



Australian Government

Australian Government response to the
Senate Legal and Constitutional Affairs Legislation Committee
report:

Migration Amendment (Prohibiting Items in Immigration Detention
Facilities) Bill 2017

APRIL 2024

Recommendations made on the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2020

Committee Recommendations

Recommendation 1:

2.81 The committee recommends that the department provide a central information registry regarding the status and location of immigration detainees in order to facilitate greater ease of communication with families, legal representatives and advocates.

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 2:

2.82 The committee recommends that the government consider amending the Bill in accordance with the third recommendation of the Australian Human Rights Commission, to ensure that detainees have access to communication facilities that will reasonably meet their needs, and enable timely, and where appropriate, private contact with friends, family, and legal services.

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 3:

2.83 Subject to the preceding recommendations, the committee recommends that the Senate pass the Bill.

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Labor Party Senators' Dissenting Report

Recommendations

Recommendation 1

1.13 Labor Party senators recommend that the Bill be amended in accordance with the first recommendation of the Law Council of Australia to narrowly confine the definition of 'prohibited thing', and in accordance with the Legal Aid New South Wales proposal that 'prohibited thing' be defined in statute to enable appropriate parliamentary oversight.

Response

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 2

1.22 Labor Party senators recommend that the Bill be amended in accordance with the second recommendation of the Law Council of Australia to ensure that detainees are not prevented from possessing or using electronic devices such as mobile phones unless there is evidence that their removal is both necessary and proportionate, and in accordance with the third recommendation of the Australian Human Rights Commission to ensure that all people in immigration detention have adequate opportunities to communicate with people outside detention.

Response

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 3

1.25 Labor Party senators recommend that the Bill be amended in accordance with the third recommendation of the Law Council of Australia to ensure that medications obtained under prescription, or supplements recommended by a health practitioner, are not caught by the provision, and that the provision is directed only at narcotic or restricted substances.

Response

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 4

1.29 Labor Party senators recommend the Bill be amended in accordance with the fourth recommendation of the Law Council of Australia to limit searches of detainees' personal effects and rooms to cases where there is reasonable suspicion that contraband is in the detainee's possession.

Response

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 5

1.32 Labor Party senators recommend that the Bill be amended in accordance with the fifth recommendation of the Law Council of Australia to expressly refer to the principle that detainees not be searched unless there is a reasonable suspicion that illegal substances or items are in their possession, and that strip searches only be conducted in exceptional circumstances.

Response

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 6

1.36 Labor Party senators recommend that the Bill be amended to ensure that detector dogs are able to be used in immigration detention and transit centres, but are not permitted to be used on detainees.

Response

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Recommendation 7

1.37 Subject to the preceding recommendations, Labor Party senators recommend that the bill be passed.

Response

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.

Australian Greens Dissenting Report

Recommendation

Recommendation 1

1.14 The Australian Greens recommend that this bill be opposed by the Senate

Response:

The Government **notes** this recommendation. However, given the passage of time since the report was tabled, a substantive Government response is no longer appropriate.