

## QUESTION TAKEN ON NOTICE

### SUPPLEMENTARY BUDGET ESTIMATES HEARING: 1 November 2005

#### IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

#### **(100) Output 1.3: Enforcement of Immigration Law**

Senator Kirk asked:

According to the Human Rights and Equal Opportunity Commission not advising detainees of their legal rights is a violation of Article 10 of the International Covenant on Civil and Political Rights (ICCPR). What is DIMIA doing to remedy this violation?

*Answer:*

The Department's policies and practices are consistent with Article 10 of the ICCPR which provides that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person ...". While Article 10 does not refer to the need to advise detainees of their legal rights, it is departmental policy that detainees are provided with all reasonable facilities for obtaining legal advice or taking legal proceedings in relation to their immigration detention. Section 256 of the *Migration Act 1958* ("the Act") in fact obliges the Department to provide such assistance at the detainee's request.

In relation to the specific issue of legal representation, the Department provides detainees with all reasonable facilities for obtaining legal advice or taking legal proceedings in relation to their immigration detention. Section 256 of the *Migration Act 1958* ("the Act") in fact obliges the Department to provide such assistance at the detainee's request.

In addition *Migration Series Instruction 234: General Detention Procedures*, requires that detainees be informed as soon as practicable of their entitlement to seek legal advice, with the exception of certain detainees referred to in s 193(1) of the Act, such as unauthorised arrivals and certain character cancellation cases.

Upon arrival at an immigration detention facility detainees are informed, as part of the induction process, of their right to receive visits from their legal representatives, contact them by phone and to receive and send material to them via fax or post.