

## **QUESTION TAKEN ON NOTICE**

**SUPPLEMENTARY BUDGET ESTIMATES HEARING: 19 November 2013**

**IMMIGRATION AND BORDER PROTECTION PORTFOLIO**

**(SE13/0421) PROGRAM – 2.1: Refugee and Humanitarian Assistance**

Senator the Hon Lisa Singh (L&CA 115) asked:

Senator SINGH: Is this type of penalty, I suppose you could call it, in the sense that you are prioritising one lot of people over another on the basis of how they arrive, prohibited under Article 31 of the refugee convention?

Mr Bowles: Again, we have taken it on notice to understand specifically what that is. If we are talking about prioritisation of those who arrive by air legally and then overstay, and then we deal with them or deal with them in a different way, I need to have a look at that and try to work that through. So we will just take that on notice.

*Answer:*

The department processes Protection visa applicants in accordance with Ministerial Direction No.57 – Order of consideration of Protection visas. This is an administrative arrangement that establishes the relevant processing priorities.

The department does not consider that Direction No.57 is inconsistent with Article 31 of the 1951 Convention relating to the Status of Refugees (hereafter, the Convention). The department has taken the view that the term ‘penalties’ in Article 31(1) of the Convention refers to the imposition of criminal or civil penalties or sanctions that would ordinarily be imposed for illegal entry to another country. The department does not consider that administrative arrangements, such as Direction No.57, constitute a ‘penalty’ under Article 31(1) of the Convention.