

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 1 November 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(164) Output 1.3: Enforcement of Immigration Law

Senator Ludwig asked:

Is there a policy manual relating to the consideration of debt cancellation waivers, or the imposition of debts?

- If so, provide a copy.
- If not, why not?

Answer:

These matters are addressed in Migration Series Instruction 396, "*Liability Of Non Citizens To Repay Costs Of Detention, Removal Or Deportation*". Section 6.3 of this instruction deals with waivers of immigration detention and removal debts. It states:

6.3 Waiving debts

- 6.3.1 Only the Finance Minister (or the Parliamentary Secretary for that Minister's portfolio or the Minister's delegates in the Department of Finance and Administration) has the authority to waive debts owing to the Commonwealth. The effect of waiving a debt is that the debt is extinguished and cannot be reinstated if circumstances change.
- 6.3.2 If a departmental employee considers that a debt should be waived, they must forward a request for waiver to the Chief Financial Officer in Central Office. The Chief Financial Officer will arrange for a submission to be made to the Finance Minister.
- 6.3.3 Departmental policy is that consideration should be given to requesting a waiver of debts where:
- a non-citizen is subsequently granted a protection visa
 - a non-citizen accepts a reintegration package offered by the department
 - a non-citizen was detained on reasonable suspicion of being an unlawful non-citizen, but was later found to be lawfully in Australia
 - the Minister has exercised her powers under [s 351](#), [391](#), [417](#), [454](#) or [501J](#) of the Act to substitute a more favourable decision for a non-citizen than a decision made by a tribunal
 - a lawful non-citizen was detained so that they could be deported, but the Minister revoked the deportation order or
 - there are other compelling reasons on equity or hardship grounds.
- 6.3.4 **Hardship** grounds may arise where there is a genuine and continuing inability to make repayments without the debtor's standard of living declining to the point where they can no longer sustain themselves with the necessities of life.
- 6.3.5 **Equity** grounds may arise where there is a moral obligation on the Commonwealth to waive recovery of the debt.