



Australian Government  
Department of Home Affairs

# **Submission to the Inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019 [Provisions]**

Senate Legal and Constitutional Affairs Legislation  
Committee

# Table of Contents

<b>Executive Summary</b>	<b>3</b>
<b>PART A: History of Regional Processing</b>	<b>5</b>
<b>Regional processing transferee populations statistics</b>	<b>5</b>
<b>PART B: Health, welfare and support services available in Nauru</b>	<b>6</b>
Health Investment in Nauru	7
<b>PART C: Health, welfare and support services available in Papua New Guinea</b>	<b>8</b>
Health Services in Papua New Guinea	8
Health Investment in Papua New Guinea	9
<b>PART D: Third country medical transfers (including to Australia)</b>	<b>10</b>
<b>PART E: Issues Identified with the medical transfer provisions inserted into the Migration Act by Schedule 6 of the Miscellaneous Measures Act</b>	<b>11</b>
Eligibility	11
Security and character assessment	12
Legacy minors	13
Sovereignty issues	14
Independent Health Advice Panel remuneration	16
Self-harm	16
<b>PART F: Operationalising Schedule 6 of the Miscellaneous Measures Act</b>	<b>17</b>
Operationalisation of Christmas Island	17
Operation and Findings of the Independent Health Advice Panel	18
<b>PART G: Durable Resettlement Solutions – Third Country Resettlement</b>	<b>19</b>
<b>Fact sheets</b>	<b>20</b>
1. Overview of Schedule 6 of the Miscellaneous Measures Act	20
2. History of Regional Processing	20
3. Regional Processing Transferee Populations	20
4. Nauru: Overview of health services	20
5. Papua New Guinea: Overview of health services	20
6. Medical Transfers	20
7. Independent Health Advice Panel	20
8. United States Resettlement	20

## Executive Summary

- 1 The Department of Home Affairs (Home Affairs) welcomes the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into Migration Amendment (Repairing Medical Transfers) Bill 2019 [Provisions], following the introduction of the Bill into the House of Representatives on 4 July 2019.
- 2 The Bill seeks to amend the *Migration Act 1958* (the Migration Act) to repeal the provisions inserted by Schedule 6 to the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* (the Miscellaneous Measures Act). The Bill also amends the Migration Act to extend existing powers in relation to persons transferred to Australia under the new medical transfer provision (section 198C) to allow for their removal from Australia or return to a regional processing country once they no longer need to be in Australia for the temporary purpose for which they were brought.
- 3 It also seeks to resolve issues regarding the effect of the provisions inserted by Schedule 6 of the Miscellaneous Measures Act, including:
  - Undermining of the Australian Government's regional processing arrangements. Regional processing is a key pillar of Operation Sovereign Borders, a successful policy setting that has deterred potential illegal immigrants from engaging people smugglers to gain illegal passage to Australia. The provisions of the Miscellaneous Measures Act do not provide the Minister with the power to remove or return a transitory person brought to Australia under its provisions. This may create the false perception of a pathway to settlement in Australia. Settlement pathways are marketed by people smugglers to encourage further irregular maritime migration and the repeal measures seek to remove this perceived pathway and ensure the integrity of Australia's borders.
  - Undermining of security. The Miscellaneous Measures Act limits the grounds upon which the Minister may refuse a transfer, significantly narrowing his ability to deny transfer to Australia where he reasonably believes the person would expose the Australian community to a serious risk of criminal conduct. The repeal measures seek to remove this barrier and ensure a holistic view is taken in considering who is permitted entry to Australia.
  - Sovereignty. The provisions also impinge on the sovereignty of Papua New Guinea and Nauru. Regional processing arrangements are governed by respective memoranda of understanding with Nauru and Papua New Guinea. As independent sovereign states, the laws of Nauru and Papua New Guinea govern the operations.
- 4 Further, the health of transitory persons has always been a priority for the Governments of Nauru, Papua New Guinea and Australia. Since 2012, the Australian Government has invested \$489 million to support the delivery of health services in Nauru and Papua New Guinea. This includes \$392.5m for the provision of contracted health services.
- 5 Health services in Nauru and Papua New Guinea include primary healthcare and mental healthcare services. These health services are provided by a range of registered healthcare professionals including general practitioners, psychiatrists, psychologists, counsellors, dentists, radiographers, pharmacists, mental health nurses and specialists who provide clinical assessment and treatment. Secondary and tertiary medical services are also available in Papua New Guinea (for transitory persons in Papua New Guinea and Nauru) and in Taiwan (for transitory persons on Nauru).

- 6 There has been much reporting that the Australian Government has had to be legally compelled to transfer persons from Nauru and Papua New Guinea to Australia to receive necessary health care. This position is not factually correct. During the period November 2012 to 31 July 2019, 1,343 individuals (717 medical and 626 accompanying family transfers) were transferred to Australia for medical treatment utilising existing powers under section 198B of the Migration Act.
- 7 As of February 2019 there are zero transitory person children in Nauru. The drawdown to zero transitory person children in Nauru is a result of 283 minors transferring to Australia under pre-Miscellaneous Measures Act provisions and a number being resettled as part of the arrangement with the United States.
- 8 Of the 1,343 individuals transferred, only 39 cases, involving 96 individuals, were court ordered. In many of the 39 cases, Home Affairs informed legal representatives of its intention to transfer their clients prior to proceedings being filed and that the transfer would occur as soon as practicable once the necessary medical transfer approvals were obtained in accordance with Government of Nauru and Papua New Guinea processes. However, the legal representatives proceeded to file anyway, on the basis that transfers were not occurring quickly enough. The issue in the proceedings then became about the pace that the transfers were able to be effected having regard to the practical arrangements that were required and the requisite local approvals. The remaining 1,247 transfers were facilitated utilising the existing power in the Migration Act without court order.
- 9 During the period 2 March 2019 to 31 July 2019, 72 transitory persons from Papua New Guinea and Nauru have transferred to Australia for medical treatment under section 198C(2) and four accompanying family members were transferred under section 198C(4) of the Migration Act. From 2 March to 31 July 2019 there have been 154 notifications for medical transfer (section 198E) received by Home Affairs. During that same period, Home Affairs transferred an additional 54 transitory persons to Australia under the pre-existing medical transfer process under section 198B of the Migration Act.
- 10 To address the shortcomings of the Miscellaneous Measures Act, and noting the existing medical transfer processes, it is necessary and appropriate that the Bill repeals the provisions inserted by Schedule 6. To illustrate this, this submission provides further context in relation to the history of regional processing; details of existing health, welfare and support services available in Nauru and Papua New Guinea; the issues, including operational difficulties, identified with the provisions inserted by Schedule 6 to the Miscellaneous Measures Act; as well as Home Affairs forward looking intentions in relation to the resolution of the regional processing caseload.

## PART A: History of Regional Processing

- 11 Regional processing in Nauru and Papua New Guinea was first established by the Howard Government in the early 2000s, introduced by *the Migration Amendment (Excision from the Migration Zone) Act 2001*, under what was commonly referred to as the 'Pacific Strategy'. These arrangements ended in 2007 with the last person resettled from Nauru.
- 12 In 2012, the Gillard Government re-established regional processing arrangements in Nauru and Papua New Guinea following unprecedented numbers of illegal maritime arrivals. New regional processing provisions were inserted into the *Migration Act* (by the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012*), including requirements for the designation of regional processing countries and the taking of offshore entry persons (now known as unauthorised maritime arrivals) to a regional processing country. Those provisions also amended the definition of transitory person to include a person taken to a regional processing country.
- 13 Consequently, Australia entered into memoranda of understanding with the Governments of Nauru and Papua New Guinea for the transfer, management and protection assessment of transferees, under which Australia agreed to bear all costs associated with the arrangements and to support and assist Nauru and Papua New Guinea to implement them.
- 14 Policy settings were adjusted in July 2013, when the second Rudd Government signed the Regional Resettlement Arrangement with Papua New Guinea and the settlement pathway to Australia was closed. Memoranda of understanding with Nauru and Papua New Guinea were renewed to reflect these changes and promote third country resettlement as the most viable migration option for transitory persons determined by Nauru and Papua New Guinea to be refugees.
- 15 When the Abbott Government came into power in September 2013 it established Operation Sovereign Borders to stem the flow of unauthorised maritime arrivals to Australia. Operation Sovereign Borders is structured around three key pillars: deterrence and disruption; detection and interception; and regional processing and resettlement. Boat turnbacks, when it was safe to do so, and temporary protection visas were also introduced.
- 16 Prior to this policy, Australia received approximately 50,601 illegal maritime arrivals on 827 boats. It is estimated that up to 1,204 people may have died at sea trying to reach Australia. Since the inception of Operation Sovereign Borders, as at 31 July 2019, 36 people smuggling boats have been intercepted with 852 people safely returned.
- 17 A chronology of regional processing is contained in the Fact Sheet: History of Regional Processing.

### Regional processing transferee populations statistics

- 18 A total of 4,183 illegal maritime arrivals were transferred to regional processing, with the populations peaking in June 2014 at 2,457: 1,189 transitory persons in Papua New Guinea and 1,268 in Nauru. As at 31 July 2019, the population reduced to 715: 409 transitory persons in Papua New Guinea, 304 in Nauru and two transitory persons in Taiwan for medical treatment. There are no transitory person children in regional processing countries.
- 19 Despite significant reporting to the contrary, refugees in regional processing countries are not detained and reside in community accommodation.

- 20 A full chronology of transitory person populations in regional processing countries is contained in Fact Sheet 3: Regional Processing Populations.

## **PART B: Health, welfare and support services available in Nauru**

- 21 The Government of Nauru is responsible for the healthcare of transitory persons residing in Nauru under regional processing arrangements.
- 22 Since the re-establishment of regional processing arrangements in 2012, health services in Nauru have significantly expanded. Home Affairs has contributed to significant health capacity building initiatives ranging from major capital works in redeveloping the Republic of Nauru Hospital to public health initiatives to improve sanitation and prevent dengue and waterborne disease transmission. These initiatives have benefitted the transitory person and local Nauruan populations.
- 23 Through the Australian Government's contracted health services provider, International Health and Medical Services, general practitioner, nursing and mental health care clinicians are available seven days a week. There is also after-hours medical staffing to respond to medical emergencies.
- 24 Mental health care is delivered by mental health nurses, clinicians, psychologists, psychiatrists and counsellors, including counsellors with torture and trauma counselling expertise. International Health and Medical Services provides torture and trauma counselling services through a subcontract with Overseas Services to Survivors of Torture and Trauma. For further detail refer to Fact Sheet: Nauru: Overview of health services.
- 25 Specialist health services are also provided, including psychology, psychiatry, dentistry, obstetrics, radiography and pharmacy services.
- 26 Where a specialist health service is not available in Nauru, health specialist are provided under the visiting specialist program, including paediatricians, physiotherapists, optometrists, obstetrician/gynaecologists, gastroenterologists, infectious disease physicians, speech and language therapists, ophthalmologists, ear nose and throat surgeons, cardiologists, orthopaedic surgeons, neurologists and sonographers.
- 27 There are no transitory person children in Nauru, since February 2019, however while there were children in Nauru, child mental healthcare was available. The Child and Adolescent Mental Health team provided mental health services for children in Nauru using an outpatient outreach model.
- 28 This team was responsible for the early identification of issues and active multidisciplinary clinical interventions with children and their families to:
- Reduce the risk of developmental and emotional problems in children;
  - Help families manage psychological and behavioural problems of children; and
  - Improve the health services ability to intervene early
- 29 On 13 September 2018, the Child Health Welfare Services were further expanded by International Health Medical Services and Canstruct International with the establishment of a Child and Youth Therapeutic Service. This multi-disciplinary team worked with vulnerable children and their families to improve mental wellbeing and assists the integration in to school and other non-clinical developmentally appropriate activities.

- 30 Primary care for pregnant women is provided by the International Health and Medical Services obstetrician and midwife, with support from the Republic of Nauru Hospital. International Medical and Health Services operates an anatomical ultrasound machine at the regional processing centre health clinic to conduct morphological scans.
- 31 Where health services are not be available through the extant health services or visiting specialist program, International Health and Medical Services may recommend a temporary medical transfer to a third country, including Papua New Guinea, Taiwan or Australia (under section 198B). For further detail refer to Fact Sheet 6: Medical Transfers.
- 32 As at 31 July 2019, there were 47 contracted medical professionals in Nauru, including 12 mental health professionals, providing services to 304 transitory persons. This is a ratio of one health care professional to every six transitory persons and one mental health professional to every 25 transitory persons. All medical professionals are appropriately registered and certified. The numbers of health professionals has fluctuated over time, with additional staff surged as required to meet new demands and changing circumstances.
- 33 Transitory persons are also provided welfare and support services, including free accommodation in the community, income support and access to welfare and educational programs.
- 34 For further detail refer to Fact Sheet: Nauru: Overview of health services

## Health Investment in Nauru

- 35 The Australian Government has invested approximately \$197.76m to support the delivery of primary health services on Nauru, including \$51.9m in medical services upgrades:
  - A medical clinic, multipurpose primary and mental healthcare facility at the regional processing centre including:
    - A multipurpose primary and mental healthcare facility was constructed at the regional processing centre, providing 18 consultation rooms. The centre includes:
    - Two bed emergency and resuscitation ward.
    - Four-bed isolation ward.
    - Pharmacy and dispensary.
    - Administration areas.
  - Upgrades at the Republic of Nauru Hospital including:
    - Construction of a surgical facility and related facilities including a six-bed inpatient ward, primary and mental health consultation rooms, a new x-ray building, temporary clinic, and pathology buildings.
    - New pathology and paediatrics buildings, and a new services compound containing a back-up power supply, a waste water treatment plant, and water supply tanks.
    - A computed tomography scanner providing enhanced diagnostic imaging for transferees and local Nauruans.



## **PART C: Health, welfare and support services available in Papua New Guinea**

### **Health Services in Papua New Guinea**

- 36 The Government of Papua New Guinea is responsible for the healthcare of transitory persons residing in Papua New Guinea under regional processing arrangements.
- 37 Since the re-establishment of regional processing arrangements in 2012, health services in Papua New Guinea have significantly expanded. Following the commencement of the presence of Home Affairs and International Health and Medical Services on Manus Island, there has been progressive and continuous investment into the contribution of health services on Manus Island for the transitory person's population.
- 38 International Health and Medical Services previously delivered health services to transitory persons at the Manus Island Regional Processing Centre Medical Clinic. The Clinic provided daily primary and mental health care services including after-hours emergency care. In addition to clinic space, the clinic housed a four bed emergency department, dispensary, pathology, radiology (using telehealth) and an operating theatre capacity (although this was never used).
- 39 Currently, through the Australian Government's contracted health services provider, Pacific International Hospital, transitory persons have access to certified general practitioners, nursing and mental health care through dedicated clinics.
- 40 In Manus Province, the Pacific International Hospital delivers health services at the general practitioner-led clinic located at the East Lorengau Refugee Transit Centre. The East Lorengau Refugee Transit Centre Clinic operates 9am to 5pm Monday to Friday, and 9am to 1 pm on Saturday.
- 41 Health care at the East Lorengau Refugee Transit Centre Clinic is delivered by medical officers, primary care nurses, a paramedic, laboratory technician, mental health nurses, psychiatrists, radiologist, general nurses and emergency trained medical officers.
- 42 After hours treatment is available at the Lorengau General Hospital. The Pacific International Hospital also maintains a 24-hour emergency medical evacuation capability.
- 43 With support from Pacific International Hospital, the local pharmacy in Lorengau provides medication to transitory persons free of charge.
- 44 Where persons require treatment not available in Manus, Pacific International Hospital may temporarily medically transfer transitory persons to Port Moresby for inpatient or outpatient care.
- 45 The Pacific International Hospital in Port Moresby provides a medical officer and nurse liaison service to support patients referred to Port Moresby for medical treatment. The liaison service is designed to manage and co-ordinate follow up appointments with specialists and hospitals in Port Moresby, including mental health specialist services. Transitory persons can also be referred or self-refer to other public hospitals throughout Papua New Guinea.



46 Health Services at the Pacific International Hospital in Port Moresby include:

- 24 x 7 Emergency Services
- Neonatal Intensive Care Unit
- Dialysis
- General and Trauma Surgery
- Paediatrics
- Corneal as well as retinal Ophthalmology Surgery
- Digital X-ray, MRI, CT Scan, Ultrasound and Mammography
- Neuro Surgery Theatre with all equipment and Operating Microscope (served by visiting surgeons)
- Psychiatric services including an inpatient Mental Health Unit.
- Urology
- Internal Medicine
- Eye and Ear Nose and Throat care
- Obstetrics and Gynaecology
- Orthopaedics
- Cardiac Catheterisation Laboratory, with full time interventional cardiologist
- Critical Care with seven ICU beds and dedicated full time intensivist
- Cardiac Surgery facilities, including a Heart Lung machine (served by visiting surgeons)

47 Where health services are not be available through extant health services, the Pacific International Hospital may recommend a temporary medical transfer to Australia. For further detail refer to the Fact Sheet 6: Medical Transfers.

48 As at 31 July 2019, there were 29 contracted medical professionals in Papua New Guinea, including 11 mental health professionals, providing services to 409 transitory persons. This is a ratio of one health care professional to every 14 transitory persons and one mental health professional to every 37 transitory persons.

49 Transitory persons are also provided welfare and support services, including free accommodation in the community, income support and access to welfare, language, job readiness and educational programs.

50 For further information refer to Fact Sheet 5: Papua New Guinea Overview of health services.

## Health Investment in Papua New Guinea

51 The Australian Government has invested approximately \$194.7m to support the delivery of primary health services in Papua New Guinea, including \$44.5m for the establishment and expansion of the medical clinic at the former Manus Regional Processing Centre.

## **PART D: Third country medical transfers (including to Australia)**

- 52 Consistent with government policy, consideration is given to temporary medical transfer to a third country, including Australia, where required services are not available in the regional processing country of residence.
- 53 Where transfers relate to emergency medical needs, transitory persons are transferred to the closest Australian tertiary hospital that has the capacity to treat the individual. Emergency evacuations are undertaken by air ambulance as a priority, whereas commercial or charter aircraft are used to transfer more routine, non-urgent cases.
- 54 Medical transfers to Port Moresby from both Nauru<sup>1</sup> and Manus Province are undertaken on clinical advice from International Health and Medical Services and Pacific International Hospital respectively. Pacific International Hospital is a leading tertiary care multispecialty hospital in Port Moresby, offering extensive health services to the country. It is the only hospital to offer interventional and minimally invasive surgeries with up to date medical technology for the Pacific region.
- As at 31 July 2019, 120 transitory persons have temporarily transferred from Nauru to Papua New Guinea for medical treatment.
- 55 Since September 2017, transitory persons in Nauru who require medical treatment not available in Nauru, can access medical services in Taiwan. Taiwan has a global reputation for high-quality medical care and this arrangement is in line with Taiwan's existing health cooperation with Nauru, under which Taiwan provides technical assistance to the Republic of Nauru Hospital.
- 56 The medical transfer process is established under Australia's memorandum of understanding with Taiwan. Transitory persons who transfer to Taiwan consent to receiving treatment in Taiwan and agree to return to Nauru at the conclusion of their treatment.
- As at 31 July 2019, 33 transitory persons have transferred to Taiwan for medical treatment.
  - A further 33 transitory persons have refused medical transfer to Taiwan.
- 57 Medical transfers to Australia under section 198B of the Act are supported by clinical advice provided by a Medical Officer of the Commonwealth.
- 58 Home Affairs has undertaken transfers based on medical evidence provided by the registered contracted health professionals. As at 31 July 2019, 1,343 transitory persons (717 medical and 626 accompanying family transfers) have transferred from Nauru and Papua New Guinea to Australia under 198B: 1,176 from Nauru and 167 from Papua New Guinea.
54. Of the 1,343 transitory persons transferred to Australia, only 96 were court ordered. This represents 7% of the medical transferee caseload. There have been approximately a further

---

<sup>1</sup> For transitory persons in Nauru, medical transfer to Papua New Guinea, Taiwan or Australia requires consultation with the Republic of Nauru Hospital, explicit approval from the Government of Nauru Overseas Medical Referral Compliance and uplift approval from the Government of Nauru.

90 cases, involving 220 plus transitory persons, where legal representatives made representations to Home Affairs seeking medical transfer, including many foreshadowing litigation. A review of the circumstances of these cases resulted in medical transfer to Australian under section 198B of the Migration Act, prior to any proceedings being filed.

55 For further detail refer to Fact Sheet 6: Medical Transfers.

## **PART E: Issues Identified with the medical transfer provisions inserted into the Migration Act by Schedule 6 of the Miscellaneous Measures Act**

56 Implementation of the new medical provisions inserted into the Migration Act by Schedule 6 of the Miscellaneous Measures Act have created a number of operational and legal issues. Repeal of the medical transfer provisions would remove these issues and allow for the unimpeded operation of existing, accountable processes available under the Migration Act.

### **Eligibility**

- 57 The provisions apply to transitory persons in a regional processing country at the commencement of the provisions (i.e. 2 March 2019) or persons born in a regional processing country. This means that the provisions would also apply to persons born in a regional processing country in the future. For example, if transitory persons in the regional processing country on 2 March 2019 had a child after this date, that child could rely on the medical transfer provisions.
- 58 More concerning, if a boat with unauthorised maritime arrivals were to arrive and the passengers were transferred to a regional processing country, any child born in the regional processing country to those transitory person parents could rely on these provisions. The framework would therefore also allow the parents to be transferred to Australia were their child to be transferred for a temporary medical purpose. This seriously undermines the Government's border protection policies and arguably incentivises people smuggling operations.
- 59 The definition of a relevant transitory person also places ongoing obligations on the Minister. For example, the provisions would continue to apply to refugees permanently settled in Papua New Guinea, long after Australia's regional processing arrangement with Papua New Guinea ends.
- 60 The new medical transfer provisions also provide transfer to Australia for persons of the same family unit, or other persons recommended by a treating doctor. The provisions do not account for the purpose of a person's temporary relocation to Australia and existing support needs (for example whether the person needs or already has a support person or that the person requires non-life-threatening short-term medical treatment only).
- 61 These cases were previously managed by Home Affairs on a case-by-case basis, accounting for individual circumstances and supported the temporary nature of the transfer. The new processes extend the term in Australia as there are currently no return mechanisms to effect their removal from Australia and return to a regional processing country.

## Security and character assessment

- 62 The term 'security' is not defined in similar terms to the character test set out under section 501(7) of the Migration Act<sup>2</sup>, and is not equivalent to an unacceptable threat to the community.
- 63 Security, as defined under section 4 of the *Australian Security Intelligence Organisation Act 1979* (ASIO Act), involves the protection of Australia from specific matters<sup>3</sup>. Such matters do not extend to criminal conduct generally in the same way as those identified under the character provisions of the Migration Act.
- 64 The definition of security in section 4 of the ASIO Act sets a very high bar and is relatively narrow given it sits within the broader context of ASIO's operations. The definition of security within the ASIO Act therefore may not cover all the national security concerns the Minister may have.
- 65 The limited nature of the character grounds upon which the Minister may refuse a transfer means the Minister may not be able to refuse the transfer of all persons of character concern. For example, a person who is found guilty of a sexually based offence but who was discharged without conviction may not be captured by this ground. Further, there are also no grounds to refuse a person's transfer to Australia if they are subject of ongoing criminal proceedings in Papua New Guinea and Nauru. Such grounds will only support the Minister's

---

<sup>2</sup> Under section 501(7) of the Migration Act, a person has a substantial criminal record if the person:

- has been sentenced to death;
  - has been sentenced to imprisonment for life;
  - has been sentenced to a term of imprisonment of 12 months or more;
  - has been sentenced to two or more terms of imprisonment totalling 12 months or more;
  - has been acquitted on grounds of unsoundness of mind or insanity and subsequently detained in a facility or institution; or
  - has been found by the court to not be fit to plead to a related offence, subsequently found on the evidence to have committed the offence, and as a result the person has been detained in a facility or institution.
- In order to refuse on the character ground, the Minister must reasonably believe the person would expose the Australian community to a serious risk of criminal conduct. This imposes a further evaluative judgment on the Minister, which is not necessarily determinative if the Minister were to refuse the grant of a visa on s501(7) grounds.

<sup>3</sup> Under section 4 of the ASIO Act security means: the protection of, and of the people of, the Commonwealth and the several States and Territories from:

- espionage;
  - sabotage;
  - politically motivated violence;
  - promotion of communal violence;
  - attacks on Australia's defence system; or
  - acts of foreign interference;
- whether directed from, or committed within, Australia or not; and
- the protection of Australia's territorial and border integrity from serious threats; and
  - the carrying out of Australia's responsibilities to any foreign country in relation to a matter mentioned in any of the subparagraphs of paragraph (a) or the matter mentioned in paragraph (aa).

decision to refuse a transfer where the offences relate to the Minister's reasonable belief that the transfer would be prejudicial to security as defined in the ASIO Act.

### ***Timeframe for security advice***

- 66 Following notification to the Minister of particular facts relating to a transfer recommendation, the Australian Security Intelligence Organisation has less than 72 hours to advise the Minister if the transfer of a transitory person to Australia may be prejudicial to security, within the meaning of the ASIO Act, including giving an adverse security assessment in respect of a person and providing advice if Australian Security Intelligence Organisation could mitigate the threat.
- 67 The operation of these provisions severely limits the Australian Security Intelligence Organisation's ability to provide security advice to the Minister. Such constraints have the potential to impact the quality of advice, noting full analysis is unable to be undertaken within the legislated timeframe.

### **Legacy minors**

- 68 The new provisions require the Secretary of Home Affairs to, as soon as practicable after 2 March 2019, identify each legacy minor and notify the Minister that such a person is a legacy minor.
- 69 A legacy minor under the provisions refers to a transitory person who is both under the age of 18 and in a regional processing country on 2 March 2019.
- 70 The definition of legacy minors would extend to children born to a transitory person and a non-transitory person. In both Nauru and Papua New Guinea the legacy minor could be a Nauruan or Papua New Guinean citizen.
- 71 The transfer of a legacy minor to Australia cannot occur without the consent of the minor. Where a minor does not have the capacity to provide consent, it will usually be necessary to obtain the consent of both parents as to whether the minor may be transferred to Australia. Where the Minister has approved a legacy minor transfer under section 198D of the Migration Act, and an officer has a duty under section 198C to bring the minor to Australia, the officer must not do so where the minor or the minor's parents have not consented.
- 72 The issue of consent is particularly relevant in situations where one parent of a legacy minor is not a transitory person; i.e. a national of Nauru or Papua New Guinea. Where the provisions require an officer to bring such a legacy minor to Australia, the potential for family separation increases as the non-transitory parent of the legacy minor is ineligible to transfer under the split family provisions. The Minister has no legal authority to transfer the parent who is a national of Papua New Guinea or Nauru. Further, the transfer of a legacy minor with their transitory person parent would place the child on the same migration pathway as their transitory person parent. This could include a failed asylum seeker, which could cause the minor to be removed from Australia (albeit, this could be back to a regional processing country as they may not have the same citizenship as the transitory person parent), or a resettlement pathway, which could cause the minor to be resettled in a third country and further separated from the parent who is a national of Papua New Guinea or Nauru.

## Return and involuntary removal

- 73 The new provisions do not include a return or involuntary removal mechanism to effect the return of any person transferred to Australia under the new medical provisions inserted by Schedule 6 of the Miscellaneous Measures Act back to a regional processing country at the conclusion of their treatment or to their home country (where to do so would not breach Australia's international non-refoulement obligations) or to another safe country. Current powers to return transitory persons to a regional processing country are connected only to the section 198B power to bring transitory persons to Australia.
- 74 Transfer to Australia under the medical transfer provisions is intended to be for a temporary purpose only. A note inserted into section 198C confirms this principle, "Note: *Any transitory person who is brought to Australia for a temporary purpose must be kept in immigration detention whilst in Australia. That immigration detention must continue until the time of removal from Australia or until the Minister determines that immigration detention is no longer required.*" However, without a return or removal mechanism, transitory persons brought to Australia under section 198E cannot be removed from Australia as no reference to 198E exist within section 198 which provides the power for involuntary removal from Australia of unlawful non-citizens, as it does for section 198B<sup>4</sup>. The absence of a return provision gives the appearance of a pathway to settlement in Australia.
- 75 This omission will also result in transitory persons being held in detention, or managed in the community under residence determination or on a bridging visa for an extended period of time until a durable third country migration solution with which the transitory person voluntarily engages is identified and implemented.

## Sovereignty issues

- 76 The provisions do not expressly consider the sovereignty of Nauru and Papua New Guinea. The new medical transfer provisions require actions to be taken by Commonwealth officers in sovereign nations, to individuals under arrangements that are the responsibility of those nations.
- 77 Where the Minister has approved a transfer, the obligation upon an officer to bring a transitory person to Australia is mandatory (subject only to the transferees giving their consent). There is conflict between a provision that mandates an officer to bring someone from a foreign country to Australia and the foreign country's sovereign right to require that applicable laws and procedures be followed in respect to the removal of persons from its territory.
- 78 The nature of the new medical provisions creates issues during both the medical referral process and transfer arrangements. While the provisions are not enforceable against the Governments of Nauru and Papua New Guinea, both countries have committed to work with the Government of Australia to administer the medical transfer provisions. Notwithstanding, both Nauru and Papua New Guinea have imposed conditions on the management of medical transfers and the applicability of the medical transfer provisions in their nations.
- 79 In February 2019, the Government of Nauru introduced the *Health Practitioners (Overseas Medical Referrals Compliance) Regulations 2019 (OMR Regulations)* which codified its Overseas Medical Referral process. The OMR Regulations formalise a process for the

<sup>4</sup> Section 198 Migration Act - (1A) In the case of an unlawful non-citizen who has been brought to Australia under section 198B for a temporary purpose, an officer must remove the person as soon as reasonably practicable after the person no longer needs to be in Australia for that purpose (whether or not the purpose has been achieved).



consideration of medical transfer decisions, but does not allow for referrals by medical practitioners not registered in Nauru.

- 80 Under the Overseas Medical Referrals process, approval is given only in circumstances where the Overseas Medical Referrals Compliance Committee (which is a Government of Nauru body) determines that a patient's clinical needs are unable to be supported in Nauru. In respect to transferees, Overseas Medical Referrals Committee approval is necessary in order for the Commonwealth to separately seek and obtain Government of Nauru 'uplift approval', to permit the transferee's departure on medical treatment grounds. The Overseas Medical Referrals process also applies to Nauruan citizens and the Government of Nauru has expressed the view that transferees should be treated similarly to Nauruan citizens and that the Australian Government and courts must respect Nauruan sovereignty in this regard.
- 81 Further, the Nauruan Government's *Health Practitioners (Telemedicine Prohibition) Regulations 2019 (the Telemedicine Regulations)* prohibits a health practitioner located outside Nauru from practising health and medical services using any form of telecommunications, electronic audio and video communications or any other communications with respect to any patient who is resident in Nauru.
- 82 The Telemedicine Regulations impact on the ability of transferees to personally engage/interact with medical practitioners registered in Australia who advocate their removal to Australia for medical treatment under the new medical provisions. The combined effect of the Overseas Medical Referrals Regulations and the Telemedicine Regulations is that for a transferee to obtain Overseas Medical Referrals approval, there must be a transfer recommendation made by a registered medical practitioner registered in Nauru. Home Affairs works closely with its contracted health service provider, International Health and Medical Services (whose practitioners are registered in Nauru), to progress the cases approved for transfer to Australia by the Minister under the new medical provisions in order to secure Overseas Medical Referral Committee approval. This requires International Health and Medical Services clinicians to form their own clinical views as to whether a transitory person approved for transfer by the Minister, requires removal from Nauru for medical assessment/treatment. International Health and Medical Services sought advice from Home Affairs regarding this conflict of interest and how best to respond.
- 83 In cases where International Health and Medical Services is of the clinical view that an individual does not require medical transfer, the mandatory nature of the medevac provisions have the practical effect of bringing significant pressure to bear upon International Health and Medical Services (as the Commonwealth's health services contractor), to nevertheless present or refer such cases to the Government of Nauru's Overseas Medical Referral Compliance Committee for transfer approval. Unsurprisingly, this has resulted in increased tension between International Health and Medical Services and local government authorities.
- 84 On 18 June 2019, in the Federal Court decision of *CCA19 v Secretary, Department of Home Affairs* [2019] FCA 946, the Federal Court ruled that assessment of a transitory person's medical condition under the new medical transfer provisions inserted into the Migration Act by Schedule 6, does not require personal engagement between the 'treating doctor' and the transitory person. The decision affirms the ability of transitory persons to engage remotely with medical practitioners under the provisions, which is not permitted under Nauruan law.
- 85 Sovereignty issues and the adverse impact of foreign relations with the Government of Nauru in respect to medical transfers arose frequently in litigation (and foreshadowed litigation) prior to the commencement of the provisions inserted into Migration Act by Schedule 6 of the Miscellaneous Measures Act. In many Federal Court matters, pressure was brought to bear



through court orders, directing the Commonwealth to effect removal of transferees from another sovereign nation to Australia for medical treatment. This has strained relations with the Government of Nauru as it insists that the Commonwealth must adhere to its processes and procedures. The orders were based on medico-legal opinions provided by Australian-based doctors engaged by law firms, whose opinions often did not accord with those of the transitory persons treating, registered clinicians in Nauru, which made it difficult for Overseas Medical Referrals approvals to be obtained within the timeframes specified by courts (directed to the Commonwealth) for transfer to occur.

## **Independent Health Advice Panel remuneration**

- 86 Currently there are no provisions within the Miscellaneous Measures Act to allow remuneration of the Independent Health Advice Panel members. Whilst Home Affairs provides secretariat support to organise travel and facilitate meetings, attendance at any Independent Health Advice Panel meetings or travel to regional processing countries, will be subject to members' ability to take leave from their paid employment or business.
- 87 The Panel members' independent status also precludes them from being indemnified by the Commonwealth for defending administrative law challenges and other legal matters, and members have to seek insurance coverage from their nominating bodies or take out their own insurance coverage.
- 88 For further information refer to Fact Sheet 7: Independent Health Advice Panel

## **Self-harm**

- 89 Since late 2018, and through 2019, there has been an upwards trend in the number of self-harm related incidents amongst the Papua New Guinea cohort. Notably, self-harm incidents increased during the parliamentary debate on the Miscellaneous Measures Act, and more significantly since the Australian Federal Election.
- 90 Of the 72 transitory persons transferred to Australia under the Miscellaneous Measures Act, 39 had undertaken an act of self-harm and 19 had threatened self-harm since the implementation of the Act. Home Affairs is concerned that self-harm is perceived as the most expedient means of accessing medical transfer under the provisions.
- 91 Home Affairs is working with service providers to implement enhanced mental health services, with increased welfare support, additional psychology services, programs and activities, increased data and information sharing, increased 'close observations' of at risk transferees and expanded offshore medical accommodation not requiring hospitalisation.
- 92 In April 2019, Pacific International Hospital expanded its operation in Port Moresby and opened an enhanced mental health facility specifically for the transitory person caseload, which include a dedicated mental health ward comprising 12 beds, with an adjoining activity room, and an increased mental health and psychiatric staffing model. The transferee caseload also has exclusive access to an acute in-patients ward that comprises three beds, one seclusion room, an activity room and a secured nursing station.

## **PART F: Operationalising Schedule 6 of the Miscellaneous Measures Act**

### **Medical Transfers under the Miscellaneous Measures Act**

- 93 There have been 154 notifications for medical transfer under section 198E received by Home Affairs. 130 of the 154 notifications have been deemed valid.
- 94 Between 2 March and 31 July 2019, there has been 72 medical transfers, including four accompanying family members, under the new medical transfer provisions from regional processing countries to Australia.
- 95 As at 31 July 2019, 23 cases have been referred to the Independent Health Advice Panel following the Minister's refusal to approve transfer to Australia on medical or psychiatric grounds. Of these:
- The Independent Health Advice Panel recommended medical transfer to Australia in 10 cases
  - The Independent Health Advice Panel supported the Minister's refusal to approve transfer to Australia in 13 cases.
- 96 Of the 72 transitory persons medically transferred to Australia, three have been admitted to a hospital for a period of more than seven days, one refused treatment, 14 are receiving outpatient care and 54 are having their health concerns managed by International Health and Medical Services in Detention.

### **Operationalisation of Christmas Island**

- 97 Following the passage of the Miscellaneous Measures Act through the Senate on 13 February 2019, Home Affairs formed the view that potentially a large number of cases would be ready to lodge requests for transfer on the commencement of the provisions. This was subsequently confirmed by the Medical Evacuation Response Group that legal representatives for transitory persons had approximately 300 medico-legal cases ready to lodge in court on commencement of the new provisions.
- 98 To manage the anticipated mass arrival of transitory persons following the commencement of the medical transfer provisions, Prime Minister Morrison announced on 13 February 2019 that Christmas Island facilities had been taken out of contingency and readied to receive transitory persons from regional processing countries.
- 99 The onshore immigration detention network was operating at capacity during this time and was unable to cater for a large number of transitory persons arriving in short succession. Reopening of the Christmas Island facilities provided Home Affairs with contingency capacity in the event of a large number of arrivals at short notice. Home Affairs also contemplated the relocation of detainees within the onshore immigration detention network to Christmas Island to free capacity in onshore facilities. The onshore immigration detention network continues to operate at or over capacity.
- 100 Facilities on Christmas Island remain ready to provide a full range of services for up to 800 transitory persons. The health service provider remains ready to provide services for up to 250 transitory persons. Additionally, health service improvements have been made to the Christmas Island Hospital and detention facilities to cater for the health needs of transitory

persons. To date, no transitory person or detainee has been relocated to Christmas Island since the commencement of the new legislative provisions.

## Operation and Findings of the Independent Health Advice Panel

101 The Independent Health Advice Panel was established on 2 March 2019 by the Miscellaneous Measures Act. As per the Act, membership of the Independent Health Advice Panel consists of a minimum of eight persons who include:

- the person occupying the positions of Chief Medical Officer of Home Affairs and Surgeon-General of the Australian Border Force
- the person occupying the position of Commonwealth Chief Medical Officer
- not less than six other members, including:
  - at least one person nominated by the President of the Australian Medical Association
  - at least one person nominated by the Royal Australian and New Zealand College of Psychiatrists
  - at least one person nominated by the Royal Australasian College of Physicians
  - at least one person who has expertise in paediatric health.

102 The Independent Health Advice Panel's first quarterly report, a summary of which was tabled in both Houses of Parliament on 4 July 2019 and the full report tabled on 22 July 2019, consisted of an overview of the Panel's findings regarding the physiological and mental health care services available for transitory persons residing in Nauru and Papua New Guinea. In summary, for Nauru the Panel found:

- *[Regarding the available health services in Nauru, the Independent Health Advice Panel believes that the services in Nauru are reasonable quality primary and secondary care services. These are supplemented on a periodic basis by the availability of specialist services, namely physiotherapists, optometrists, ophthalmologists, cardiologist/internal physicians, speech and language therapists, gastroenterologist, neurologists, ear, nose & throat surgeons, orthopaedic surgeons and infectious disease physicians. Special medical care is not reliably available on the island].*
- *[In respect of mental health services there are significant numbers of mental health workers but (unlike Papua New Guinea) there is no access to high quality inpatient psychiatric care in Nauru and patients with severe mental illness and at high risk of suicide should be transferred to a hospital with appropriate inpatient psychiatric care].*

103 Patients are transferred to Papua New Guinea when high quality in-patient care is required. As at 31 July 2019, 120 transfers have occurred from Nauru to Papua New Guinea for medical purposes.

104 For Papua New Guinea the Independent Health Advice Panel reported:

- *[The Panel's view is that these services provide a reasonable range of primary care at the East Lorengau Refugee Transit Centre with some limited secondary services at the Lorengau Hospital. Specialist medical care is not reliably available on Manus Island. Mental health services on the island consist of a psychologist, mental health nurses and a visiting psychiatrist, sufficient only for ambulatory treatment].*
- *[The Panel was impressed with the physical facilities and the range of medical and investigative services available at Pacific International Hospital in Port Moresby. The Panel was further impressed with the quality of cultural understanding of the two psychiatrists working at Pacific International Hospital. The Independent Health Advice Panel was*

*reasonably confident that acute inpatient mental health treatment can be provided at Pacific International Hospital but noted that there is no access to Electroconvulsive therapy (ECT) or psychiatric intensive care].*

## **PART G: Durable Resettlement Solutions – Third Country Resettlement**

- 105 Regional processing remains an important component of the multi-layered policy approach to managing illegal maritime arrivals under Operation Sovereign Borders. The Government has stated its ongoing commitment to this policy setting.
- 106 Home Affairs continues to support the Governments of Nauru and Papua New Guinea to resolve the regional processing caseload through resettlement, returns and removals, with keen focus on a zero population by early 2020. This will enable regional processing to move to an enduring state where there is no residual caseload, and facilities and services are held in contingency readiness to receive future arrivals. Such an approach supports the broader policy intent of Operation Sovereign Borders by reinforcing the deterrence impact of regional processing and ensuring that persons arriving by boat without a visa will not be permanently settled in Australia.
- 107 The resettlement of unauthorised maritime arrivals in a country other than Australia remains the best option for reducing the regional processing caseload, while maintaining a strong response to people smuggling.
- 108 In 2016, an arrangement was agreed with the United States for the resettlement of up to 1250 refugees from regional processing countries; as at 31 July 2019, 604 refugees having successfully resettled in the United States, 325 from Nauru, 269 from Papua New Guinea and 10 from Australia. United States officials continue to progress this arrangement, undertaking further interviews, handing down decisions to refugees in Nauru, Papua New Guinea and Australia, and effecting regular departures from Nauru, Papua New Guinea and Australia. Refugees are encouraged to embrace this opportunity and start to rebuild their lives in a new country.
- 109 For further information refer to the Fact Sheet: United States Resettlement.
- 110 The Departments of Home Affairs and Foreign Affairs and Trade continue to explore other resettlement options for unauthorised maritime arrivals determined to be refugees by the governments of Nauru and Papua New Guinea. While we have been active in seeking opportunities, we are yet to successfully agree any new arrangements. In reaching any resettlement arrangement we must be careful not to undo our good work countering people smuggling. To that end, it is important that any new arrangement does not draw or attract more unauthorised maritime arrivals into the region on the false promise of entry to Australia or faster third country resettlement than would be achieved had they remained in another country. This outcome would thwart to our counter people smuggling initiatives. Therefore, any arrangement must be balanced in providing resettlement opportunities, with timing, conditions and commencement.
- 111 The Department acknowledges and thanks New Zealand for its generous offer to resettle refugees from regional processing countries. We have not taken this offer up as we are focused on maximising resettlement opportunities under the much larger resettlement arrangement with the United States.

112 While this Bill removes one medical transfer pathway established by the new medical provisions inserted in the Migration Act by the Miscellaneous Measures Act, there will remain the existing process under section 198B of the Act to manage medical transfers. Transferees requiring medical treatment not available in a regional processing country will continue to be transferred to a third country, including Australia, for assessment or treatment.

## Fact sheets

1. Overview of Schedule 6 of the Miscellaneous Measures Act
2. History of Regional Processing
3. Regional Processing Transferee Populations
4. Nauru: Overview of health services
5. Papua New Guinea: Overview of health services
6. Medical Transfers
7. Independent Health Advice Panel
8. United States Resettlement



# 1. FACT SHEET

## Overview of Schedule 6 of the Miscellaneous Measures Act 2019

The Miscellaneous Measures Act received the Royal Assent on 1 March 2019 and commenced on 2 March 2019. Schedule 6 of the Miscellaneous Measures Act inserted into the *Migration Act 1958* a legislative framework for the transfer of certain transitory persons from regional processing countries to Australia for the temporary purpose of medical or psychiatric assessment or treatment. It also inserted into the Migration Act provisions to establish, and delineate the role and functions of, the Independent Health Advice Panel. The Independent Health Advice Panel is responsible for undertaking expert clinical assessments of relevant transitory persons being considered for medical transfer from regional processing countries to Australia where the Minister has refused to approve the transfer of such a person on medical grounds. The Independent Health Advice Panel also has the function of monitoring, assessing and reporting on the physical and mental health of transitory persons in regional processing countries, and the standard of health services provided to them.

Before a person can be transferred under the new provisions, two ‘treating doctors’ for the person must give an opinion that:

- a transitory person requires medical or psychiatric assessment or treatment, and
- they are not receiving such treatment in the relevant regional processing country, and
- it is necessary for them to be transferred to Australia for such assessment or treatment.

On 18 June 2019 the Federal Court judgement in *CCA19 v Secretary, Department of Home Affairs* [2019] FCA 946<sup>1</sup> held that the assessment of a transitory person’s medical condition does not require personal engagement between the ‘treating doctor’ and the transitory person.

The treating doctors must notify the Secretary of Home Affairs of their opinion. The Secretary must notify the Minister as soon as practicable. The Minister then has 72 hours to approve or refuse to approve the person’s transfer recommendation. The Minister must approve a transfer unless:

<sup>1</sup> This is currently subject of an appeal



- the Minister reasonably believes it is not necessary to remove the person from a regional processing country for appropriate medical or psychiatric assessment or treatment ('medical grounds'); or
- the Minister reasonably suspects that the transfer of the relevant transitory person would be prejudicial to security ('national security grounds'); or
- the Minister knows the relevant transitory person has a 'substantial criminal record' and the Minister reasonably believes the person would expose the Australian community to a serious risk of criminal conduct ('character grounds').

The Minister must as soon as practicable notify the Independent Health Advice Panel if the Minister refuses to approve the transfer on medical grounds. The Independent Health Advice Panel then has 72 hours to conduct a further clinical assessment of the person and to inform the Minister of the findings of that assessment, including its recommendation on whether decision to refuse the person's transfer be confirmed, or the person's transfer be approved. The Minister then has 24 hours to reconsider the decision to refuse to approve the person's transfer and either confirm the decision to refuse, or approve the person's transfer. If the Panel recommends the transfer be approved, the Minister can only refuse the transfer on national security or character grounds.

The medical transfer framework also provides for the transfer to Australia of transitory persons who are family members of a transferee or other persons whom treating doctors have recommended accompany a transferee.

Where the Minister approves the transfer of a transitory person to Australia, an officer must bring that person to Australia as soon as practicable under section 198C of the Migration Act.

Once transferred to Australia, the Minister has no power to remove or return a transitory person back to a regional processing country or to their home country (where to do so would not breach Australia's international non-refoulement obligations) or to another safe country unless the person asks the Minister to be removed. The absence of a return provision gives the appearance of a pathway to settlement in Australia.

## **Refusal on security or character grounds**

The Minister may refuse a transfer on:

- security grounds (where the Minister reasonably suspects that the transfer would be prejudicial to security within the meaning of the Australian Security Intelligence Organisation Act 1979 (the ASIO Act). For the Minister to refuse a transfer on security grounds, the decision must fall within the definition of security as defined by section 4 of the ASIO Act. Security in this context means protection from espionage, sabotage, politically motivated violence, promotion of communal violence, attacks on Australia's defence system, or acts of foreign interference. The term security also includes the protection of Australia's territorial and border integrity from serious threats, as amended by the Anti-People Smuggling and Other Measures Act 2010.
- section 198E(4A) provides that ASIO should advise the Minister if the transfer would be prejudicial to security and if the threat can be mitigated



- character grounds (where the Minister knows the transitory person has a substantial criminal record (as defined in section 501(7) of the Migration Act) and reasonably believes the person would expose the Australian community to a serious risk of criminal conduct).

## Legacy minors

The provisions of the Miscellaneous Measures Act require the Secretary of Home Affairs to, as soon as practicable after 2 March 2019, identify each legacy minor and notify the Minister that such a person is a legacy minor.

- A legacy minor under the provisions refers to a transitory person who is both under the age of 18 and in a regional processing country on 2 March 2019.
- Since 27 February 2019, there are no minors (under 18 years of age) under regional processing arrangements in Nauru or Papua New Guinea who are transitory persons.
- The definition of legacy minors would extend to children born to a transitory person and a non-transitory person. In both Nauru and Papua New Guinea the legacy minor could be a Nauruan or Papua New Guinean citizen.

Section 198D of the Act provides that after being notified that a person is a legacy minor, the Minister must approve, or refuse to approve, the legacy minor's transfer to Australia within 72 hours of notification. The Minister must approve the transfer of a legacy minor to Australia except where he can refuse on the national security or character grounds, described above. When a transfer is approved, an officer must bring the legacy minor to Australia as soon as practicable under section 198C of the Migration Act.

## Provisions apply to family and other persons

The new medical transfer provisions require that an officer must inform the Minister, as soon as practicable, if the officer knows or reasonably suspects that a transitory person in a regional processing country:

- is a member of the same family unit as another transitory person who is being brought to or is in Australia for a temporary medical purpose;
- has been recommended by a treating doctor to accompany another transitory person who is being brought to or is in Australia for a temporary medical purpose; or
- is a member of the same family unit as a minor who is in or has been transferred to Australia.

The Minister has 72 hours upon being informed by an officer in this way to make a decision to approve or refuse the transfer of such a transitory person. The Minister must approve the transfer except where he can refuse on national security or character grounds, as more particularly described above. When a transfer is approved, an officer must bring the person to Australia as soon as practicable under section 198C of the Migration Act.

## Independent Health Advice Panel

Section 199A of the Miscellaneous Measures Act establishes the Independent Health Advice Panel to monitor, assess and report on the physical and mental health of transitory persons who are in regional processing countries and the standard of health services provided to them.

Section 199B(1) of the Act provides that the membership of the Independent Health Advice Panel consists of a minimum of eight persons who include:

- the person occupying the positions of Chief Medical Officer of the Department and Surgeon-General of the Australian Border Force;
- the person occupying the position of Commonwealth Chief Medical Officer; and

Not less than six other members, including:

- at least one person nominated by the President of the Australian Medical Association
- at least one person nominated by the Royal Australian and New Zealand College of Psychiatrists
- at least one person nominated by the Royal Australasian College of Physicians; and
- at least one person who has expertise in paediatric health.

The new medical provisions provide for the membership of the Panel (including provisions as to Panel member expertise and nominations from professional Australian or Australasian bodies), and the extended functions and operation of the Panel. The Panel must report its operations to the Minister quarterly and the Minister is required to lay a summary of the quarterly reports and his response before both Houses and respond to the report.

Members of the Panel are not entitled to remuneration in their capacity as Panel members.

## **Review by the Administrative Appeals Tribunal**

Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Minister under subsection 198E(3) of the Migration Act to refuse to approve a relevant transitory person's transfer to Australia on medical grounds. Applications cannot be made to the Administrative Appeals Tribunal when the transfer is refused on security or character grounds.

## **Application of the Miscellaneous Measures Act from 2 March 2019**

As at 31 July 2019, 23 cases have been referred to Independent Health Advice Panel following the Minister's refusal to approve transfer to Australia on medical or psychiatric grounds. Of these, the Independent Health Advice Panel recommended medical transfer to Australia in 10 cases and recommended that the Minister's decision to refuse to approve transfer to Australia be confirmed in 13 cases.

Under the Miscellaneous Measures Act, as at 31 July 2019, 69 transitory persons from Papua New Guinea and three transitory persons from Nauru have transferred to Australia under section 198E (medical transfer). A further four transitory persons have transferred to Australia under section 198G (accompanying family provision).



## 2. FACT SHEET

### History of Regional Processing

Date	Event
13 Aug 2012	Expert Panel on Asylum Seekers released its report (commissioned by the Gillard Government), including recommendations to re-establish processing facilities in Nauru and Papua New Guinea to provide a circuit breaker to the surge in irregular migration to Australia.
15 Aug 2012	Migration Legislation Amendment (Regional Processing and Other Measures) Bill 2012 passed by the House of Representatives, established powers to take an illegal maritime arrival to a designated regional processing country.
16 Aug 2012	Migration Legislation Amendment (Regional Processing and Other Measures) Bill 2012 passed by the Senate and received Royal Assent on 17 August 2012.
18 Aug 2012	Australian Defence Force arrived in Nauru to establish temporary accommodation to receive illegal maritime arrivals.
29 Aug 2012	Australia and Nauru signed the Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru, and related issues.
8 Sep 2012	Australia and PNG signed Memorandum of Understanding between the Government of the Independent State of Papua New Guinea and the Government of Australia, relating to the transfer to, and assessment of persons in Papua New Guinea, and related issues.
10 Sep 2012	Nauru designated as a regional processing country.
14 Sep 2012	The first transferees arrived in Nauru.
14 Sep 2012	International Health and Medical Services contracted for Nauru and Manus Health and medical services.
25 Sep 2012	Australian Defence Force commenced construction of temporary 150 bed facility on the Lombrum Naval Base, Manus Province.
9 Oct 2012	Papua New Guinea designated as a regional processing country.
10 Oct 2012	The Nauru Parliament enacted the <i>Refugee Convention Act 2012</i> , which provides a mechanism for refugee status determination.
31 Oct 2012	Australian Government introduced the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012. Amendments provide that illegal maritime arrivals who unlawfully arrive anywhere in Australia are subject to the same regional processing arrangements as illegal maritime arrivals who arrive at an excised offshore place.
21 Nov 2012	First transferees arrived in Papua New Guinea.

21 Dec 2012	The Nauru Parliament enacted the <i>Asylum Seekers (Regional Processing Centre) Act 2012</i> , which sets the requirements for a regional processing centre.
19 Mar 2013	Refugee status determination assessments commenced in Nauru.
30 Apr 2013	Australia and PNG signed Administrative Arrangements
21 May 2013	Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013 (Cth) came into effect.
20 Jun 2013	Transfer of families and children off Manus Province (completed 4 July 2013) to Nauru.
8 Jul 2013	Refugee status determination assessment commenced in Papua New Guinea.
19 Jul 2013	Policy settings change: All illegal maritime arrivals transferred to a regional processing country between 13 August 2012 and 18 July 2013 are relocated to Australia and absorbed into the legacy caseload for onshore processing. Arrivals on or after 19 July 2013 remain in regional processing countries and subject to resettlement in a third country only, with no settlement pathway to Australia.
19 Jul 2013	Major disturbance in Nauru destroyed the regional processing centre.
19 Jul 2013	Prime Minister Rudd announced Regional Resettlement Arrangement signed with Papua New Guinea.
3 Aug 2013	Australia and Nauru renewed the Memorandum of Understanding - Memorandum of Understanding between the Republic of Nauru and the Commonwealth of Australia, relating to the transfer to and assessment of persons in Nauru, and related issues.
6 Aug 2013	Australia and PNG signed a revised Memorandum of Understanding relating to transfer, assessment and settlement.
14 Aug 2013	Commencement of construction of Regional Processing Centre 3 on Nauru.
21 Aug 2013	First group of transferees in family groups arrived in Nauru.
16-18 Feb 2014	Major disturbance at the Regional Processing Centre in PNG contributing to the death of Reza Barati.
11 Apr 2014	Administrative arrangements for regional processing and settlement arrangements in Nauru signed.
20 May 2014	Government of Nauru delivers first refugee determinations – refugees relocated from regional processing centres into accommodation in the Nauruan community.
19 Jul 2014	Australia and Papua New Guinea signed revised Administrative Arrangements pursuant to paragraph nine of the Memorandum of Understanding.
2 Aug 2014	Last transfer to Nauru (of the current cohort).
26 Sep 2014	Australia and Cambodia sign the Memorandum of Understanding relating to the settlement of refugees in Cambodia.
30 Sep 2014	The Government of Nauru Minister directed that all unaccompanied minors be moved from the regional processing centres to accommodation in the Nauruan community pending the assessment of their protection claims.

12 Nov 2014	Government of Papua New Guinea delivers first refugee determinations.
2 Dec 2014	Last transferee (1 person) arrived in PNG (of current cohort).
5 Dec 2014	<p>Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 (Cth) passed by Parliament.</p> <p>Amendments provide for the detention of people at sea; re-introduction of temporary protection visas and establishment of safe haven enterprise visas; fast track assessment process; and removal of access to the Refugee Review Tribunal for fast track applicants.</p> <p>Bill received Royal Assent on 15 December 2014.</p>
15 Dec 2014	Agreement reached with PNG at the Ministerial Forum to extend the Regional Resettlement Arrangement for a further period of two years.
18 Dec 2014	Minister for Immigration and Border Protection agreed that babies born to transferees in Australia on or before 4 December 2014, and their families would remain in Australia temporarily while their protection claims are assessed under the Australian system (brought into the legacy caseload).
21 Jan 2015	First two refugees moved to the East Lorengau Refugee Transit Centre as a transition towards settlement in the Papua New Guinea community.
25 Feb 2015	Open centre arrangements introduced in Nauru.
Jun 2015	<p>Government of Nauru established Gender Violence and Child Protection Unit within the Home Affairs Ministry.</p> <p>The Department funded an Australian Federal Police advisor to work with the Nauru Police Force to build its capacity to investigate sexual assault incidents.</p>
Jun 2015	Papua New Guinea Immigration & Citizenship Service Authority commenced processing Deportation Risk Assessments.
4 Jun 2015	First transfer of refugees (4) to Cambodia.
2 Jul 2015	The Government of Nauru provided in-principle approval for future medical treatment in Papua New Guinea for transferees from Nauru.
27 Jul 2015	Australia and Nauru signed the Memorandum Of Understanding Implementation Plan 2015-2020. The Memorandum Of Understanding confirmed ongoing commitment, including strategic planning and funding, to the implementation of regional processing and settlement arrangements in Nauru.
30 Jul 2015	The first transfer from Nauru to Port Moresby, Papua New Guinea, for medical treatment.
5 Oct 2015	Open centre arrangements extended to 24 hours, seven days a week in Nauru
23 Oct 2015	Papua New Guinea Government announced its National Refugee Policy.
29 Oct 2015	The full bench of the PNG Supreme Court reserved its judgement on the Mr Belden Namah constitutional challenge to the detention of transferees and refugees.
29 Oct 2015	First refugee settled in Papua New Guinea.
3 Feb 2016	Australian High Court handed down its judgment on a legal challenge to Australia's role in regional processing arrangements in Nauru (Plaintiff M68),

	finding in favour of the Australian Government and confirming the legal and constitutional basis for the arrangements.
3 Mar 2016	Australia and Papua New Guinea agreed to extend Regional Resettlement Arrangement until 2017.
26 April 2016	The Papua New Guinea Supreme Court constitutional challenge judgment found in favour of Mr Belden Namah ruling that detention of asylum seekers is unconstitutional.
27 April 2016	Papua New Guinea implemented open centre arrangements with an easement through the naval base for a regular bus service to Lorengau township.  The Papua New Guinea Prime Minister announced the intended closure of the Manus Regional Processing Centre.
2016/2017	In Papua New Guinea, medical facilities upgraded at the East Lorengau Regional Transit Centre to include a resuscitation area, lab, pharmacy, administration, staff amenities, consult rooms, mental health rooms and a reception area.  The Department also funded minor works to upgrade the Lorengau hospital, Papua New Guinea.
Nov 2016	Refurbishment of the Supported Accommodation Area at Nauru Regional Processing Centre was completed to provide a respite and inpatient mental health facility. This was assessed by the Australian Council for Health Services, a quality accreditation organisation, to provide advice about safe and appropriate usage of the facility.
Nov 2016	Australia agreed a resettlement arrangement with the United States.
Nov 2016	Senate inquiry: Serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre (report released 21 April 2017)
Apr 2017	Government of Nauru agreed to transfer of Papua New Guinea determined refugees to Nauru to await third country resettlement.
12 Sep 2017	Australia and Taiwan signed <i>Memorandum of Understanding Between the Australia Office in Taipei and the Taipei Economic and Cultural Office in Australia on the medical treatment in Taiwan of certain persons residing in Regional Processing Countries</i> .  This Memorandum Of Understanding provides for the transfer of transferees to Taiwan for medical treatment not available in Nauru and Papua New Guinea. The arrangement has only been enlivened for transferees in Nauru.
26 Sep 2017	First departures from Papua New Guinea for United States resettlement.
27 Sep 2017	First departures from Nauru for United States resettlement.
31 Oct 2017	Papua New Guinea Manus Regional Processing Centre closed.
8 Nov 2017	First Papua New Guinea determined refugees (2) relocated voluntarily to Nauru.
Dec 2017	Australia committed to gift over \$320 million of infrastructure assets in Manus Province to the Papua New Guinea Government.

30 Apr 2018	International Health and Medical Services contract for healthcare services to the transferee population in Papua New Guinea ended. The Department engaged the Pacific International Hospital to provide healthcare services.
Jul 2018	Government of Nauru agreed to receive voluntary transfer of non-refugees, with a positive deportation risk assessment (complementary protection) from Papua New Guinea to Nauru.
7 Aug 2018	Nauru and Australia agreed staged-transition of service arrangements to Government of Nauru management commencing November 2018, with full transition by 1 May 2019.
29 Nov 2018	Seven refugees transfer from Papua New Guinea to Nauru
9 Jan 2019	Nauru Regional Processing Centre 3 decommissioned.
1 Feb 2019	Nauru Regional Processing Center 2 demobilised.
13 Feb 2019	Home Affairs Legislation Amendment (Miscellaneous Measures) Bill 2019 passed by Parliament.  Introduced provisions for the medical transfer of transitory persons in a regional processing country to Australia for medical or psychiatric assessment or treatment, as well as establishment of an Independent Health Advice Panel.  Prime Minister Morrison announced the re-opening of Christmas Island immigration detention facility.
27 Feb 2019	Last three minors in Nauru (and accompanying family) departed Nauru to resettle in the United States.
Feb 2019	Nauru introduced new legislation regarding medical transfers and prohibiting telemedicine – <i>Health Practitioners (Overseas Medical Referrals Compliance) Regulations 2019</i> and <i>Health Practitioners (Telemedicine Prohibition) Regulations 2019</i> .
2 Mar 2019	Medical transfer provisions introduced by the <i>Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019</i> came into effect.
29 Mar 2019	First medical transfer to Australia under the medical transfer provisions introduced by the <i>Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019</i> .
10 May 2019	First transfer from Nauru under the split family provisions introduced by the <i>Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019</i> .
4 Jul 2019	<i>Migration Amendment (Repairing Medical Transfers) Bill 2019</i> introduced into the House of Representatives. The Bill seeks to repeal the medical transfer provisions introduced in March 2019.  Referred to the Legal and Constitutional Affairs Legislation Committee for review. Committee report due by 18/10/2019.
25 Jul 2019	<i>Migration Amendment (Repairing Medical Transfers) Bill 2019</i> passed by the House of Representatives.





# FACT SHEET

## Regional Processing Population

End of Month Populations Nauru and Papua New Guinea July 2012 to June 2019

Month/Year	PNG	Nauru	Total
Jul-12	0	0	0
Aug-12	0	0	0
Sep-12	0	148	148
Oct-12	0	377	377
Nov-12	47	387	434
Dec-12	155	366	521
Jan-13	235	415	650
Feb-13	274	412	686
Mar-13	254	424	678
Apr-13	294	420	714
May-13	302	428	730
Jun-13	253	490	743
Jul-13	27	544	571
Aug-13	578	486	1,064
Sep-13	858	769	1,627
Oct-13	1,137	591	1,728
Nov-13	1,139	686	1,825
Dec-13	1,229	838	2,067
Jan-14	1,353	1,012	2,365
Feb-14	1,322	1,120	2,442
Mar-14	1,296	1,157	2,453
Apr-14	1,273	1,177	2,450
May-14	1,225	1,170	2,395
Jun-14	1,189	1,268	2,457
Jul-14	1,127	1,146	2,273
Aug-14	1,084	1,233	2,317
Sep-14	1,060	1,140	2,200
Oct-14	1,056	1,095	2,151
Nov-14	1,044	996	2,040
Dec-14	1,035	1,285	2,320
Jan-15	1,032	1,234	2,266
Feb-15	1,015	1,198	2,213
Mar-15	1,000	1,203	2,203
Apr-15	991	1,157	2,148
May-15	982	1,121	2,103
Jun-15	985	1,160	2,145
Jul-15	986	1,164	2,150
Aug-15	981	1,182	2,163

Month/Year	PNG	Nauru	Total
Sep-15	982	1,185	2,167
Oct-15	978	1,185	2,163
Nov-15	978	1,186	2,164
Dec-15	976	1,187	2,163
Jan-16	977	1,177	2,154
Feb-16	975	1,179	2,154
Mar-16	973	1,178	2,151
Apr-16	972	1,172	2,144
May-16	968	1,164	2,132
Jun-16	967	1,166	2,133
Jul-16	964	1,165	2,129
Aug-16	960	1,165	2,125
Sep-16	960	1,151	2,111
Oct-16	959	1,148	2,107
Nov-16	958	1,142	2,100
Dec-16	955	1,137	2,092
Jan-17	950	1,134	2,084
Feb-17	929	1,135	2,064
Mar-17	921	1,129	2,050
Apr-17	915	1,129	2,044
May-17	911	1,128	2,039
Jun-17	902	1,129	2,031
Jul-17	891	1,131	2,022
Aug-17	873	1,129	2,002
Sep-17	842	1,098	1,940
Oct-17	841	1,099	1,940
Nov-17	826	1,092	1,918
Dec-17	823	1,082	1,905
Jan-18	779	1,090	1,869
Feb-18	755	1,003	1,758
Mar-18	745	964	1,709
Apr-18	717	941	1,658
May-18	696	940	1,636
Jun-18	690	920	1,610
Jul-18	683	822	1,505
Aug-18	670	786	1,456
Sep-18	644	730	1,374
Oct-18	625	556	1,181
Nov-18	607	483	1,090
Dec-18	604	442	1,046
Jan-19	594	425	1,019
Feb-19	561	386	947
Mar-19	547	355	902
Apr-19	533	348	881
May-19	525	325	850
Jun-19	493	319	812

*Note: Figures are based on Operational data at the end of each month.*

*Note: Totals exclude medical transfers to Australia.*



## 4. FACT SHEET

### Nauru: Overview of health services

#### Health Services available in Nauru since 2012

Date	Health Services available in Nauru since 2012
14 September 2012	<p>Heads of Agreement relating to The Provision of Health Services on Nauru commenced. Health services available:</p> <ul style="list-style-type: none"> <li>• Nurse and General Practitioner services</li> <li>• Nurse immunisation and vaccination services</li> <li>• Mental health clinics, comprising of counselling, clinical psychology, mental health nursing and psychiatry</li> <li>• Health promotion and preventative health services</li> <li>• Emergency observation and treatment of critically ill transferees</li> <li>• Radiography services</li> <li>• Dental services</li> <li>• Optometry services</li> <li>• Medical escort services</li> <li>• After hours emergency response service</li> <li>• Access to torture and trauma services</li> <li>• Access to specialist and hospital services.</li> </ul>
29 January 2013	<p>Regional Processing Countries Health Services Contract commenced. Health Services available:</p> <ul style="list-style-type: none"> <li>• Nurse and General Practitioner services</li> <li>• Nurse immunisation and vaccination services</li> <li>• Mental health clinics, comprising of counselling, clinical psychology, mental health nursing and psychiatry</li> <li>• Health promotion and preventative health services</li> <li>• Emergency observation and treatment of critically ill transferees</li> <li>• Radiography services</li> <li>• Dental services</li> <li>• Optometry services</li> <li>• Medical escort services</li> <li>• After hours emergency response service</li> <li>• Access to torture and trauma services</li> <li>• Access to specialist and hospital services.</li> </ul>

Date	Health Services available in Nauru since 2012
16 April 2014	<p>Deed of Variation 1 to the Regional Processing Countries Health Services Contract executed, added visiting specialists as an available Health Service, including the following specialists:</p> <ul style="list-style-type: none"> <li>• Obstetrician/gynaecologist</li> <li>• Paediatrician</li> <li>• Infectious disease physician</li> <li>• Sonographer</li> <li>• Gastroenterologist</li> <li>• Physiotherapist</li> <li>• Optometrist</li> <li>• Neurologist</li> <li>• Speech and language therapist</li> <li>• Ophthalmologist</li> <li>• Ear Nose and Throat surgeon</li> <li>• Cardiologist</li> <li>• Orthopaedic surgeon.</li> </ul>
2 December 2014	<p>Heads of Agreement Settlement Health Services on Nauru - for the provision of health services to Refugees on Nauru commences. Health Services available to refugees from the Settlement Clinic:</p> <ul style="list-style-type: none"> <li>• Primary Health Services, including triage, assessment, individual treatment, monitoring and review, and immunisation and vaccination services</li> <li>• Mental Health Services, including mental health screening, case management, and remote access to psychologists and psychiatrists</li> <li>• Referral to specialists, including to the local hospital</li> <li>• Access to specialist torture and trauma counselling services</li> <li>• Access to visiting specialists from the Regional Processing Countries Health Services Contract.</li> </ul> <p>The Heads of Agreement provided the following minimum staff to provide the above services:</p> <ul style="list-style-type: none"> <li>• a registered nurse</li> <li>• a medical practitioner</li> <li>• a mental health care provider (mental health nurse, psychologist or counsellor).</li> </ul>
6 August 2015	<p>Deed of Variation 4 to the Regional Processing Countries Health Services Contract executed, which incorporated obstetric and neonatal health services into the contract and enabled delivery of health services at the local hospital. Deed of Variation 4 also added an obstetrician to deliver the above services.</p>
30 October 2015	<p>Deed of Variation 5 to the Regional Processing Countries Health Services Contract executed, which expanded upon the radiography services to include the full range of diagnostic imaging, including x-rays, computerised tomography scans, breast screenings and sonograms, provided there was appropriate equipment available (x-ray and computerised tomography machine). Deed of Variation 5 also added a radiologic technologist to deliver the above services.</p>

Date	Health Services available in Nauru since 2012
5 May 2016	Deed of Variation 6 to the Regional Processing Countries Health Services Contract executed, which incorporated an in-patient mental health unit service into the contract. The model of care is broadly equivalent to a mental health ward in Australia, adapted to the local environment and legislative context. Deed of Variation 6 also added 7 additional mental health nurse positions to deliver the above services.
6 May 2016	Deed of Variation 2 to Heads of Agreement Settlement Health Services on Nauru executed, which enabled the Settlement Clinic to fully leverage health services provided at the Nauru Regional Processing Centre Clinic, including continued access to visiting specialists for refugees. This Deed did not add any additional positions to the Heads of Agreement.
27 November 2017	Additional Service Request for Nauru Mental Health Inpatient Team commenced. Five additional mental health nurse positions and a part-time psychiatrist position were approved.
8 March 2018	Additional Service Request for Child and Adolescent Mental Health Service commenced. The program provided early identification of issues, and active multidisciplinary clinical interventions with children and their families. Under this Additional Service Request, the following positions were approved for the above services: <ul style="list-style-type: none"> <li>• a child psychiatrist</li> <li>• a clinical team leader</li> <li>• a clinical child psychologist</li> <li>• a developmental occupational therapist</li> <li>• a social worker</li> </ul>
13 September 2018	Additional Service Request for Child and Youth Therapeutic Program commenced. This was a joint International Health and Medical Services and Canstruct International program to achieve improved developmentally appropriate role functioning, enhancing mental wellbeing, engagement in therapeutic activities in a safe setting and eventual re-engagement with activities including the Nauruan school system in such a way that children will be supported to persist with that reintegration commences. Under this Additional Service Request, the following positions were approved: <ul style="list-style-type: none"> <li>• a mental health team leader</li> <li>• a program admin</li> <li>• a senior child occupational therapist</li> <li>• a child clinical psychologist</li> <li>• a youth worker.</li> </ul>

## Visiting Health Specialists

On Nauru, the Visiting Specialist Program provides for additional specialist services to be delivered by physiotherapists, optometrists, ophthalmologists, cardiologist/internal physician, speech and language therapists, gastroenterologists, neurologists, ear, nose and throat surgeons, dentists, paediatrician, obstetrician, sonographer, orthopaedic surgeons and infectious disease physicians as clinically indicated.

# Mental Health

Mental health services available on Nauru included:

- Allied health - counselling/psychology/groups/health promotion
- Psychiatry - diagnostic and pharmacology
- Psychiatric nursing care
- Multi-disciplinary approach for holistic support
- Psycho-rehabilitative interventions to support community re-integration
- Involvement and facilitation of multi stakeholder meetings to ensure optimal outcomes of collaborative care

In Regional Processing Centre 1, there are three areas that have psychiatric beds:

- Supported Accommodation Area: Five beds
- Managed Accommodation Area: Three beds
- Respite Accommodation Area: 14 to 56 beds. There are 14 rooms which can have one bed to as many as four beds to accommodate family groups.

The following services are available in these accommodation areas:

- Clinical acute care as deemed necessary by the treating psychiatrist
- Provision of specialist clinical mental health care
- Promoting safety and suicide prevention
- Facilitate referrals and transfers to the Republic of Nauru Hospital

Outreach mental health services are also provided to transitory persons in the Nauruan community:

- Mental health assertive outreach
- Medication monitoring/reviews and drop off
- Discharge planning and follow up
- Post discharge care
- Multidisciplinary response on case by case basis ie : mental health and paramedic

Prior to the establishment of the above programs, mental health care was delivered by mental health nurses, clinical team leaders, psychologists, psychiatrists and counsellors including counsellors with torture and trauma counselling expertise.

IHMS provides torture and trauma counselling services in Nauru as part of the Regional Processing Countries Health Services Contract, through a subcontract with Overseas Services to Survivors of Torture and Trauma.

## Child Mental Health Team

A Child and Adolescent Mental Health team was established on 8 March 2018 in Nauru to provide child mental health services using an outpatient outreach model. This team was responsible for the early identification of issues and active multidisciplinary clinical interventions with children and their families to:

- Reduce the risk of developmental and emotional problems in children;
- Help families manage psychological and behavioural problems of children;
- Improve the health services ability to intervene early.

International Health Medical Services and Canstruct International established a Child and Youth Therapeutic Service on 13 September 2018. This multi-disciplinary team worked with vulnerable children and their families to improve mental wellbeing and assist integration in to school and other non-clinical developmentally appropriate activities. The team comprised of:

- Child and Adolescent Mental Health specialist practitioners
- Child and Adolescent Mental Health Psychiatrists
- Social work, psychology, occupational therapists, all child and adolescent mental health focused with specific qualifications
- Mental health nurses
- Independent developmental assessment team
- Introduction of school re-integration program and health promotion
- Parenting groups led by allied health

The mental health team psychiatrist in Nauru also provided mental health services to children, and liaised with a specialist child psychiatrist via telehealth capability, where clinically indicated.

International Health and Medical Services also deployed a child psychiatrist to Nauru on a regular basis as part of scheduled visiting specialists. In the 2017-18 calendar year, the child psychiatrist made five trips. These trips were approximately every eight weeks and of two week duration.

Refugee and transferee children were integrated into the Nauruan education system, where school aged children were supported by Canstruct International to enrol and attend school, and were provided with transport (including bus monitors), lunches and uniforms through Canstruct International.

The importance of school attendance was regularly reinforced to students, parents and the community.

Canstruct International provided play based learning, after school and school holiday programs, homework clubs, university preparatory classes, as well as a broader range of programs and activities including youth fitness, excursions to the harbour and beach, library and tutoring.

Early learning programs were delivered by Canstruct International to pre-school aged children in the centre and community.

International Health and Medical Services offered a range of programs that included Self Esteem and Stress Management groups; healthy eating; expressive therapy – play, art and music; social and emotional development and education reintegration.

## **Services for women on Nauru**

Pregnant transferees receive healthcare provided by International Health and Medical Services medical professionals, including a full-time obstetrician and a midwife, with support from the Republic of Nauru Hospital.

In early 2014 neonatal equipment, including a blood bank, humidicrib and ventilator, was supplied by the Department to the Republic of Nauru Hospital to enable and support neonatal health.

International Health and Medical Services operates an anatomical ultrasound machine at the Regional Processing Centre Clinic to conduct morphological scans.



Pregnant women receive primary care at the Nauru Settlement Health Clinic including obstetric and midwifery services with support from the Republic of Nauru Hospital.

The Republic of Nauru Hospital routinely provides birthing services.

Medical transfers may be undertaken for high-risk births as clinically recommended.

The obstetrician at the Republic of Nauru hospital is also a specialist gynaecologist who provides gynaecological support to transferees.

Female interpreters are also provided to assist female transferees in medical and mental health consultations.

## Medication management

A range of services are available from the General Practitioner clinic, including medication management, review and prescription services (for prescription and over the counter medications). The contracted services adhere to medication safety standards to ensure registered clinicians safely prescribe, dispense and administer appropriate medicines to informed patients.

## Health Staff: Nauru

### Averaged Annual Ratios International Health Services as at 28 June 2019

Date	Averaged Monthly Transferee Population	Medical Practitioners / Health Professionals	Ratio
13 Aug 2012 to 30 June 2013	352	20	18:1
1 Jul 2013 to 30 June 2014	902	41	22:1
1 Jul 2014 to 30 June 2015	1,164	49	24:1
1 Jul 2015 to 30 June 2016	1,177	51	23:1
1 Jul 2016 to 30 June 2017	1,141	57	20:1
1 Jul 2017 to 30 June 2018	1,041	51	20:1
1 Jul 2018 to 28 Feb 2019	579	58	10:1
1 Mar 2019 to 28 Jun 2019	337	58	6:1

*Note: Figures for Medical Practitioners / Health Professionals do not include administrative or other staff*

## Health staffing profile – 30 June 2019

Healthcare Professionals		Mental Health Professionals		Administrative	
Role	Staff Deployed	Role	Staff Deployed	Role	Staff Deployed
Senior Medical Officer	1	Mental Health Team Leader	2	Site Manager	1
Senior Medical Officer / Medical Legal (performs GP and administrative function)	1	Mental Health Nurse	10	Administration Manager	1
Health Services Manager	1	Mental Health Nurse ASR Approved (No dept. Ref# 8/2017)	2	Administration Officer	3
Emergency Medical Officer	1	Psychologist	3	Logistics Officer	2
Medical Officer	4	Psychiatrist - Visiting Role	1	IT Specialist	1
Clinic Team Leader	3	Counsellor	3	Administration Officer	2
Primary Care Nurses	6	Counsellor	1		
Paramedic	3	Mental Health Nurse	2		
After Hours Nurse	3				
Obstetrician	1				
Immunisation Nurse	1				
Radiologic Technologist	1				
Pharmacist	1				
Laboratory Technician	1				
Visiting Dentist	0				
Visiting Dentist Assistant	0				
General Practitioner (including one GP Paediatrician)	2				
Registered Nurse	2				
Hospital Liaison	1				
<b>Total</b>	<b>33</b>	<b>Total</b>	<b>24</b>	<b>Total</b>	<b>10</b>
<b>Total Deployed</b>					<b>67</b>

# Accreditation

International Health and Medical Services recruit staff from countries/regions including Australia, Western Europe, United Kingdom, North America, South Africa, and New Zealand. International Health and Medical Services validates the health professionals are registered to practice with the relevant body in their country of origin.

Once International Medical and Health Services has confirmed the credentials of the medical professional they apply for Nauru medical registration via the Government of Nauru process. As part of this process, International Medical and Health Services provide to the Government of Nauru supporting documents such as:

- All current medical registrations/licenses
- All primary and secondary medical qualifications
- All current and related medical associate membership/competency certificates.
- Primary source verification of the professional registration
- Primary source verification of the primary medical qualification

International Health and Medical Services undertake a number of quality assurance activities to ensure appropriate medical care is being provided by the contracted health professionals including:

- Daily onsite clinical meeting and discussion attended by all onsite clinicians
- Daily communications between onsite Clinicians and International Health and Medical Services Head Office
- Onsite Clinical Governance meetings
- IHMS Head office Clinical Governance meetings.
- Regular Site visits by IHMS head office Medical Directors and Ops.
- International Health and Medical Services quality program including monthly and yearly audits and Quality Assurance Officer site visits
- Home Affairs Meetings-Quality Assurance meeting, Complex Case Review Committee Meeting
- Home Affairs performance management program.



## 5. FACT SHEET

### Papua New Guinea: Overview of health services

#### Health Services available in Papua New Guinea since 2012

Date	Health Services available in Papua New Guinea since 2012
14 Sept 2012	<p>Heads of Agreement relating to The Provision of Health Services on Nauru and Manus Island commenced. Health services available in Papua New Guinea:</p> <ul style="list-style-type: none"> <li>• Nurse and General Practitioner services</li> <li>• Nurse immunisation and vaccination services</li> <li>• Mental health clinics, comprising of counselling, clinical psychology, mental health nursing and psychiatry</li> <li>• Health promotion and preventative health services</li> <li>• Emergency observation and treatment of critically ill transferees</li> <li>• Radiography services</li> <li>• Dental services</li> <li>• Optometry services</li> <li>• Medical escort services</li> <li>• After hours emergency response service</li> <li>• Access to torture and trauma services</li> <li>• Access to specialist and hospital services.</li> </ul>
29 Jan 2013	<p>Regional Processing Countries Health Services Contract commenced. Health Services available:</p> <ul style="list-style-type: none"> <li>• Nurse and General Practitioner services</li> <li>• Nurse immunisation and vaccination services</li> <li>• Mental health clinics, comprising of counselling, clinical psychology, mental health nursing and psychiatry</li> <li>• Health promotion and preventative health services</li> <li>• Emergency observation and treatment of critically ill transferees</li> <li>• Radiography services</li> <li>• Dental services</li> <li>• Optometry services</li> <li>• Medical escort services</li> <li>• After hours emergency response service</li> <li>• Access to torture and trauma services</li> <li>• Access to specialist and hospital services.</li> </ul>

Date	Health Services available in Papua New Guinea since 2012
16 Apr 2014	<p>Deed of Variation 1 to the Regional Processing Countries Health Services Contract executed, added visiting specialists as an available Health Service, including the following specialists:</p> <ul style="list-style-type: none"> <li>• Paediatrician</li> <li>• Infectious disease physician</li> <li>• Sonographer</li> <li>• Gastroenterologist</li> <li>• Physiotherapist</li> <li>• Optometrist</li> <li>• Neurologist</li> <li>• Speech and language therapist</li> <li>• Ophthalmologist</li> <li>• Ear Nose and Throat surgeon</li> <li>• Cardiologist</li> <li>• Orthopaedic surgeon.</li> </ul>
6 Feb 2015	<p>Letter of Amendment to the Heads of Agreement Settlement Health Services on Nauru executed. The Letter of Amendment varied the Heads of Agreement Settlement Health Services on Nauru with the effect that the terms of the Heads of Agreement Settlement Health Services on Nauru applied to the East Lorengau Refugee Transit Centre. The Letter of Amendment provided one Papua New Guinea registered nurse to deliver the following health services to refugees at the East Lorengau Refugee Transit Centre:</p> <ul style="list-style-type: none"> <li>• Basic primary care clinical services, via a weekly onsite clinic</li> <li>• Torture and trauma counselling, via a weekly onsite clinic</li> <li>• Referral to Lorengau Hospital for emergency and after hours care.</li> </ul>
30 Oct 2015	<p>Deed of Variation 5 to the Regional Processing Countries Health Services Contract executed, which expanded upon the radiography services to include the full range of diagnostic imaging, including x-rays, and computerised tomography scans, provided there was appropriate equipment available (x-ray and computerised tomography machine).</p>
6 May 2016	<p>Deed of Variation 1 to the Letter of Amendment to the Heads of Agreement Settlement Health Services on Nauru executed, which enabled the East Lorengau Refugee Transit Centre to fully leverage health services provided at the Manus Regional Processing Centre Clinic, including access to visiting specialists for refugees. This Deed did not add any additional staff to the contract.</p>

Date	Health Services available in Papua New Guinea since 2012
13 Oct 2017	<p>Letter of Intent for Provision of health services at the East Lorengau Refugee Transit Centre and Port Moresby under the provisions of the Heads of Agreement Settlement Health Services on Nauru executed, which included the following services:</p> <ul style="list-style-type: none"> <li>• General Practitioner consultations via triaged appointment</li> <li>• Referral to Lorengau Hospital or Pacific International Hospital for specialist services</li> <li>• Emergency response and stabilisation care services</li> <li>• Medication provided via Lorengau pharmacy for Papua New Guinea formulary medications, and support for non-formulary medications</li> <li>• Outpatient mental health clinic services, including counselling, health education/promotion, and psychiatry services</li> <li>• Point of care diagnostics</li> <li>• General Practitioner and nurse liaison service for Port Moresby</li> <li>• A vector control service.</li> </ul> <p>Under this Letter of Intent, the following positions were provided to deliver the above services:</p> <ul style="list-style-type: none"> <li>• A medical director</li> <li>• A clinic manager</li> <li>• Three registered nurses</li> <li>• A general practitioner</li> <li>• A senior medical officer</li> <li>• An emergency medical officer</li> <li>• A paramedic</li> <li>• A psychiatrist</li> <li>• A mental health team leader</li> <li>• Five mental health nurses</li> <li>• Four counsellors</li> <li>• A vector control manager</li> <li>• Four vector control officers</li> <li>• A laboratory technician</li> <li>• A pharmacist</li> <li>• A medical officer</li> <li>• A clinical team leader</li> </ul>
7 Feb 2018	<p>Letter of Intent for Provision of health services at the East Lorengau Refugee Transit Centre and Port Moresby under the provisions of the Heads of Agreement Settlement Health Services on Nauru executed. The Letter of Intent varied the Heads of Agreement with the effect that the terms of the Heads of Agreement applied to the East Lorengau Refugee Transit Centre.</p>

Date	Health Services available in Papua New Guinea since 2012
24 April 2018	<p>Letter of Intent for Provision of health services at the East Lorengau Refugee Transit Centre and Port Moresby with Pacific International Hospital executed. The Letter of Intent provided the following health services, to commence from 1 May 2018:</p> <ul style="list-style-type: none"> <li>• General Practitioner, nurse and mental health consultation services at the East Lorengau Refugee Transit Centre</li> <li>• Basic point of care testing services at the East Lorengau Refugee Transit Centre</li> <li>• Referrals and coordination of hospital and specialist services</li> <li>• Ongoing health management services</li> <li>• Outpatient care for residents remaining in Port Moresby after discharge from hospital</li> <li>• Primary care level first aid and emergency response during operating hours at the East Lorengau Refugee Transit Centre</li> <li>• Emergency medical evacuation services, including emergency observation and treatment, 24/7.</li> </ul>
1 July 2019	<p>Papua New Guinea Health Services Contract with Pacific International Hospital executed, providing the following health services:</p> <ul style="list-style-type: none"> <li>• General Practitioner, nurse and mental health consultation services at the East Lorengau Refugee Transit Centre</li> <li>• Basic point of care testing services at the East Lorengau Refugee Transit Centre</li> <li>• Referrals and coordination of hospital and specialist services</li> <li>• Ongoing health management services</li> <li>• Outpatient care for residents remaining in POM after discharge from hospital</li> <li>• Primary care level first aid and emergency response during operating hours at the East Lorengau Refugee Transit Centre</li> <li>• Emergency medical evacuation services, including emergency observation and treatment, 24/7.</li> </ul>

## Visiting Health Specialists

Prior to 2018, health care services were delivered by International Medical and Health Services. Services transitioned to Pacific International Hospital on 1 May 2018. Under International Health and Medical Services contract the Visiting Specialist Program provided for additional specialist services to be delivered by physiotherapists, optometrists, ophthalmologists, ear nose and throat surgeons and dentists.

From May 2018, the Pacific International Hospital provided additional specialist capability to be delivered by urologists, interventional cardiologist, hand surgeon, retina surgeon, cardiac surgeon, cardiac anaesthetist, and cardiac radiologist.

## Medication Management

The local pharmacy in Lorengau (Manus), and the Pacific International Hospital in Port Moresby fill prescriptions at no cost.

Service providers are required to adhere to medication safety standards to ensure competent clinicians safely prescribe, dispense and administer appropriate medicines to informed patients.



# Health Staff: Papua New Guinea

## Averaged Annual Ratios International Health and Medical Services as at 30 June 2019

Date	Averaged Monthly Transferee Population	Medical Practitioners / Health Professionals	Ratio
13 Aug 2012 to 30 June 2013	165	19	9:1
1 Jul 2013 to 30 June 2014	1,052	38	28:1
1 Jul 2014 to 30 June 2015	1,034	53	20:1
1 Jul 2015 to 30 June 2016	976	50	20:1
1 Jul 2016 to 30 June 2017	940	42	22:1
1 Jul 2017 to 30 June 2018	790	23	34:1

*Note: Figures for Medical Practitioners / Health Professionals do not include administrative or other staff*

## Averaged Annual Ratios Pacific International Hospital as at 28 June 2019

Date	Averaged Monthly Transferee Population	Medical Practitioners / Health Professionals	Ratio
1 Jul 2017 to 30 June 2018	790	23	31:1
1 Jul 2018 to 28 Feb 2019	624	23	27:1
1 Mar 2019 to 28 Jun 2019	525	22	24:1

## ELRTC Clinic, Manus - Staffing Profile as at 30 June 2019

Healthcare Professionals		Mental Health Professionals		Administrative	
Role	Staff Deployed	Role	Staff Deployed	Role	Staff Deployed
Senior Medical Officer	1	Psychiatrist	0	Clinic Manager	1
Emergency Medical Officer	1	Psychiatrist	1	Operations / HR Manager	1
Medical Officer	1	Mental Health Team Lead	1	Medical Records Manager	1
Primary Care Nurses	3	Mental Health Team Lead	1	Medical Records Officer	1
ICU/ER Nurse	1	Mental Health Nurse	2	Medical Reporting	1
Paramedic	1	Counsellor	1	Clinic Admin	1
After-hours GP	1	Psychologist	2	Logistics & Stores Manager	1
After-hours Nurse	1			Site Liaison	1
Pharmacist	1			Liaison Officer	1
Lab Technician	1			IT Manager	1
Biomedical Technician	1				
Dentist	0				
Dental Assistant	0				
<b>Total</b>	<b>13</b>	<b>Total</b>	<b>8</b>	<b>Total</b>	<b>10</b>
<b>Grand Total Deployed</b>					<b>31</b>

## Accreditation

Pacific International Hospital is a level seven tertiary care licensed hospital with the Papua New Guinea Medical Board. Pacific International Hospital has in-place stringent procedures for staff credentialing to ensure their registration with Medical Board of Papua New Guinea, which mandates health and police clearances, in addition to a letter of good standing from the home country for expatriate staff. For expatriate staff, confirmation of credentialing of qualifications and registrations in the home country is done by way of online verification of registration and an assessment of the quality of the candidates' training institutes. Pacific International Hospital only recruit's candidates from international institutes that are World Health Organization accredited.



Australian Government

Department of Home Affairs

## 6. FACT SHEET

### Medical Transfers

It is Australian government policy that where required health care for a transitory person is not available in Nauru or Papua New Guinea (PNG), and that care cannot be made available through visiting medical specialist/s, that a temporary transfer of the person to a third country, including Australia, may be facilitated.

Section 198B of the *Migration Act 1958* (the Act) allows for the transfer of a transitory person from a country or place outside Australia for a temporary purpose, for example medical or psychiatric assessment or treatment, or for the purpose of accompanying a person brought to Australia under s198B(1) of the Act.

#### Policy Settings

Requests for temporary medical transfers to Australia for the purpose of receiving medical treatment will be considered for refugees and transferees transferred from Australia residing in Nauru or PNG where the patient is suffering from a critical and complex medical condition which cannot be appropriately managed in Nauru, Papua New Guinea or a third country.

#### Transitory Persons Committee and transfer under Section 198B

The Department of Home Affairs established the Transitory Persons Committee (TPC) on 2 November 2016 to support decision making associated with medical transfers from regional processing countries to a third country under Section 198B of the Act.

The TPC provides advice to the s198B transfer decision maker, the Senior Assistant Secretary Regional Processing and Resettlement, Operation Sovereign Borders Joint Agency Taskforce, about the movement of a transferee, refugee or non-refugee from Nauru or Papua New Guinea (PNG) to Australia based on medical information. The Committee may also consider other third-country options for medical treatment, such as Taiwan, in accordance with current policy. Other options may also be considered, such as fly in/fly out capability to provide treatment options, if required.

Before making a recommendation to the Senior Assistant Secretary Regional Processing and Resettlement, Operation Sovereign Borders Joint Agency Taskforce, the TPC is required to:

- be satisfied that the condition(s) relating to the movement of the individual meet the policy for movement to Australia, PNG or Taiwan; and
- consider any legal barriers to the transferee, refugee or non-refugee leaving the country in which they are located, including ongoing litigation.

The core membership of the TPC is:

- the Senior Assistant Secretary Regional Processing and Resettlement, Operation Sovereign Borders Joint Agency Taskforce; and
- First Assistant Secretary, Health Services Division.

The above membership is supported by the following areas:

- Medical Officer/s of the Commonwealth (MOCs), who provide written medical opinions regarding the case/s under discussion; and
- The Offshore Health Operations Section (OHOS), who are the TPC Secretariat.

The decision maker may make a decision to temporarily transfer a person to Australia for medical treatment without reference to the Transitory Persons Committee in urgent cases where it is evident the policy parameters have been met. Only a Medical Officer of the Commonwealth can make a clinical recommendation to the Committee.

The Department carries out clinical assurance reviews of all temporary medical transfer cases.

## Transfers under Schedule 6 of the Miscellaneous Measures Act

Section 198E provides for the process under which the Minister approves or refuses to approve the transfer to Australia of relevant transitory persons. Relevantly, a relevant transitory person is a person who, in the opinion of a treating doctor:

- the person requires medical or psychiatric assessment or treatment; and
- the person is not receiving appropriate medical or psychiatric assessment or treatment in the regional processing country; and
- it is necessary to remove the person from a regional processing country for appropriate medical or psychiatric assessment or treatment.

Section 198B is the existing power in the Migration Act.

## Medical transfer statistics

### Medical and Accompanying Family Transfers from PNG and Nauru to Australia by Month. November 2012 to 31 July 2019

Month/Year	PNG	Nauru	Total
Nov-12	0	2	2
Dec-12	0	3	3
<b>2012 Total</b>	<b>0</b>	<b>5</b>	<b>5</b>
Jan-13	3	0	3
Feb-13	0	2	2
Mar-13	20	7	27
Apr-13	1	2	3
May-13	14	7	21
Jun-13	0	8	8
Jul-13	0	7	7
Aug-13	0	3	3
Sep-13	0	1	1

Month/Year	PNG	Nauru	Total
Oct-13	0	5	5
Nov-13	1	4	5
Dec-13	4	3	7
<b>2013 Total</b>	<b>43</b>	<b>49</b>	<b>92</b>
Jan-14	2	13	15
Feb-14	6	8	14
Mar-14	4	24	28
Apr-14	2	16	18
May-14	2	24	26
Jun-14	4	18	22
Jul-14	3	16	19
Aug-14	8	51	59
Sep-14	5	43	48
Oct-14	4	39	43
Nov-14	5	49	54
Dec-14	4	12	16
<b>2014 Total</b>	<b>49</b>	<b>313</b>	<b>362</b>
Jan-15	3	51	54
Feb-15	7	54	61
Mar-15	5	24	29
Apr-15	5	27	32
May-15	3	35	38
Jun-15	3	9	12
Jul-15	0	7	7
Aug-15	1	1	2
Sep-15	0	4	4
Oct-15	1	2	3
Nov-15	0	2	2
Dec-15	1	0	1
<b>2015 Total</b>	<b>29</b>	<b>216</b>	<b>245</b>
Jan-16	0	11	11
Feb-16	1	0	1
Mar-16	2	2	4
Apr-16	1	10	11
May-16	2	10	12
Jun-16	1	3	4

Month/Year	PNG	Nauru	Total
Jul-16	2	2	4
Aug-16	2	2	4
Sep-16	0	6	6
Oct-16	0	0	0
Nov-16	0	9	9
Dec-16	2	5	7
<b>2016 Total</b>	<b>13</b>	<b>60</b>	<b>73</b>
Jan-17	2	3	5
Feb-17	1	2	3
Mar-17	0	7	7
Apr-17	0	0	0
May-17	1	1	2
Jun-17	1	2	3
Jul-17	2	0	2
Aug-17	1	2	3
Sep-17	0	3	3
Oct-17	0	0	0
Nov-17	0	5	5
Dec-17	1	3	4
<b>2017 Total</b>	<b>9</b>	<b>28</b>	<b>37</b>
Jan-18	0	2	2
Feb-18	0	4	4
Mar-18	0	2	2
Apr-18	0	6	6
May-18	0	2	2
Jun-18	0	2	2
Jul-18	0	22	22
Aug-18	0	37	37
Sep-18	1	47	48
Oct-18	1	165	166
Nov-18	2	81	83
Dec-18	3	40	43
<b>2018 Total</b>	<b>7</b>	<b>410</b>	<b>417</b>
Jan-19	3	17	20
Feb-19	5	29	34
Mar-19	6	24	30

Month/Year	PNG	Nauru	Total
	5 x 198E, 1 x 198B	24 x 198B	
Apr-19	4 2 x 198B, 2 x 198E	10 10 x 198B	14
May-19	8 2 x 198B, 6 x 198E	10 7x198B, 3x198G	18
Jun-19	17 17 x 198E	4 3 x 198B, 1 x 198G	21
Jul-19	43 43 x 198E	8 5 x 198B, 3 x 198G	51
2019 Total (at 31 Jul 19)	86	102	188
<b>Total</b>	<b>236</b>	<b>1,183</b>	<b>1,419</b>

*Note: Figures are based on departmental systems data as at 9am 02 August 2019*

*Note: Includes individuals transferred for medical reasons and accompanying family*

*Note: Excludes babies born onshore.*

#### Medical and Accompanying Family Transfers from PNG and Nauru to Australia by Transfer Type November 2012 to 31 July 2019

Transfer Type	PNG	Nauru	Total
s198B	167	1,176	1,343
s198E	69	3	72
s198G	0	4	4
<b>Total</b>	<b>236</b>	<b>1,183</b>	<b>1,419</b>

*Note 1: Figures are based on departmental systems data as at 9am 8 August 2019.*

*Note: s198E & s198G are new provisions inserted by the Miscellaneous Measures Act*

#### Total number of transfers to Australia since 2 March 2019 as at 31 July 2019

Legislative Provision	Nauru	PNG	Total
s198B medical transfer - Delegate approved	45	9	54
s198E medical transfer - Minister approved	3	69	72
s198G split family provision - Minister approved	4	0	4
<b>Total</b>	<b>52</b>	<b>78</b>	<b>130</b>

#### Nauru and Papua New Guinea temporary medical transfers and accompanying family members to Australia prior to Miscellaneous Measures Act as at 28 February 2019

Patients and family members transferred	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19 (to 28 Feb 2019)	Total
Nauru	31	126	410	52	39	31	438	1,127
Manus	38	25	55	10	11	4	15	158
<b>Total</b>	<b>69</b>	<b>151</b>	<b>465</b>	<b>62</b>	<b>50</b>	<b>35</b>	<b>453</b>	<b>1,285</b>



# Nauru

## Nauru temporary medical transfers to Australia prior to Miscellaneous Measures Act (by medical category) as at 28 February 2019

Medical category	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19 as at 28 Feb 2019	Total
Physical	7	28	144	11	14	4	33	241
Obstetric	0	29	33	6	11	7	5	91
Psychological	24	8	17	13	4	6	135	207
<b>Total</b>	<b>31</b>	<b>65</b>	<b>194</b>	<b>30</b>	<b>29</b>	<b>17</b>	<b>173</b>	<b>539</b>

Note 1: Figures are based on departmental operational data as at COB 30 June 2019.

Note 2: Figures are based on medical reason at time of transfer to Australia.

Note 3: Historical figures from previous financial years may have changed slightly due to data purification.

Note 4: Figures exclude accompanying family.

## Nauru Medical and Accompanying Family Transfers to Port Moresby by Transfer Type November 2012 to 30 June 2019

FY	Medical	Accompanying Family	Total
2017-18	11	1	12
2016-17	16	4	20
2015-16	63	25	88
<b>Total</b>	<b>90</b>	<b>30</b>	<b>120</b>

Note: Figures are based on departmental operational data as at COB 31 July 2019.

## Nauru medical transfers to Taiwan as at 31 July 2019

Medical Category	2017-18	2018-2019 (to 31 Jul 2019)	Total
General\Orthopaedic\Gynaecology	0	5	5
Physical	11	14	25
Specialist Care	1	0	1
Psychological/Psychiatric	0	0	0
Not Recorded	0	0	0
Refused Treatment	0	2	2
<b>Total</b>	<b>12</b>	<b>21</b>	<b>33</b>

Note: As at 31 July 2019, Thirty-three transferees refused transfer to Taiwan for medical treatment. Two of these refusals were subsequently transferred to Australia for treatment.

# Papua New Guinea

## Papua New Guinea temporary medical transfers to Australia prior to Miscellaneous Measures Act (by medical category) as at 28 February 2019

Medical category	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19 (to 28 Feb 2019)	Total
Accompanying Family	17	0	0	0	0	0	0	17
Physical	10	21	45	8	7	3	2	96
Obstetric	10	0	0	0	0	0	0	10
Psychological	1	4	10	2	4	1	13	35
<b>Total</b>	<b>38</b>	<b>25</b>	<b>55</b>	<b>10</b>	<b>11</b>	<b>4</b>	<b>15</b>	<b>158</b>

Note 1: Figures are based on departmental operational data as at COB 30 June 2019.

Note 2: Figures are based on medical reason at time of transfer to Australia.

Note 3: Historical figures from previous financial years may have changed slightly due to data purification.

## Papua New Guinea medical transfers to Australia by programme year as at 30 June 2019

Medical category	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Accompanying Family	17	0	0	0	0	0	0	17
Physical	10	21	45	8	7	3	14	108
Obstetric	10	0	0	0	0	0	0	10
Psychological	1	4	10	2	4	1	36	58
<b>Total</b>	<b>38</b>	<b>25</b>	<b>55</b>	<b>10</b>	<b>11</b>	<b>4</b>	<b>50</b>	<b>193</b>

Note: Figures are based on departmental operational data as at COB 30 June 2019.

Note: Figures are based on medical reason at time of transfer to Australia.

Note: Historical figures from previous financial years may have changed slightly due to data purification.



## 7. FACT SHEET

### Independent Health Advice Panel

#### Operation of the Independent Health Advice Panel

The Independent Health Advice Panel (the Panel) was established on 2 March 2019 under subsection 199A of the *Migration Act 1958* (the Act) as inserted by the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019*.

As per section 199B(1) of the Act, as inserted by the *Home Affairs Legislation Amendment (Miscellaneous Measures) Act 2019* (the Amending Act), membership of the Independent Health Advice Panel consists of a minimum of eight persons who include:

- the person occupying the positions of Chief Medical Officer of the Department and Surgeon-General of the Australian Border Force
- the person occupying the position of Commonwealth Chief Medical Officer
- not less than six other members, including:
  - at least one person nominated by the President of the Australian Medical Association
  - at least one person nominated by the Royal Australian and New Zealand College of Psychiatrists
  - at least one person nominated by the Royal Australasian College of Physicians
  - at least one person who has expertise in paediatric health.

As per section 199B(2) of the Act, other than the two Commonwealth members (i.e. the Chief Medical Officer of the Department and Surgeon-General of the Australian Border Force and the Commonwealth Chief Medical Officer), the minimum six additional Independent Health Advice Panel members are to be appointed by the Minister for a minimum term of three years.

As per section 199B(3)(a) of the Act, in order to appoint a person as a member of the Panel, the Minister must be satisfied that the person has expertise in one or more of the following:

- the medical profession
- mental health
- public health
- paediatric health

As per Section 199B(3)(b), the Minister must also be satisfied that the person has been nominated by one or more of the following bodies:

- the Australian Medical Association
- the Royal Australian and New Zealand College of Psychiatrists
- the Royal Australasian College of Physicians
- the Australian Psychological Society
- an Australian professional body prescribed by the regulations.

On 28 February 2019, the *Migration Regulations 1994 (the Regulations)* were amended to prescribe the following bodies as Australian professional bodies under section 199B(3)(b)(v) of the Act. Under these amendments, the following professional bodies are able to nominate a person for appointment to the Panel:

- Royal Australian College of General Practitioners Limited
- Australian College of Rural and Remote Medicine
- Royal Australasian College of Surgeons

## **Current Independent Health Advice Panel Membership**

There are currently seven members of the Independent Health Advice Panel, including:

- Dr Parbodh Gogna, Chief Medical Officer of the Department and Surgeon-General of the Australian Border Force. Dr Gogna was appointed by operation of law on 2 March 2019, the day the Amending Act came into effect.
- Professor Brendan Murphy, Commonwealth Chief Medical Officer. Professor Murphy was appointed by operation of law on 2 March 2019, the day the Amending Act came into effect.
- Dr Antonio Di Dio, a general practitioner nominated by the President of the Australian Medical Association. Dr Di Dio was appointed to the Panel by written instrument on 1 April 2019; his appointment commenced on 2 April 2019. Dr Di Dio was appointed Chair of the Panel on 29 July 2019.
- Associate Professor Susan Moloney, a paediatrician nominated by the Royal Australasian College of Physicians. Associate Professor Moloney was appointed to the Panel by written instrument on 1 April 2019; her appointment commenced on 11 April 2019.
- Associate Professor Neeraj Gill, a psychiatrist nominated by the Royal Australian and New Zealand College of Psychiatrists. Associate Professor Gill was appointed to the Panel by written instrument on 14 June 2019; his appointment commenced on 15 June 2019.
- Mr Guy Coffey, a psychologist nominated by the Australian Psychological Society (APS). Mr Coffey was appointed to the Panel by written instrument on 4 July 2019; his appointment commenced on 5 July 2019.

- Associate Professor Michael Douglas, a public health physician nominated by the Australian College of Rural and Remote Medicine. Associate Professor Douglas was appointed to the Panel by written instrument on 4 July 2019; his appointment commenced on 5 July 2019.

## **Reporting requirements, reports issued and findings**

Section 199E sets out the reporting requirements pertaining to the Panel as follows:

- The Panel must, as soon as practicable after 31 March, 30 June, 30 September and 31 December in each year, prepare and give to the Minister a report on its operations during the 3-month period that ended on that day.
- The Minister must cause a summary of each report to be laid before each House of the Parliament within 3 sitting days of that House after the report is given to the Minister.
- The Minister's summary report must not include any information that may identify a transitory person.
- The Minister's summary report must provide information about the number of transitory persons who have been brought to Australia under sections 198B and 198C in the relevant 3-month period.
- The Minister must prepare a response to the Panel's report.
- The Minister must cause the response to be laid before each House of Parliament within 3 sitting days of that House after the summary report mentioned in subsection (2) was laid before that House.
- A report provided by the Panel to the Minister and the Minister's report laid before a House of Parliament must include a statement on the timeliness of the provision of information and assistance under section 199D.
- Notwithstanding, the Panel's requirement to provide regular reports, the Panel must produce its first report as soon as practicable after the commencement of these provisions.

The Panel's first quarterly report, covering its operations from 2 March – 31 March 2019 was provided to the Minister for Home Affairs on 29 June 2019. A summary of the report and the Minister's response to the report were presented to Parliament on 4 July 2019. The full 31 March 2019 quarterly report was subsequently presented to the Senate on 22 July 2019.

The first report consisted of an overview of the Panel's findings regarding the health conditions of, and the physiological and mental health care services available to transitory persons residing in Nauru and Papua New Guinea.

## **Number of cases reviewed, number of decisions, including denial decisions**

As at 31 July 2019, 23 cases have been referred to the panel following the Minister's refusal to approve transfer to Australia on medical or psychiatric grounds. Of these, the panel recommended medical transfer to Australia in 10 cases and supported the Minister's refusal to approve transfer to Australia in 13 cases.



# FACT SHEET

## 8. United States resettlement arrangement

In 2016, an arrangement was agreed for the resettlement in the United States of up to 1250 refugees from regional processing countries. The arrangement was implemented in 2017, with the first refugees resettled in the United States in September 2017.

As at 31 July 2019, 604 refugees have resettled in the United States (325 from Nauru, 269 from Papua New Guinea and 10 from Australia). A further 265 people have received provisional approval (39 in Nauru, 90 in Papua New Guinea, 136 in Australia) and are in various stages of pre-departure, including medical clearance and cultural orientation.

The United States determines who and how many people resettle through the arrangement. United States authorities continue to progress refugees through each stage of their process of assessment to determine who resettles under its Refugee Admissions Program. There are a number of steps in this process – each takes time. These include:

- referral from UNHCR, pre-screening interview, initiation of biographic check
- further interviews and biometrics collection
- security checking
- medical clearance.

Some cases are straightforward and others take longer to process. It is not possible to predict how long cases will take to process and the outcome. A range of services, including counselling and mental health services, are available to support refugees who receive negative decisions.

The United States continues to process refugees who have expressed an interest in resettlement through the United States Refugee Admissions Program. Further visits by United States officials are expected and regular hand down of decisions continues.

Resettlement support on arrival in the United States is a matter for the Government of the United States and the Department is now aware of the resettlement location of refugees. The Government of the United States reports that refugees settled under the arrangements are adapting well; are easily employable, with a good command of English.