

## **Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013**

## **Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013**

*Introduced into the House of Representatives on 30 October 2012*

*Portfolio: Finance and Deregulation*

### **Committee view**

1.2 The committee notes that these bills form part of a complex package of primary and secondary legislation which raise issues of compatibility with human rights and will consider them in the context of the broader package of amendments arising from the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012*.

### **Purpose of the bill**

1.3 These bills seek an appropriation authority from Parliament for the additional expenditure of money from the Consolidated Revenue Fund. According to the Minister's second reading speech, the funding sought is consistent with, and already budgeted for in, the Mid-Year Economic and Fiscal Outlook.

1.4 The bills will provide additional appropriation to the Department of Immigration and Citizenship to address the increased costs of irregular maritime arrivals resulting from the higher rates of arrivals and the implementation of the recommendations of the Expert Panel on Asylum Seekers, including capital works and services for regional processing facilities on Nauru and Manus Island. The total appropriation being sought through these two bills is \$1,674,982,000.

1.5 The total appropriation being sought in Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013 is a little over \$1.4 billion. This includes \$110.6 million for Houston report measures, including \$92.043 million to increase the humanitarian program by an additional 6,250 places to 20,000 per annum from 2012-2013; \$8.181 million to increase the family reunion stream of the permanent migration program by 4,000 places; and \$10 million to fund capacity-building initiatives in regional countries. It also includes \$1.296 billion to meet expenses arising from the management of higher levels of irregular maritime arrivals and the operational expenses associated with the implementation of the expert panel's recommendations to establish regional processing centres on Nauru and Manus Island. This includes a \$186 million accrual from 2011-2012.

1.6 The total appropriation being sought in Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013 is \$267,980,000. This bill provides additional funding to the Department of Immigration

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.

and Citizenship for the requirements for departmental equity injections and requirements to create or acquire administered assets to discharge administered liabilities. The government will provide to the Department of Immigration and Citizenship \$267,380,000 of administered assets and liabilities, funding in this bill for the Offshore Asylum Seeker Management program. This is to meet initial capital costs required to establish regional processing centres on Nauru and Manus Island, as recommended by the Expert Panel on Asylum Seekers.

### **Compatibility with human rights**

1.7 The statement of compatibility with human rights contained in the explanatory memorandum to the Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013 states (p 4):

- 1 The Bill seeks to appropriate money for the ordinary annual services of the Government.
- 2 The Bill does not engage any of the applicable rights or freedoms outlined in the *Human Rights (Parliamentary Scrutiny) Act 2011*.
- 3 The Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* as it does not raise any human rights issues.

1.8 As noted above, some of these funds to be appropriated are intended to support the increases in numbers under Australia's humanitarian program, which will be a contribution to the fuller enjoyment of a range of human rights and fundamental freedoms by those who benefit from those programs. Similarly, the increase in the family reunion program is a positive measure to promote the enjoyment of the right to be free from arbitrary or unlawful interference with one's family or private life in the ICCPR or the right of the family to protection, as well as the rights of children.

1.9 However, the vast bulk of the funds to be appropriated appear destined to support the arrangements for the offshore processing of the claims of asylum-seekers who arrive by boat, in accordance with the Houston Panel report recommendations. These new arrangements, authorised by earlier legislation (*Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012* and related primary and delegated legislation), raise human rights concerns on the face of the legislation or are likely to do in their implementation. Accordingly, the appropriation of funds to permit their implementation may also be viewed as giving rise to human rights issues, as this facilitates the taking of actions which may involve the failure by Australia to fulfil its obligations under the treaties listed in the *Human Rights (Parliamentary Scrutiny) Act 2011*.

1.10 The chair of the committee wrote to the Minister on 22 August 2012 and again on 31 October 2012 seeking further information about the compatibility with human rights of the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012*. The committee received a response from the Minister on Friday 23 November 2012, a copy of which can be found in Appendix 1.

1.11 In its sixth report, tabled on 31 October 2012, the committee indicated that it would defer consideration of the related Migration Amendment Regulation 2012 (No 5), which raised significant and complex rights issues, so that it could be examined as part of the broader package of amendments resulting from the *Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012*. In this context the concerns raised by the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012 (discussed below), are also relevant.

1.12 These appropriation bills have now passed both Houses following their passage through the Senate on 19 November 2012.