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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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Refugee Protection Bill 2018

No. , 2018

(Mr Wilkie)

**A Bill for an Act to provide a legislative response to
all people seeking asylum in Australia, and for
related purposes**

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1 **A Bill for an Act to provide a legislative response to**
2 **all people seeking asylum in Australia, and for**
3 **related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act is the *Refugee Protection Act 2018*.

Section 2

1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table
3 commences, or is taken to have commenced, in accordance with
4 column 2 of the table. Any other statement in column 2 has effect
5 according to its terms.

6

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

7 Note: This table relates only to the provisions of this Act as originally
8 enacted. It will not be amended to deal with any later amendments of
9 this Act.

10 (2) Any information in column 3 of the table is not part of this Act.
11 Information may be inserted in this column, or information in it
12 may be edited, in any published version of this Act.

13 **3 Simplified outline and object of this Act**

14 *Simplified outline*

15 (1) This Act enables the establishment of a network of centres, located
16 in and run by Asia Pacific countries including Australia, where
17 asylum seekers can go to be registered, have their immediate
18 humanitarian needs met and lodge a preference for country of
19 re-settlement. If the asylum seeker selects Australia, and is within
20 the specified quota, this Act establishes a process for assessing
21 their claim in Australia with appropriate oversight, limited
22 timeframes and judicial review.

23 (2) This Act does not allow mandatory detention and prioritises the
24 applicant's immediate needs and refugee and international human
25 rights law.

Object of this Act

- 1
- 2 (3) The object of this Act is to provide a legislative response to people
3 seeking asylum in Australia, through the Asia Pacific Region, that
4 is sustainable, equitable and humane, and subject to appropriate
5 oversight and review;
- 6 (4) To advance its object, this Act:
- 7 (a) enables a regional framework initiated by the Australian
8 Government in partnership with one or more other countries
9 within the Asia Pacific region; and
- 10 (b) upholds Australia's obligations under international law,
11 specifically the Refugees Convention and other international
12 human rights law.

4 Act binds the Crown

13

14 This Act binds the Crown in each of its capacities.

5 Definitions

- 15
- 16 (1) In this Act:

17 *adverse security assessment* has the same meaning as in Part IV of
18 the *Australian Security Intelligence Organisation Act 1979*.

19 *APASS* (short for Asia Pacific Asylum Seeker Solution) means the
20 regional framework to manage movements of asylum seekers
21 within the Asia Pacific region:

- 22 (a) that is consistent with the Refugees Convention, the Refugees
23 Protocol, the New York Declaration and other international
24 human rights law; and
- 25 (b) to which Australia and one or more other countries within the
26 Asia Pacific region are parties.

27 *APASS applicant*: see subsection 11(1).

28 *APASS applicant to Australia*: see subsection 11(2).

29 *APASS Australian quota* for a year means the quota for the year
30 determined under section 12.

Section 6

1 **APASS case officer** means an APASS case officer appointed in
2 accordance with APASS.

3 **APASS centre**: see section 10.

4 **APASS processing conditions** has the same meaning as in APASS.

5 Note: The APASS processing conditions under APASS include (but are not
6 limited to) the following:

- 7 (a) the timeframes and details of a visa application (including the
8 process of triage, security and health checks and required
9 documentation);
10 (b) specific rights regarding freedom of movement;
11 (c) specific assistance needs (including but not limited to, housing,
12 income, work rights and health);
13 (d) any specific protection concerns (such as women at risk, persons
14 with disabilities, unaccompanied minors, victims of trafficking,
15 victims of trauma and survivors of sexual violence, as well as
16 older persons).

17 **IGIS** means the Inspector-General of Intelligence and Security.

18 **international human rights law** means the international
19 agreements referred to in section 6.

20 **Migration Act** means the *Migration Act 1958*.

21 **New York Declaration** means the New York Declaration for
22 Refugees and Migrants, done at New York on 19 September 2016.

23 **principle of family unity** has a meaning affected by section 8.

24 **principle of the rights and best interests of the child** has a
25 meaning affected by section 8A.

26 **Secretary** means the Secretary of the Department.

27 (2) An expression used in this Act that is defined for the purposes of
28 the Migration Act has the same meaning in this Act as it has in the
29 Migration Act.

30 **6 Application—international agreements for the protection of rights**

31 This Act does not apply to the extent (if any) to which it is
32 inconsistent with any of the following international agreements:

- 1 (a) the Refugees Convention;
 2 (b) the Refugees Protocol;
 3 (c) the International Covenant on Civil and Political Rights, done
 4 at New York on 16 December 1966 ([1980] ATS 23);
 5 (d) the Convention against Torture and Other Cruel, Inhuman
 6 and Degrading Treatment or Punishment, done at New York
 7 on 10 December 1984 ([1989] ATS 21);
 8 (e) the Convention on the Rights of the Child, done at New York
 9 on 20 November 1989 ([1991] ATS 4);
 10 (f) the International Covenant on Economic, Social and Cultural
 11 Rights, done at New York on 16 December 1966 ([1976]
 12 ATS 5);
 13 (g) the Convention on the Elimination of all Forms of
 14 Discrimination against Women, done at New York on
 15 18 December 1979 ([1983] ATS 9);
 16 (h) the Convention on the Rights of Persons with Disabilities,
 17 done at New York on 13 December 2006 ([2008] ATS 12).

18 Note: The text of an international agreement in the Australian Treaty Series
 19 (ATS) could in 2018 be viewed in the Australian Treaties Library on
 20 the AustLII website (<http://www.austlii.edu.au>).

21 7 Severability

- 22 (1) Without limiting the effect of this Act apart from this section, this
 23 Act also has effect as provided by this section.
 24 (2) To avoid doubt, no subsection of this section limits the operation of
 25 any other subsection of this section.

26 *External affairs power*

- 27 (3) This Act has the effect it would have if its operation were expressly
 28 confined to give effect to Australia's rights and obligations under
 29 an agreement with one or more countries.
 30 (4) This Act has the effect it would have if its operation were expressly
 31 confined to acts or omissions that occur beyond the limits of the
 32 States and Territories.

Section 8

- 1 (5) This Act has the effect it would have if its operation were expressly
2 confined to matters that are of international concern.

3 *Aliens power*

- 4 (6) This Act has the effect it would have if its operation were expressly
5 confined to:
6 (a) exercising a power or performing a function that affects an
7 alien (within the meaning of paragraph 51(xix) of the
8 Constitution); or
9 (b) conferring a right or imposing an obligation on such an alien.

10 **8 Principle of family unity**

- 11 (1) The Parliament affirms that the principle of family unity should be
12 adopted in conformity with the obligation to protect the family and
13 respect family life, subject to the best interests of the child, as
14 enshrined in many instruments of international law.
- 15 (2) The principle of family unity must be a paramount consideration in
16 any decision or other action taken for the purposes of this Act.
- 17 (3) The *principle of family unity* includes the principles that:
18 (a) a country should refrain from taking actions that would
19 disrupt members of a family unit of a person; and
20 (b) a country should take action to allow members of a family
21 unit of a person that are dispersed to be reunited without
22 returning them to a country where they would face danger.

23 Note: The expression *member of the family unit* of a person is defined for
24 the purposes of the Migration Act.

25 **8A Principle of the rights and best interests of the child**

- 26 (1) The principle of the rights and best interests of the child must be a
27 paramount consideration in any decision or other action:
28 (a) taken for the purposes of this Act; and
29 (b) that affects a child.
- 30 (2) The *principle of the rights and best interests of the child* includes:
31 (a) the principle of family unity; and

Section 8A

- 1 (b) the principle that a country should recognise and provide for
2 every child's inherent right to life and ensure to the
3 maximum extent possible the survival and development of
4 the child (including health and mental health services,
5 counselling and trauma services, phone and internet,
6 education, legal services and accommodation and financial
7 assistance); and
8 (c) the principle that a country should ensure that throughout the
9 APASS process children will be assured the right to express
10 their views freely in all matters affecting them, their views
11 being given due weight in accordance with the child's age
12 and level of maturity.

1 **Part 2—Enabling of APASS**
2

3 **9 Intention that parties to APASS be legally bound**

4 Parliament recognises that it is the intention of APASS that each
5 party to APASS must be legally bound, either under international
6 law or domestic law, to provide effective protection for asylum
7 seekers and refugees.

8 **10 APASS centres**

9 An *APASS centre* is a centre established under APASS that
10 satisfies the following conditions:

- 11 (a) the centre is developed in cooperation with, and funded by,
12 the parties to APASS;
13 (b) the centre is developed in accordance with the Refugees
14 Convention and the other international instruments referred
15 to in section 6;
16 (c) the centre is located strategically to enable ease of access,
17 making it a preferred alternative to seeking the service of
18 people smugglers.

19 **11 Meaning of *APASS applicant* and *APASS applicant to Australia***

20 (1) A person is an *APASS applicant* if:

- 21 (a) the person is an asylum seeker or refugee; and
22 (b) the person is registered as an asylum seeker at an APASS
23 centre.

24 (2) An APASS applicant is an *APASS applicant to Australia* if:

- 25 (a) upon registration, the person selected Australia as a host
26 country; and
27 (b) the person has been deemed, in accordance with APASS, to
28 fit within the APASS Australian quota for the year during
29 which the person was registered; and
30 (c) the person has been recommended, in accordance with
31 APASS, to the Minister.
-

- 1 (3) If a person is an APASS applicant to Australia, the Minister is
2 responsible for that person and must ensure that the provisions of
3 this Act are fully applied to the APASS applicant, subject to
4 APASS and associated in-country agreements.

5 **12 Australian quota of APASS applicants**

- 6 (1) The Minister must, before the start of each year, declare by
7 legislative instrument the quota of APASS applicants for that year
8 that will be considered for permanent visas in Australia.
- 9 (2) The quota must be determined in accordance with APASS and with
10 the principles of genuine responsibility and cost sharing between
11 the parties to APASS.

12 **13 Determination of transfer arrangements of APASS applicants to 13 Australia**

- 14 (1) Within 60 working days after the day a person becomes an APASS
15 applicant to Australia, the Secretary must determine:
16 (a) that the APASS applicant will remain for processing at the
17 APASS centre where the APASS applicant was registered as
18 an asylum seeker; or
19 (b) that the APASS applicant may enter Australia while their
20 visa claim is being processed.
- 21 (2) A determination under subsection (1):
22 (a) may relate to more than one APASS applicant; and
23 (b) must specify each APASS applicant covered by the
24 determination by name, not by description of a class of
25 persons.
- 26 (3) A determination under subsection (1) is a legislative instrument.
- 27 (4) The Secretary must, in making a determination under
28 subsection (1), consider the following:
29 (a) Australia's non-refoulement obligations;
30 (b) the principle of family unity;
31 (c) whether the APASS centre where the APASS applicant was
32 registered is at capacity;
-

Section 14

- 1 (d) whether the APASS applicant is facing personal danger;
2 (e) whether the APASS applicant is an unaccompanied minor,
3 and the principle of the rights and best interests of the child;
4 (f) whether the APASS applicant has any health needs that
5 indicate the transfer to Australia is necessary;
6 (g) whether the transfer to Australia is necessary in regards to
7 enhancing burden and responsibility-sharing and regional
8 cooperation, and not burden shifting.
- 9 (5) Subsection (4) does not limit the matters that the Secretary may
10 consider in making a determination under subsection (1). However,
11 Australia's obligations under international human rights law are to
12 be the Secretary's paramount consideration.
- 13 (6) If the Secretary determines, under subsection (1), that an APASS
14 applicant to Australia may enter Australia while their visa claim is
15 being processed, the APASS applicant must be individually
16 assessed as to the appropriateness of the conditions of transfer
17 (subject to procedural safeguards) prior to transfer. The procedural
18 safeguards include, but are not limited to, the following:
19 (a) that the APASS applicant will be legally admitted to
20 Australia;
21 (b) that the APASS applicant is both mentally and physically fit
22 for travel;
23 (c) any other safeguards prescribed by the regulations.

24 **14 APASS case officers**

- 25 (1) If it is determined under subsection 13(1) that an APASS applicant
26 will remain for processing at the APASS centre where the APASS
27 applicant was registered as an asylum seeker, an APASS case
28 officer must be allocated to the APASS applicant within 7 days.
- 29 (2) As soon as reasonably practicable after the allocation, the APASS
30 case officer must ensure that the APASS applicant is given:
31 (a) free and independent legal assistance and advice; and
32 (b) information regarding the APASS processing conditions.

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- 1 (3) The APASS case officer must take all reasonable steps (including
2 liaising with Australian authorities):
3 (a) to ensure that a decision can be made on the APASS
4 applicant's visa application; and
5 (b) to assist the decision being made within 180 days from the
6 date of the application.
- 7 (4) The APASS case officer must ensure that the APASS applicant is
8 regularly informed about the process and status of the visa
9 application. The information must be given in a language and
10 format that the APASS applicant understands.

1 **Part 3—Immigration detention**
2
3

4 **15 Relationship with other laws**

5 This Part applies in relation to all immigration detention in
6 Australia, including detention in an APASS centre in Australia,
7 despite any other law of the Commonwealth, a State or a Territory
8 (whether written or unwritten).

9 **16 Immigration detention**

- 10 (1) The Parliament intends that immigration detention be:
11 (a) lawful, under both international law and domestic law; and
12 (b) necessary and proportionate; and
13 (c) for the shortest time possible; and
14 (d) in Australia.
- 15 (2) The Parliament also intends that alternatives to detention are the
16 preferred option to immigration detention for APASS applicants.

17 **17 Alternatives to immigration detention**

- 18 (1) If there is no reason under section 21 for one or more APASS
19 applicants to be taken into, or kept in, immigration detention, the
20 Secretary must, by legislative instrument, determine alternatives to
21 immigration detention that are to apply in relation to the APASS
22 applicant or applicants covered by the determination.
- 23 (2) A determination under subsection (1) must permit the APASS
24 applicant or applicants covered by the determination to live in the
25 community in accordance with the restriction (if any) specified in
26 the determination. The restriction may be any one of the following:
27 (a) a requirement to deposit or surrender documentation such as
28 passports;
29 (b) reporting conditions, such as periodic reporting to an
30 authority or organisation of a kind prescribed by the

- 1 regulations (which may include, for example, an immigration
2 authority or a non-government organisation);
- 3 (c) a requirement that the APASS applicant must reside at a
4 specific address or within a particular suburb or area;
- 5 (d) a requirement to provide a guarantor or surety who would be
6 responsible for ensuring the APASS applicant's attendance at
7 official appointments and hearings and for ensuring that the
8 APASS applicant otherwise reports as specified in any
9 condition of release.
- 10 (3) If a determination under subsection (1) includes a requirement that
11 an APASS applicant deposit or surrender identification
12 documentation, the Secretary must ensure that the APASS
13 applicant is issued with alternative forms of identification.
- 14 (4) A copy of a determination under subsection (1) must be given to
15 the APASS applicant or applicants covered by the determination.

16 **18 Access to assistance in alternatives to immigration detention**

- 17 (1) If a determination under subsection 17(1) is in force that covers an
18 APASS applicant:
- 19 (a) adequate material support, accommodation and access to
20 means of self-sufficiency (including any necessary financial
21 support) must be provided to the APASS applicant; and
- 22 (b) the APASS applicant must have the right to work if the
23 APASS applicant is aged 16 or over; and
- 24 (c) the APASS applicant must have access to each service
25 prescribed for the purposes of subsection 24(1).
- 26 (2) Paragraphs (1)(b) and (c) have effect despite any other law of the
27 Commonwealth, a State or a Territory (whether written or
28 unwritten).

29 **19 Timeframes for the determination of alternatives to immigration 30 detention**

- 31 A determination under subsection 17(1) remains in force for:
32 (a) 6 months; or

Section 20

- 1 (b) if, on application, the Federal Circuit Court makes an order
2 fixing a longer period—that period.

3 **20 Revocation or variation of restrictions**

4 If a determination under subsection 17(1) is in force that covers an
5 APASS applicant, and the APASS applicant fails to comply with
6 the restriction specified in the determination, the Secretary may:

- 7 (a) revoke the determination; or
8 (b) vary the restriction.

9 **21 Reasons for immigration detention**

- 10 (1) An APASS applicant may be taken into, or kept in, immigration
11 detention only for one or more of the following reasons:
12 (a) to document the APASS applicant's entry;
13 (b) to record the APASS applicant's claims for asylum;
14 (c) to determine the APASS applicant's identity;
15 (d) to await health clearance so as to protect public health;
16 (e) to await security clearance;
17 (f) to prevent the APASS applicant from absconding if there is
18 evidence of a risk of the APASS applicant absconding;
19 (g) if there is risk that the APASS applicant might destroy
20 evidence or influence witnesses;
21 (h) if an adverse security assessment has been made in respect of
22 the APASS applicant.
- 23 (2) An APASS applicant must not be taken into, or kept in,
24 immigration detention for any of the following reasons:
25 (a) the APASS applicant's mode of arrival (for example by
26 boat);
27 (b) irregular entry or stay, provided that the APASS applicant
28 has presented themselves without delay to the authorities and
29 shown good cause for their irregular entry or stay;
30 (c) executive order.
- 31 (3) An APASS applicant must not be held in prison, with prisoners or
32 in prison-like facilities unless the APASS applicant has been

1 convicted of, or is being held in custody on remand in relation to,
2 an offence against a law of the Commonwealth, a State or a
3 Territory that is punishable by imprisonment.

4 (4) No APASS applicant may be subjected to arbitrary or mandatory
5 detention.

6 **22 Time frames for immigration detention**

7 (1) An APASS applicant (other than an APASS applicant referred to in
8 subsection 26(2)) must not be kept in immigration detention for
9 more than 3 months.

10 Note: Subsection 26(2) is about the detention of children.

11 (2) On application, the Federal Circuit Court of Australia may extend,
12 or further extend, that period by up to 6 months. The court may do
13 so only if that period, or that period as last extended, has not yet
14 ended.

15 (3) In determining whether to make an order under subsection (2), the
16 Federal Circuit Court of Australia must take into account the
17 following:

- 18 (a) that detention of APASS applicants should only occur as a
19 measure of last resort and that there should be a general
20 presumption against the detention;
- 21 (b) whether there are any non-custodial measures available (for
22 example the imposition of reporting obligations, sureties or
23 other conditions);
- 24 (c) the balancing of the rights to liberty, security and freedom of
25 movement of the APASS applicant with the public policy
26 initiatives of detention.

27 (4) If the Federal Circuit Court of Australia makes an order under
28 subsection (2), the court may also make any other order the court
29 considers appropriate to facilitate the APASS applicant not being
30 kept in immigration detention for longer than the extended, or
31 further extended, period.

Section 23

1 **23 Information provided to detainees**

2 Each APASS applicant that is taken into immigration detention
3 must be immediately informed (orally and in writing, and in a
4 language the APASS applicant understands) of the following:

- 5 (a) the reason for the APASS applicant's detention;
6 (b) the APASS applicant's legal rights in regards to the detention
7 (including the process of judicial review and the contact
8 information for legal aid and consular assistance);
9 (c) the proposed time frame for the APASS applicant's
10 detention.

11 **24 Access to services in detention**

12 (1) The regulations may prescribe any or all of the following services
13 for APASS applicants in immigration detention:

- 14 (a) health and mental health services;
15 (b) counselling and trauma services;
16 (c) phone and internet;
17 (d) education;
18 (e) visiting services (including daily access to visitors, whether
19 they are known to the APASS applicant or part of a broader
20 community or non-government service);
21 (f) government services (including immigration, housing and
22 Centrelink services);
23 (g) free and independent legal services.

24 (2) An APASS applicant in immigration detention must have access to
25 each service prescribed for the purposes of subsection (1).

26 **25 Communication for the purpose of obtaining immigration
27 assistance and immigration legal assistance**

28 (1) In this section, *immigration assistance* and *immigration legal
29 assistance* have the same meaning as in Part 3 of the Migration
30 Act.

- 1 (2) An APASS applicant in immigration detention is entitled, at any
2 time during business hours, to communicate and consult regarding
3 immigration assistance or immigration legal assistance.
- 4 (3) All reasonable efforts are to be made to facilitate an APASS
5 applicant to communicate or consult, outside business hours,
6 regarding immigration assistance or immigration legal assistance if
7 the need to communicate or consult is urgent.
- 8 (4) Adequate time and facilities are to be made available to an APASS
9 applicant in detention for the purpose of receiving immigration
10 assistance or immigration legal assistance.
- 11 (5) Without limiting subsection (4), an APASS applicant who is
12 receiving immigration assistance or immigration legal assistance,
13 or the APASS applicant's legal counsel, may be required to be
14 within sight, but must not be required to be within hearing, of
15 others (including immigration detention staff).

16 **26 Children in detention**

- 17 (1) It is the intention of Parliament that APASS applicants who are
18 children:
- 19 (a) should not be deprived of liberty, except as a measure of last
20 resort; and
- 21 (b) should be deprived of liberty only for the shortest appropriate
22 period of time, taking into account the extreme vulnerability
23 and need for care of children (particularly of unaccompanied
24 minors).
- 25 (2) Without limiting subsection (1) or section 8A, an APASS applicant
26 who is 18 years old or less, or who is reasonably suspected to be 18
27 years old or less, must not be kept in immigration detention for
28 more than 7 days.
- 29 Note: Section 8A requires the principle of the rights and best interests of the
30 child to be a paramount consideration in any decision or other action:
- 31 (a) taken for the purposes of this Act; and
32 (b) that affects a child.
- 33 (3) On application, the Federal Circuit Court of Australia may extend,
34 or further extend, that period by up to 3 months. The court may do
-

Section 27

- 1 so only if that period, or that period as last extended, has not yet
2 ended.
- 3 (4) If the APASS applicant is an unaccompanied minor, the first order
4 under subsection (3) in relation to the APASS applicant must be
5 obtained within 24 hours of the APASS applicant being taken into
6 immigration detention or as close as possible to that time.
- 7 (5) In determining whether to make an order under subsection (3), the
8 Federal Circuit Court must take into account the following:
- 9 (a) the effect of subsection (1) and section 8A;
- 10 (b) that detention of APASS applicants should only occur as a
11 measure of last resort and for the shortest possible time, and
12 that there should be a general presumption against the
13 detention;
- 14 (c) whether there are any non-custodial measures available (for
15 example the imposition of reporting obligations, sureties or
16 other conditions);
- 17 (d) the balancing of the rights to liberty, security and freedom of
18 movement of the APASS applicant with the public policy
19 initiatives of detention.
- 20 (6) If the Federal Circuit Court of Australia makes an order under
21 subsection (3), the court may also make any other order the court
22 considers appropriate to facilitate the APASS applicant not being
23 kept in immigration detention for longer than the extended, or
24 further extended, period.

25 **27 Independent monitoring**

- 26 (1) Immigration detention facilities must be subject to external
27 inspections every 6 months independent of the administration of
28 the facility.
- 29 (2) An inspection under subsection (1) must be conducted by an
30 independent organisation determined, by legislative instrument, by
31 the President of the Australian Human Rights Commission.

- 1 (3) For the purposes of carrying out an inspection under
2 subsection (1), an organisation determined under subsection (2)
3 may:
- 4 (a) access all information on the numbers of detainees and
5 locations of detention, as well as all information relevant to
6 the treatment of detainees (including their records and
7 conditions of detention); and
 - 8 (b) freely choose which immigration detention facilities to visit
9 (including by making unannounced visits at their own
10 initiative, and which detainees to interview); and
 - 11 (c) conduct private and fully confidential interviews with
12 detainees and staff or contractors (including medical staff or
13 contractors) working at the immigration detention facility in
14 the course of their visits; and
 - 15 (d) make recommendations to the immigration detention
16 facilities administration and other competent authorities.
- 17 (4) This section does not limit any other right or power of an
18 organisation or individual to access an immigration detention
19 facility that exists apart from this section.

1 **Part 4—Adverse security assessments**
2

3 **28 Adverse security assessments**

4 (1) Despite paragraph 36(1)(b) of the *Australian Security Intelligence*
5 *Organisation Act 1979*, Part IV of that Act applies to a security
6 assessment in respect of an APASS applicant to Australia.

7 (2) The functions of the IGIS include inquiring, on the IGIS's own
8 initiative, into any adverse security assessments furnished in
9 respect of an APASS applicant to Australia.

10 (3) The IGIS may, despite any other law, communicate directly with
11 an APASS applicant to Australia for the purposes of an inquiry
12 referred to in subsection (2) in relation to the APASS applicant.

13 (4) To avoid doubt, subsection (3) of this section does not limit the
14 powers of the IGIS under subsection 17(2) of the
15 *Inspector-General of Intelligence and Security Act 1986* in relation
16 to an inquiry referred to in subsection (2) of this section.

17 (5) Alternatives to detention that are appropriate in light of the specific
18 security risk posed must be identified and considered.

19 (6) Special consideration should be given to the wellbeing of the
20 children or other dependents of any asylum seekers against whom
21 an adverse security assessment is made.

1 **Part 5—Review of decisions**
2

3 **29 Review of decisions**

4 Applications may be made to the Administrative Appeals Tribunal
5 for review of any of the following decisions:

- 6 (a) a decision of the Secretary under subsection 13(1) that an
7 APASS applicant to Australia will remain for processing at
8 the APASS centre where the APASS applicant was registered
9 as an asylum seeker;
- 10 (b) a decision of the Secretary under section 20 to revoke a
11 determination under subsection 17(1);
- 12 (c) a decision of the Secretary under section 20 to vary the
13 restriction specified in a determination under
14 subsection 17(1).

1 **Part 6—Jurisdiction of courts**
2

3 **30 Jurisdiction of the Federal Circuit Court**

4 Jurisdiction is conferred on the Federal Circuit Court in relation to
5 any civil matter arising under this Act.

1 **Part 7—Miscellaneous**
2

3 **31 Regulations**

4 The Governor-General may make regulations prescribing matters:

- 5 (a) required or permitted by this Act to be prescribed by the
6 regulations; or
7 (b) necessary or convenient to be prescribed for carrying out or
8 giving effect to this Act.