

## NOTICE TO GROUP MEMBERS

S CI 2014 04423

### BETWEEN:

A.S. BY HER LITIGATION GUARDIAN MARIE THERESA      Plaintiff  
ARTHUR

- and -

MINISTER FOR IMMIGRATION AND BORDER PROTECTION      First Defendant

COMMONWEALTH OF AUSTRALIA      Second Defendant

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On 26 August 2014, a group proceeding (“class action”) was started in the Supreme Court of Victoria claiming compensation for every person who:

- has been in detention on Christmas Island from 27 August 2011 to 26 August 2014 inclusive (whether or not they have since been released from detention) (the relevant period); and
- was injured and/or pregnant during the relevant period while in detention; and
- has, during the relevant period, suffered an injury or an exacerbation of an injury as a result of the Australian government’s alleged failure to provide him, her or his or her parents with reasonable health care; and
- has claimed that Australia owes him or her protection obligations under section 36 of the Migration Act 1958 (Cth).

Every person who met the definition above was a ‘group member’ in the class action. An individual (known as the ‘lead plaintiff’) brought the case on her own behalf and on behalf of all the group members. The lead plaintiff in this case was a minor known by pseudonym ‘A.S.’.

The class action was brought against both the Minister for Immigration and Border Protection (the **Minister**) and the Commonwealth of Australia (the **Commonwealth**).

It was alleged that there were a number of failures relating to the conditions of detention on Christmas Island that caused physical and mental injury to A.S. and the group members. These allegations were denied by the Minister and the Commonwealth.

It is possible that you were a potential group member in the class action and that you received an Opt Out Notice about it earlier this year from the Department of Immigration and Border Protection.

## **Proceeding will no longer continue as a class action**

**On 27 March 2017, the Court ordered that the proceeding no longer continue as a class action.** This means that the case will now only concern the lead plaintiff, 'A.S.', and cannot result in compensation for or determine the rights of any other person.

Any person who previously met the definition of a group member who wishes to claim compensation for injury suffered while detained on Christmas Island must now commence their own court proceedings.

## **Who is affected?**

The Court's order affects every person who meets the group member definition set out above. If you think you are affected by the order, you should seek independent legal advice as soon as possible.

## **Time limits to bring individual claims**

There are time limits to bring claims for compensation in Australia, so it is important that any person who wishes to make an individual claim seeks legal advice as soon as possible for this reason also.

## **Appeal rights**

Individuals who were group members in the class action have the right to appeal the Court's decision that the proceeding not continue as a class action. However, the time for commencing any such appeal expires on 24 May 2017. If you think that you may wish to appeal, you should seek legal advice as soon as possible and well before that date.

## **More Information**

If you have any questions or want further details about this matter case, go to [www.mauriceblackburn.com.au/christmasisland](http://www.mauriceblackburn.com.au/christmasisland), call 1800 286 052 or send an email to: [christmasisland@mauriceblackburn.com.au](mailto:christmasisland@mauriceblackburn.com.au).

You can inspect relevant documents about the case including the statement of claim and defences, and amended versions of these documents by contacting [christmasisland@mauriceblackburn.com.au](mailto:christmasisland@mauriceblackburn.com.au) or on the Supreme Court of Victoria website for this proceeding:

<http://www.supremecourt.vic.gov.au/home/law+and+practice/class+actions/christmas+island+detention+centre+class+action>

You can also contact any other lawyer of your choice to seek further legal advice in relation to the matters raised in this notice.