



Australian Government

Australian Government response to the
Legal and Constitutional Affairs Legislation Committee report:
Migration Amendment (Removal and Other Measures) Bill 2024

October 2025

Recommendation		Government Response
Committee Majority Report		
1	The committee recommends that the Minister considers community impacts when designating a country as a removal concern country.	<p>The Government agreed with these Recommendations.</p> <p>At the time of the inquiry, the Senate Legal and Constitutional Affairs Committee did not have the benefit of the Minister’s response to the Senate Standing Committee for the Scrutiny of Bills. While already public, relevant information from that correspondence has been further included in this response, for the benefit of the Committee.</p> <p>In respect to Recommendation 1, the Minister will take into account impacts on the Australian community when designating a country as a removal concern country. In practice, the Bill (now Act) requires the Minister to consult the Prime Minister and Minister for Foreign Affairs before designating a country. As noted in paragraph 71 in the Bill’s explanatory memorandum, this condition on the exercise of the Minister’s power under subsection 199F(1) ensures that the Minister’s consideration of the national interest is appropriately informed by the national and international implications of the exercise of the power and its effect, including under proposed section 199G (the bar on visa applications by nationals of a removal concern country). The Minister would take into account impacts on the Australian community prior to making such a designation.</p> <p>Community impacts may also be considered as an element of the national interest, along with the risks associated with the designation. In practice, this would occur under paragraph 199F(6)(b) as inserted by the Bill (now Act), which requires the Minister to outline the reasons for thinking it is in the national interest to designate a country, before each House of the Parliament.</p>
2	The committee recommends that the Senate pass the Bill	

Recommendation	Government Response
Dissenting Report by Coalition Senators	
<p>1 Proposed subsection 199B(1) be amended to reflect the Government’s stated intention that the cohort of ‘removal pathway non-citizens’ be only those individuals who have neither legal proceedings (relevant to their migration status) on foot, nor any pending ministerial intervention requests. Alternatively, consideration could be given to amending section 199D(2) to expand the circumstances in which a removal pathway direction cannot be given to include circumstances where judicial review proceedings are still on foot or there is an outstanding application for Ministerial intervention.</p>	<p>The Government agreed with Recommendations 2, 3, 8, 11 and 16</p> <p>In response to recommendations 2, 3 and 16 the proposed changes were dealt with by the Government through the Migration Amendment Bill 2024. That Bill provided a definition of removal pathway non-citizen to be inserted into subsection 5(1) of the <i>Migration Act 1958</i>.</p> <p>In response to Recommendation 8 the Government moved-amendments in the Senate to the Migration Amendment (Removal and Other Measures) Bill 2024 (now Act) through sheet no SV105 on 28 November 2024.</p> <p>In response to Recommendation 11 the Government moved amendments in the Senate through sheet no SV105 on 28 November 2024 to provide that unless the Minister revokes a designation earlier, that the designation will sunset after three years.</p> <p>All other recommendations from the dissenting reports by Coalition Senators, the Australian Greens, and Senator David Pockock were noted and not adopted.</p>
<p>2 Subsection 199B(1)(d) be amended to clarify that the power only applies to additional visas issued for non-citizens to maintain lawful status in the community while making arrangements to depart or be removed from Australia.</p>	
<p>3 Subsection 199B(1)(d) should be amended to specifically refer to prescription by regulation under section 504 of the <i>Migration Act 1958</i> to remove any doubt that the exercise of the power will be by way of delegated legislation subject to disallowance.</p>	
<p>4 The Bill be amended to insert a requirement after section 199D(5) that, prior to giving a removal pathway direction</p>	

Recommendation		Government Response
	in relation to any child, the Minister must conduct an assessment of whether the direction is in the best interests of the child, as one of the factors to be considered by the Minister prior to making a removal pathway direction.	
5	Consideration be given to amending the Bill to provide for the additional safeguards proposed by the Scrutiny of Bills Committee in relation to the Minister's power to give removal pathway directions; namely: (a) providing a minimum time for compliance which would allow a person to take steps to comply and seek legal advice; and (b) better delimitation of the directions that may be given by the Minister.	
6	The imposition of mandatory minimum criminal penalties elevates the need for additional safeguards to be inserted into the Bill through amendment (including through the amendments proposed in recommendations 1 to 5 of this report). Proposed amendments to the Bill should be considered in this context.	
7	Within seven days of the end of each month, the Minister should be required to provide a statement to be tabled in Parliament in relation to each removal pathway direction which is given by the Minister during the month with the detail proposed by the Coalition in its amendments to the Bill moved in the House of Representatives.	

Recommendation		Government Response
8	The power to declare a country as a removal concern country be redrafted to require the Minister to consider a set of factors which must be considered prior to making a designation (e.g. those factors required to be included under the analogous UK legislation), including the potential impact on Australian diaspora communities of making such a declaration.	
9	The Minister and/or the PJCIS be required to review the decision to declare a country as a removal concern country on a regular basis and be required to table in both House of Parliament the reasons why continued designation of a country as a removal concern country is justified.	
10	The reasons for a declaration of a country as a removal concern country not being subject to disallowance should be clearly explained in the Explanatory Memorandum. If a declaration is not subject to disallowance that elevates the need for further details to be provided in the Bill with respect to the circumstances in which a declaration would be made (refer to Recommendation 9).	
11	Any declaration of a country as a removal concern country should be subject to sunseting after three years.	
12	That the exemptions under section 199G(2) from the prohibition on applying for visas should be expanded to include: parents of independent children, grandparents,	

Recommendation		Government Response
	siblings and dependent persons (to take into account non-western kinship systems as suggested by the Parliamentary Joint Committee on Human Rights).	
13	<p>That Government should:</p> <ul style="list-style-type: none"> • undertake a comprehensive review of all mitigating measures (and resourcing requirements for such measures) beyond strategic communications that may be required to mitigate any potential ‘pull factors’ that may arise from the Bill; and • commit to agreeing to implement such measures in the event the Bill is passed to ensure that any ‘pull factors’ are mitigated to the full extent practical. 	
14	The Government should restore the Operation Sovereign Borders framework in full by: (a) reinstating temporary protection visas; (b) reversing the budget cuts to border protection; and (c) restoring maritime patrols and aerial surveillance levels to at least the levels in 2020-21.	
15	A statutory review should be undertaken with respect to the exercise of the powers under the Bill after five years of operation. The review should be open to public submissions.	

Recommendation		Government Response
16	It is recommended that a note to drafting be added to proposed section 199B to clarify the Department's intention not to capture other holders of Subclass 050 (Bridging) General Visas.	
17	Given the nature of the powers granted to the Minister under the Bill, it is recommended that the Bill be amended as detailed in this report to provide additional safeguards.	
Dissenting Report by the Australian Greens		
1	This Bill should be rejected in full.	
Dissenting Report by Senator David Pocock		
1	That the Senate does not pass the Bill	
2	That the Government gives access to an expedited re-application process to everyone who has been subjected to the 'Fast Track system', including access to merits review in the Administrative Appeals Tribunal or the proposed future Administrative Review Tribunal.	
3	That all future refugee status determinations are conducted in a fast, robust and fair manner with access to both merits and judicial review, and that applicants are not subjected to protracted processing times that contribute to barriers to their removal should they be found not to be owed protection.	
4	That the Bill is amended to ensure that, if an applicant has not been eligible for review by the Administrative	

Recommendation		Government Response
	Review Tribunal or the Administrative Appeals Tribunal (for example, if they are a Fast Track applicant or a transitory person), they may not be given a removal pathway direction	
5	<p><i>Should the Senate choose not to follow these primary recommendations, and passes the Bill, I make the following recommendations:</i></p> <p>That the Bill is amended to ensure that where a person's matter is subject to judicial review or where they have a pending request for ministerial intervention due to compelling and compassionate circumstances, they may not be given a removal pathway direction</p>	
6	That the Bill is amended to ensure that the immediate family of Australian citizens, permanent residents and stateless persons cannot be given a removal pathway direction	
7	That the Bill is amended to delete proposed paragraphs 199B(1)(c) and 199B(1)(d), to remove Bridging Visa E holders and the holders of additional classes of visas that may be prescribed in the future from the meaning of removal pathway non-citizen	
8	That the Bill is amended to remove the proposed subsection 199E(2) relating to a 12-months mandatory minimum sentence	

Recommendation		Government Response
9	That the Bill is amended to remove the proposed subsection 199E(4), including paragraphs (a), (b) and (c), relating to exceptions to what is considered a 'reasonable excuse'.	
10	That the Bill is amended to remove items 3–9 in Schedule 2, relating to the power to revisit protection claims.	
11	That the Bill is amended to ensure that proposed section 199G 'Visa applications by certain nationals of a removal concern country' may only be applied to government officials of a removal concern country and their immediate family members	

