

## Factsheet

## OFFSHORE PROCESSING: AN OVERVIEW

Last updated: August 2018

*Since 2012, Australia has sent asylum seekers arriving by boat without valid visas 'offshore', to the Pacific island nation of Nauru and to Manus Island in Papua New Guinea.*

### **What is 'offshore processing'?**

Since 13 August 2012, asylum seekers arriving in Australia by boat without valid visas have been subject to 'offshore' or 'third country' processing either in the Republic of Nauru (Nauru) or on Manus Island in Papua New Guinea (PNG). Offshore processing involves asylum seekers being detained and undergoing health, security and identity checks in Australia, before being forcibly transferred to Nauru or PNG at the earliest possible opportunity and undergoing refugee status determination (RSD) in those countries.

All asylum seekers who have arrived by boat since August 2012 have been liable to removal to Nauru or PNG, even if they applied for asylum immediately upon arrival in Australia or had characteristics warranting special consideration (such as being an unaccompanied minor, a survivor of torture and trauma, or a victim of trafficking; or having special health needs requiring treatment in Australia, or immediate family already living in Australia). However, while all asylum seekers have been liable to be sent offshore, in practice some remained in Australia due to a lack of space in the offshore facilities or for other reasons. At various times asylum seekers have also been brought back from Nauru or PNG and permitted to remain in Australia, either temporarily or on an ongoing basis.

Despite arrangements for offshore processing remaining in place, no new asylum seekers have been transferred to Nauru or PNG since 2014. Instead, new arrivals have been intercepted and turned back at sea or otherwise returned to their countries of origin.

### **What is the legal framework for these arrangements?**

The terms of Australia's offshore processing agreements were originally set out in two memoranda of understanding, signed in August and September 2012 with Nauru and PNG respectively. These were subsequently superseded by agreements in largely similar terms in August 2013. The 2013 agreement between PNG and Australia is also supported by a Regional Resettlement Arrangement, signed by the two countries on 19 July 2013.

## **Brief history of offshore processing**

Australia first introduced 'offshore processing' in Nauru and PNG in 2001, under arrangements referred to as the 'Pacific Solution'. Despite formally remaining open for six years, the last asylum seeker left Manus Island in 2004 (after spending the previous 10 months as the only person detained there). Offshore processing was suspended when the Labor government came to power in late-2007 but resumed under Labor in August 2012 and was continued by successive Liberal-National Coalition governments. These arrangements have been widely condemned internationally and domestically.

## **Offshore processing since August 2012**

Asylum seekers who arrived in Australia by boat between 13 August 2012 and 18 July 2013 make up a first cohort of people subject to offshore processing. More than 600 adult male asylum seekers were sent to Nauru and more than 350 men, women and children were sent to PNG during this period, while others remained in Australia. No one transferred offshore in this cohort ever completed RSD in Nauru or PNG. Instead, after 19 July 2013, they began to be brought back to Australia where they were required to wait (either in the community or in detention) before being permitted to lodge fresh claims for asylum and start the process again from 2015 onwards. People in this cohort are subject to 'fast track' processing in Australia and, if found to be refugees, will only be eligible to apply for temporary visas.

Asylum seekers who arrived in Australia by boat on or after 19 July 2013 form a second cohort of people subject not only to offshore processing, but also a permanent ban on settlement in Australia if found to be refugees. Between July 2013 and December 2014, more than 1,300 male asylum seekers were sent to the 'regional processing centre' (RPC) on Manus Island in PNG. This centre was meant to accommodate only adult males, but it is believed some minors were also sent there by mistake. More than 1,350 men, women and children were sent to the RPC in Nauru. People in this group may be brought back to Australia temporarily in certain circumstances (such as to receive medical treatment or give birth), at which point they are called 'transitory persons'. However, all transitory persons must be sent back offshore as soon as the reason for their return to Australia is resolved.

## **Durable solutions**

Since July 2013, successive Australian governments have consistently stated that no refugees will ever be resettled from Nauru or PNG in Australia, despite a lack of viable alternatives. Some refugees may be able to remain in Nauru or PNG on either a temporary or permanent basis, although integration prospects are limited. A small number of refugees were relocated from Nauru to Cambodia under a controversial agreement with Australia, and some independently secured resettlement opportunities in Canada. More recently the United States agreed to resettle some (but not all) refugees from Nauru and PNG. New Zealand has also extended a resettlement offer but Australia has refused it.