



13 April 2018

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100, Parliament House  
Canberra ACT 2600

1-3 Eurimbla Ave  
Randwick NSW 2031  
Phone: [02] 8355 7227  
Fax: [02] 8004 3348  
admin@racs.org.au  
www.racs.org.au

**By email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)**

Dear Committee Secretary

### **Migration Amendment (Clarification of Jurisdiction) Bill 2018**

The Refugee Advice & Casework Service (**RACS**) is a specialist refugee legal centre that has been assisting people seeking protection in Australia on a not-for-profit basis since 1988. We welcome the opportunity to comment on the Migration Amendment (Clarification of Jurisdiction) Bill 2018 (the **Bill**).

Like the judicial decisions to which it responds, the Bill highlights the enormous complexity affecting the statutory allocation of jurisdiction over decisions made under the *Migration Act 1958* (Cth). Whereas the Bill is purported to provide clarity as to the forum and the circumstances in which certain decisions are judicially reviewable, it does so in only the most technical sense. The prevailing statutory framework remains extraordinarily arcane, and in our experience, wholly unintelligible to almost every individual whose rights it affects.

This is a significant and unnecessary barrier to access to justice in relation to decisions under the Migration Act. RACS has had the opportunity to consider the submission provided by the Australian Human Rights Commission and strongly supports the comments and recommendations in that submission.

Further, in the absence of provisions for representative actions in the Federal Circuit Court, RACS is concerned about the effect of the Bill on the availability of representative actions in appropriate cases. Representative actions represent both an efficient method of dealing with systemic legal problems and an effective avenue for enhancing access to justice. For this reason RACS recommends that the Bill should not be passed.

Sincerely

REFUGEE ADVICE AND CASEWORK SERVICE (AUST) INC

Tanya Jackson-Vaughan      Scott Cosgriff  
Executive Director          Senior Solicitor