

RESPONSE OFFICIAL **from Department of Home Affairs – provided to The Wire.**

Attributable to a Departmental spokesperson:

- The Australian government is committed to maintaining a migration system that is robust, effective and in the national interest.
- On Tuesday 26 August 2025 the Minister for Home Affairs introduced the Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025 to make targeted amendments of the Migration Act to confirm procedural fairness does not apply to the exercise of specific powers that deal with:
 - the taking of action in relation to third country reception arrangements;
 - the disclosure of information about removal pathway non-citizens or certain former removal pathway non-citizens to foreign governments; and
 - the issuing of removal pathway directions to removal pathway non-citizens to require them to take certain steps to facilitate their lawful removal from Australia.
- These provisions are directed at non-citizens who have exhausted all legitimate avenues to remain in Australia – and for whom removal is the only remaining outcome under Australian law.
 - In such cases, the purpose of the law should be clear: to give effect to removal as swiftly and effectively as possible.
- Importantly, this Bill will make clear that any actions or things done in relation to third country reception arrangements are not conditioned on an obligation to afford procedural fairness to an affected person.
 - The amendments in the Bill, and the associated validation provisions, reflect the law as it was declared by the Federal Court to be in *TCXM v Minister for Immigration and Multicultural Affairs* [2025] FCA 540 - a case that the Government won.
- Procedural fairness is a fundamental principle in many areas of decision making. However, these provisions can and are being used by non-citizens to delay and frustrate their removal, at cost to the Commonwealth in circumstances where it is neither necessary nor appropriate for it to continue to apply.
- These amendments do not remove procedural fairness from the processes that support decisions whether to cancel or to refuse grant of a visa.
 - Neither do they affect merits review.
- The amendments in this Bill are directed to the final steps in the removal process, where non-citizens who are on a removal pathway have had all claims to remain in Australia considered and rejected.

- The Government does not return people to countries in respect of which they have been found to engage Australia's non-refoulement obligations.
 - These amendments will not change that.