

The committee has deferred its consideration of the following legislative instruments

Migration Amendment Regulation 2012 (No. 5)

FRLI ID: F2012L01961

Tabled in the House of Representatives and the Senate on 9 October 2012

Portfolio: Immigration and Citizenship

Committee view

2.17 The committee has decided to defer its consideration of this regulation to enable closer examination of the issues.

Purpose of the instrument

2.18 This regulation amends the *Migration Regulations 1994* to implement certain recommendations made in the report of the expert panel on asylum seekers regarding 'irregular maritime arrivals' (IMAs). Specifically, the regulation will:

- prevent persons who became IMAs from being eligible to propose family members for entry to Australia under the Humanitarian Program, and specifically, the Refugee and Humanitarian (Class XB) visa (Class XB visa);
- amend the criteria to be considered when determining whether there are compelling reasons for certain people applying for a Class XB visa to be given special consideration to grant them that visa; and
- prevent persons from being able to make a valid application for a Class XB visa if they became an IMA on or after 13 August 2012.

Compatibility with human rights

2.19 The amendments raise significant and complex rights issues, particularly in relation to article 3 of the Convention on the Rights of the Child, which requires the best interests of the child to be a primary consideration in all actions concerning children and the right to family reunification, which comes within the scope of articles 17 and 23 of the International Covenant on Civil and Political Rights.

2.20 The committee has decided to defer its consideration of this regulation to enable closer examination of the issues. The committee proposes to consider this regulation as part of the broader package of amendments arising from the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012*. The committee wrote to the Minister for Immigration and Citizenship on 22

Any Member or Senator who wishes to draw matters to the attention of the committee under the *Human Rights (Parliamentary Scrutiny) Act 2011* is invited to do so.

August 2012 seeking information on the compatibility of the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012* with human rights. The Minister has not yet responded. The committee proposes to write again to the Minister inviting him to assist the committee in its consideration of these issues.