



**Australian Government**  
**Department of Immigration and Citizenship**

SECRETARY

27 July 2007

Chairman  
Senate Legal and Constitutional Affairs Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Senator Barnett

**Migration Amendment (Sponsorship Obligations) Bill 2007**

I refer to the Senate Legal and Constitutional Affairs Committee's inquiry into the Migration Amendment (Sponsorship Obligations) Bill 2007 ('the Bill') and the answers my department submitted in response to the questions on notice.

Since providing answers to these questions, my department has received further advice from the Attorney-General's Department on section 140ZJ in Schedule 1 to the Bill. We have updated our answer to question 5 in Part D – "Inspectors" to reflect this advice.

Please find attached a revised answer to question 5 in Part D – "Inspectors".

Yours sincerely

(Andrew Metcalfe)

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## QUESTIONS ON NOTICE TO DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

### *Migration Amendment (Sponsorship Obligations) Bill 2007*

Please replace our answer to question 5 in Part D – “Inspectors” with the following

5. Would clause 140ZJ(9), which makes documents or information inadmissible in evidence against the person in any criminal proceedings, apply to prosecutions relating to national security offences?

The Attorney-General's Department (AGD) has confirmed that information obtained under section 140ZJ would be inadmissible in any criminal proceedings (apart for an offence against section 140ZK) including prosecutions relating to national security offence. In addition, since providing our original answer to this question, AGD has advised that the effect of the word “indirect” in subsection 140ZJ(9) is that where an inspector discloses information to the Australia Federal Police (AFP) (or any other agency), that information, or any evidence obtained as a result of receiving that information (e.g. where the AFP conducts its own investigation), could not be used in any criminal prosecution against the person. This is because this further evidence would have been obtained as an indirect consequence of the initial evidence obtained by the inspector under section 140ZJ. However, if the AFP obtained evidence completely independently of the section 140ZJ inspection, that evidence would be admissible in a criminal prosecution. Government sponsored amendments to section 140ZJ are being considered.