Refugee Council of Australia

2 September 2025

Dear Senator,

**Re: Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025 and arrangement with Nauru**

On behalf of the Refugee Council of Australia, I am writing to express our organisation's opposition to the *Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025* which was introduced to Parliament last week. The Bill seeks to remove a bedrock of our democracy – the rules of natural justice and procedural fairness – when trying to remove people from Australia and send them to Nauru or other undisclosed third countries.

Our many concerns about this legislation include the following:

- This legislation directly pre-empts current legal challenges to forcibly sending people to Nauru.
- The removal of due process would see no consideration for the real risk of persecution or harm for people sent to Nauru or other countries.
- There is nothing preventing Nauru or other undisclosed third countries from sending people to back to harm, persecution or death in their countries of origin.
- People's health needs would not be considered before removal.
- The Government will not have to give notice to people about arranging for their own removal, and the consequences for the individual for not complying is prison time.
- The Government can retrospectively validate their visa decisions made prior to the 2023 NZYQ High Court decision, including decisions based on wrong information or outdated law, rather than permitting the decisions to be properly reviewed.
- While the Government has indicated it would apply this legislation to a limited group, the law would allow a future government to apply it to a much wider group of people.
- The removal of due process would mean that people wrongly sent to Nauru, including those who have not been convicted of any offences, would have no way to challenge their removal.

We are also deeply troubled by the Australian Government's arrangement with Nauru for people impacted by the High Court NZYQ decision, particularly that:

- People will be forcefully sent to Nauru to spend the rest of their natural lives on Nauru, with no clarity about their freedom of movement outside of or away from Nauru.
- People with Australian citizen family members will be forcibly and indefinitely separated from their immediate family.
- There are no safeguards for people subject to this deal, either in their removal from Australia or after arrival in Nauru.
- There is concern about how complex health needs will be met, as Australia has had to regularly medically transfer people from Nauru to Australia for treatment, including people suffering from dengue fever in August 2025.
- The financial costs of this arrangement are exorbitant, with the Australian Government to make an upfront payment of $408 million plus $70 million per year on an ongoing basis as part of the Memorandum of Understanding (MoU) with Nauru. If these reported figures are correct, the costs in the first five years of this arrangement will exceed $685 million. With news reports indicating that 280 people will be sent to Nauru, this means that, in the first five years, the cost of sending each person there will be at least $2.4 million.

Suite 4A6, 410 Elizabeth Street
Surry Hills NSW 2010 Australia
Phone: +61 (02) 9211-9333 • admin@refugeecouncil.org.au
Web: www.refugeecouncil.org.au
Incorporated in ACT • ABN 87 956 673 083

The Refugee Council of Australia
is the national umbrella body
for refugees, people seeking asylum
and the organisations and individuals
who support them • Founded 1981

- The mental health impacts on people subject to this – or people who fear they could be subject to it – are immense, with people already reporting high levels of suffering and distress.
- The reputational cost to Australia is enormous, with this deal likely to damage not only Pacific relations but also our standing globally on refugee and human rights issues.

People subject to the proposed legislation who have been convicted of offences have served their time and require support to rehabilitate and reintegrate into the community, just like Australian citizens who have interacted with the justice system. Many have Australian family members who fear that they will never see their loved ones again if they are forced to Nauru. There are also indications that people who have **never been convicted of any crimes** are being swept up in the Nauru arrangement and, since the legislation seeks to **remove due process and natural justice**, they could be permanently separated from family in Australia without any recourse.

We urge you to **oppose** the *Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025* and to **find alternatives** to this legislation and the arrangement with Nauru.

Yours faithfully,



Paul Power
Chief Executive Officer

## Background on this legislation and the arrangement with Nauru

In November 2023, the High Court found that it was unconstitutional and unlawful to detain people indefinitely in immigration detention where there was not a real prospect of people being returned. There have been 354 people issued a Bridging Visa R (BVR) since the NZYQ High Court decision, and news reports indicate that approximately 280 people could be sent to Nauru under the arrangement. It is important to note that the individuals impacted by this decision who have been convicted of offences have **already completed the sentences** determined by courts and, in many cases, have served considerable additional time in immigration detention.

The Bill appears to be a direct attempt to pre-empt or undermine decisions by Australian courts.

This legislation expands upon the rushed legislation passed in the last session of Parliament in 2024 and which we strongly opposed. Those included:

### A.) Migration Amendment Bill 2024

- This law **circumvents the High Court ruling** that the Government's harmful restrictions on people released from detention are unconstitutional and unlawful
- Made the MoU with Nauru possible (and the potential for other undisclosed third countries) so that they can warehouse human beings, effectively **expanding Australia's brutal regime of offshore detention**
- The Government has **neglected to include any safeguards** to ensure people are protected in these third countries and that they are not sent back to danger and persecution in another country
- Contrary to the Government's claim that this law would only impact a small number of people, the legislation clearly set out how it **could apply to tens of thousands**, including recognised refugees and people seeking protection
- The Minister would be able to **remove a refugee's protection finding** in order to remove them
- **Families will be permanently and forcefully separated**

### B.) The Migration Amendment (Removal and Other Measures) Bill 2024

- The Government first introduced this Entry Ban and Forced Removal Bill in March 2024 and later abandoned it due to the lack of support in Parliament and the outcry over its measures
- This law empowers the Home Affairs Minister to direct refugees and people seeking protection, **under threat of 1-5 years of imprisonment**, to return to countries where they face persecution or even death
- The Home Affairs Minister has the power to compel these people to **facilitate their own removal from Australia**, including engaging with the very governments or authoritarian regimes who may have been persecuting or seeking to harm them
- The Minister can **reverse a refugee's protection finding**
- This law would allow the Minister to designate certain countries as **"removal concern countries", essentially banning people coming to Australia** from these countries, including those travelling for study, business tourism or to visit family (effectively a travel ban similar to the Trump administration)