

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES – 26 – 27 MAY 2014

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(BE14/389) PROGRAMME – 3.5 and 3.6: Illegal Maritime Arrival (IMA)
Offshore Management**

Senator Conroy (Written) asked:

What rights of appeal do individuals have if a decision has been made to deport them?
Does this change if the individuals are detained on land or at sea?

Answer:

The word ‘deport’ has a specific meaning under section 200 of the *Migration Act 1958* (the Migration Act). It is rare for a person to be the subject of a deportation order.

A person who is the subject of a deportation order can seek merits review of that decision to the Administrative Appeals Tribunal (AAT) unless the Minister makes the decision personally and, as part of that decision, has included a certificate declaring the person to be an excluded person pursuant to section 502.

The individual can seek judicial review of the AAT decision or of a personal decision of the Minister to which a section 502 certificate applies.

The rights of appeal of an individual against a decision made by an officer of the Commonwealth are not determined by where the individual is detained, but rather by whether a particular appeal body has jurisdiction to review the relevant administrative action.