



## EPBC ACT – NEW DETENTION REGIME FOR SUSPECTED UNAUTHORISED NON-CITIZEN OFFENDERS

New provisions have been added into the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) relating to the detention of persons suspected of being unauthorised non-citizens who have committed offences against the EPBC Act or its regulations. These provisions will enable the EPBC Act to be enforced in Australia's maritime jurisdiction and non self-governing external Territories to protect Commonwealth reserves, such as Ashmore Reef National Nature Reserve, and precious marine species, including turtles, dolphins and dugong.

The new provisions bring the EPBC Act into line with the provisions contained in the *Migration Act 1958* dealing with the detention of unauthorised non-citizens. The new provisions mirror existing provisions relating to the detention of suspected illegal foreign fishermen under the *Fisheries Management Act 1991*.

The powers and duties contained in the amendments cover a range of situations including the detention of people suspected of committing an offence, the searching and screening of detainees and the use of biometrics to determine identity. The provisions are necessary to ensure the safety of the detainees and other people, and to ensure that the illegal activities can be fully investigated. The use of the powers is subject to strict rules and limitations.

In essence the new provisions allow an authorised officer to bring a person into Australia if they are suspected of being an unauthorised non-citizen who has committed an offence against the EPBC Act or Regulations.

They can then be placed in detention ('environment detention') for a maximum of seven days while deciding whether to lay charges.

At the end of environment detention the unauthorised non-citizen may be transferred into immigration detention under the *Migration Act 1958*, allowing for the completion of the prosecution. If the decision is made not to lay charges, then the Department of Immigration and Citizenship would seek to send the suspected unauthorised non-citizens home as soon as is reasonably practicable.

The new EPBC Act provisions facilitate the detainees' transition from environment to immigration detention by providing for their detention to be consistent under both forms of detention.

The provisions which incorporate the new detention regime into the EPBC Act were passed by Parliament in December 2006. The provisions will be implemented when the Department of the Environment and Water Resources and the Department of Immigration and Citizenship have established mechanisms and protocols needed to implement the regime.

Further information about the EPBC Act is available from the Department of the Environment and Water Resources web site [www.environment.gov.au/epbc](http://www.environment.gov.au/epbc), or by contacting the Department's Community Information Unit, email [ciu@environment.gov.au](mailto:ciu@environment.gov.au), or freecall 1800 803 772.