

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Group 3**

**Program 1.6**

**Question No. 190**

**Senator Hanson-Young asked the following question at the hearing on 24 May 2012:**

- a) What is the department doing, or intending to do, in relation to the recommendations of the inquiry into the Migration Act (Removing Mandatory Minimum Penalties) Bill 2011?
- b) What has the Department been instructed by the minister to do regarding review of section 236B of the *Migration Act 1958*, particularly:
  - i. the operation of the mandatory minimum penalties applied to aggravated people smuggling offences under, with particular reference to alternative approaches to mandatory minimum sentencing provisions, including where judicial officers are given discretion to impose lesser sentences where they are satisfied that the circumstances would make it unjust to impose the prescribed sentence for an offence;
  - ii. options for differentiating between the organisers of people smuggling operations and boat crew of these operations in sentencing; and
  - iii. specific concerns raised during this inquiry regarding Australia's human rights obligations under international law.

**The answer to the honourable senator's question is as follows:**

- a) The Attorney-General's Department is preparing a draft response to address recommendations arising from the Senate Legal and Constitutional Affairs Committee inquiring into the Migration Amendment (Removing Mandatory Minimum Penalties) Bill 2012. The response will be tabled once it has been considered by Government.
- b) The Attorney-General's Department does not provide details of any instructions received from ministerial offices about any matters of Government policy.