

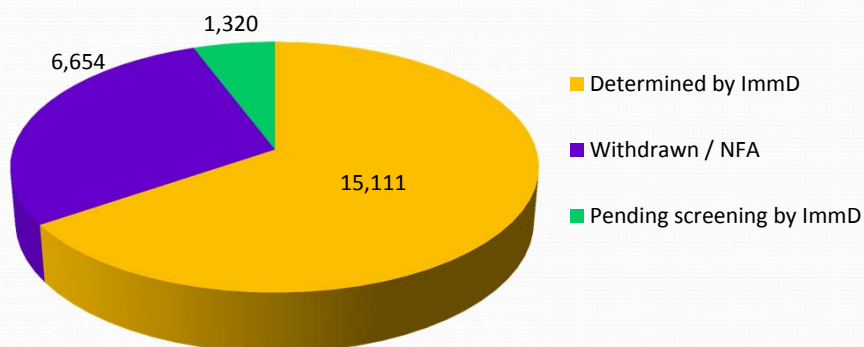
Subcommittee to Follow Up Issues Relating to
the Unified Screening Mechanism for Non-refoulement Claims

Proposals to Amend the Immigration Ordinance

(27.11.2018)

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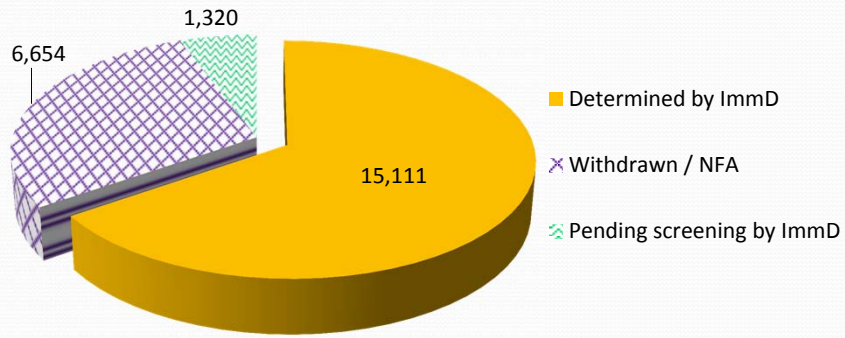
Claim situation



Total Number of Claims Received: 23,085

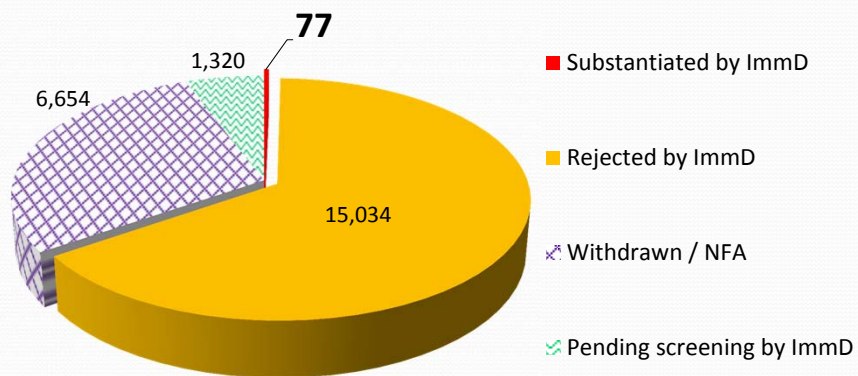
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Claim situation



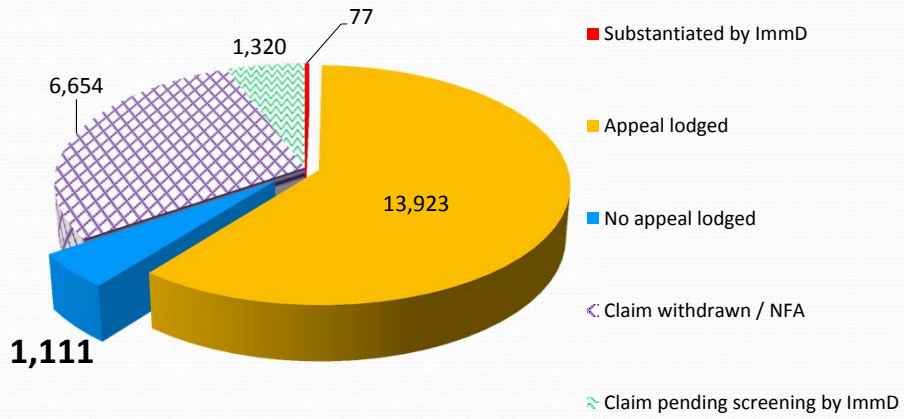
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Claim situation



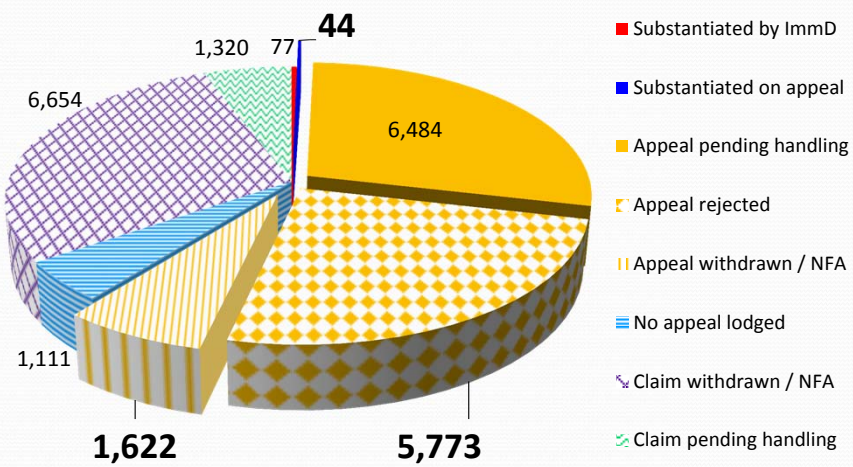
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Claim situation



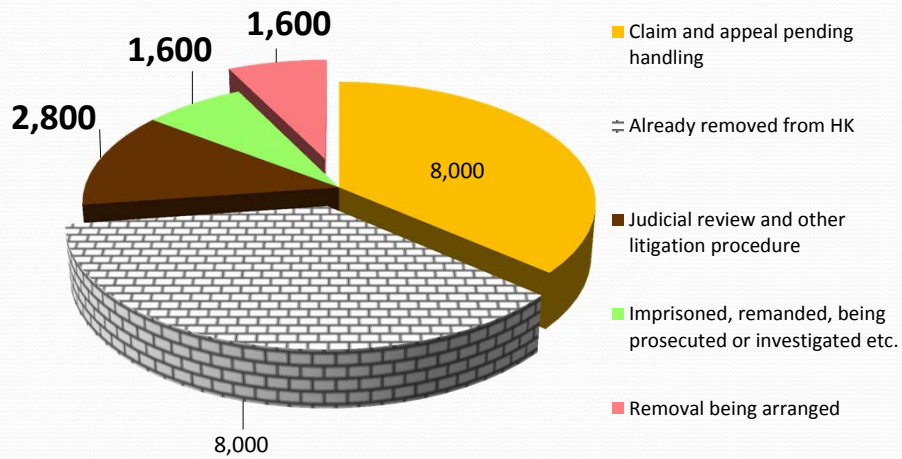
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Claim situation



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Removal situation



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Other Areas

■ Deadline on Lodging a Claim

- Some opine that illegal immigrants, overstayers or those who are refused permission to land should be required to make a claim to ImmD within a specified period, otherwise their applications will not be processed
- We need to carefully examine whether not processing all late claims is in compliance with the "high standards of fairness" as required by the Court

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Other Areas

■ Publication of Appeal Decisions

- Some opine that appeal decisions should be published
- Making reference to overseas practices and legislation, we need to examine if the Immigration Ordinance has to be amended for implementing the proposal

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Other Areas

■ Expeditious Repatriation

- ImmD' s established policy is to suspend repatriation if the removee has applied for leave for judicial review
- We will closely monitor the situation and maintain liaison with the Judiciary
- We will examine the relevant legal issues. Subject to legal advice and the overall situation of handling claims, the Government will consider whether there is room or need to change the existing policy

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Other Areas

■ Detention Period

- ImmD is bound by the common law Hardial Singh principles when exercising power to detain
- Drawing reference to the handling of Vietnamese boat people in the 1980s, we are considering adding provisions to require that when deciding if the detention period is reasonable, apart from the progress of screening claims and arranging removal, due consideration should be given to other related factors

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Other Areas

■ Unlawful Employment

- Currently, overstaying visitors or refused landing passengers not yet subject to a removal order or a deportation order are not bound by section 38AA of the Immigration Ordinance
- We are considering amending the provision to align the penalty on unlawful employment of such persons with that of illegal immigrants
- We are considering imposing heavier penalty on the concerned employers

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Other Areas

■ Illegal Immigration

- We will examine whether the penalty for failure to ensure that passengers have valid travel documents should be raised suitably, and expanding the coverage of relevant expenditure payable by the owner of aircraft
- For more effective pre-arrival control, we are studying if the communication between ImmD and airlines or other stakeholders should be strengthened

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Other Areas

■ Grounds of Claim

- Some opine that the hybrid nature of USM, combining statutory provisions and administrative measures, is not desirable
- We are examining whether the relevant court judgments could be incorporated into the law to comprehensively underpin screening procedures by law

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Way Forward

- If the various initiatives continue to be effective and the number of new claims remains at the current level, ImmD is expected to complete the screening of all the backlog claims in early 2019. The number of appeals will be gradually worked down in the next two to three years
- We aim to consult the Panel on Security on the remaining amendment proposals early next year before submitting the bill to LegCo for scrutiny

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The End

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