

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 1 November 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(45) Output 1.2: Refugee and Humanitarian Entry and Stay

Senator Nettle asked:

Does 222A violate Article 31 of the Refugees Convention (TPV – 222A Low level criminal convictions)?

Answer:

No. Clause 866.222A of the Migration Act does not violate Article 31 of the Refugees Convention.

Clause 866.222A requires that protection visa applicants cannot be granted a permanent protection visa if they have been convicted, within the last 4 years, of an offence against a law of the Commonwealth of Australia, a State or Territory that carries a maximum available penalty of at least 12 months imprisonment. Instead, if protection obligations are owed, applicants are entitled to a temporary protection visa.

The provisions under this clause reflect the principle set out in Article 2 of the Refugees Convention, that a refugee has duties to the country of refuge, which require in particular that he or she conform to its laws and regulations as well as to measures taken for the maintenance of public order.