i>	<i>Lunch</i>
1.45 pm	Law Council of Australia Ms Rosemary Budavari, Co-Director, Criminal Law and Human Rights Ms Sarah Moulds, Senior Policy Lawyer, Criminal Law and Human Rights
2.30 pm	Father Frank Brennan SJ AO
3.15 pm	Refugee Council of Australia (by videoconference) Ms Lucy Morgan, Information and Policy Officer
<i>4.00 pm</i>	<i>Afternoon tea</i>
4.15 pm	Salvation Army Witnesses to be confirmed
<i>5.00 pm</i>	<i>Adjournment</i>

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Examination of the Migration (Regional Processing) Package of Legislation

The committee is currently examining the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012* and related bills and instruments as a package. To date, the committee understands the package of government legislation to comprise the following:

- [Migration Legislation Amendment \(Regional Processing and Other Measures\) Act 2012](#)
- [Migration Act 1958 - Instrument of Designation of the Republic of Nauru as a Regional Processing Country under subsection 198AB\(1\) of the Migration Act 1958 - September 2012](#)
- [Migration Act 1958 - Instrument of Designation of the Independent State of Papua New Guinea as a Regional Processing Country under subsection 198AB\(1\) of the Migration Act 1958 - October 2012](#)
- [Migration Amendment Regulation 2012 \(No. 5\)](#)
- [Migration Amendment \(Unauthorised Maritime Arrivals and Other Measures\) Bill 2012](#)
- [Appropriation \(Implementation of the Report of the Expert Panel on Asylum Seekers\) Bill \(No. 1\) 2012-2013](#) and [Appropriation \(Implementation of the Report of the Expert Panel on Asylum Seekers\) Bill \(No. 2\) 2012-2013](#)
- [Migration Regulations 1994 - Specification under paragraphs 050.613A\(1\)\(b\) and 051.611A\(1\)\(c\) - Classes of Persons - November 2012](#)

The committee also proposes to examine the following private Senator's bill:

- [Migration Amendment \(Health Care for Asylum Seekers\) Bill 2012](#)

Scope

The committee is examining the human rights implications of this package of legislation. The committee is therefore particularly interested in seeking evidence in relation to the following issues:

- The objective(s) of the legislation and evidence that the measures are likely to be effective in achieving the objective(s) being sought.
- The nature and scope of Australia's obligations under the [seven human rights treaties listed under the definition of human rights in the Human Rights \(Parliamentary Scrutiny\) Act 2011](#) with regard to individuals who are removed to regional processing countries.
- Whether Australia's obligations under the 1951 Refugee Convention and 1967 Protocol are relevant to the interpretation of Australia's obligations under the seven human rights treaties; and the extent to which the provisions of the seven human rights treaties may overlap with the rights and protections provided for under the Refugee Convention and Protocol.
- The consistency of the measures with Australia's obligations of non-refoulement (article 3 of the Convention against Torture and article 7 of the International Covenant on Civil and Political Rights (ICCPR)).
- The consistency of the measures with the 'best interests of the child' principle in the Convention on the Rights of the Child (CRC), and other provisions of the CRC, including the rights it guarantees in relation to children who are refugees or seeking refugee status (article 22) and family rights (including in articles 17 and 23 of ICCPR).
- The consistency of the underlying 'no advantage' test with the prohibition against arbitrary detention (article 9 of ICCPR). The adequacy of provisions for reviewing the detention, including the ability for persons detained under these measures to be able to access a court to challenge substantively both the lawfulness and the arbitrariness of detention; and the consistency of the measures with the right to a fair hearing (article 14 of ICCPR).
- The consistency of the measures with the right to health (article 12 of ICESCR); the right to humane treatment in detention (article 10 of ICCPR); and the right to work (article 6 of ICESCR).
- The extent to which the rights of persons with disabilities may be affected by the measures.
- The consistency of the measures with the right to non-discrimination (article 26 of ICCPR).
- The types of safeguards in place, or proposed, to ensure that rights are effectively protected in practice.
- Where contracted service providers will be involved in guaranteeing the enjoyment of rights, whether specific and explicit human rights standards have been included in such contracts, and the procedures for administrative and other oversight of the implementation of these standards.