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PRIME MINISTER

Prime Minister:

The Attorney's
minute does not
affect the point you
wish to discuss with
the Home Secretary.

IMMIGRATION RULES: HUSBANDS AND FIANCES

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22/11

attached

1. I have seen the Home Secretary's minute to you of 18th November explaining the changes which he proposes to make to the draft of the new Immigration Rules. My principal concern, as Attorney General, is the extent to which what we do may weaken or strengthen our position in the cases which we are currently defending before the European Commission of Human Rights or in cases which may in the future be brought against us under the European Convention. In that context I very much welcome the Home Secretary's view that we should resist pressure to reintroduce rules which discriminated between two groups of British citizen women. Any such discrimination would, I am convinced, seriously handicap us at Strasbourg and would make us very vulnerable to a finding that we had discriminated on grounds of race, a charge which I at present think we have good hopes of successfully rebutting.

2. I do not feel anywhere near so apprehensive about the changes which the Home Secretary does propose to make. I agree with his assessment that these changes, and in particular the extension of the probationary period, will make life more difficult for us in Strasbourg but not, I think, to the point where that need tip the scales against them if we otherwise think them desirable. I would hope, however, that the Home Secretary could ensure that the new deportation rules in practice applied in such a way as to avoid, save in very exceptional circumstances, his having to deport a man who, during his probationary period and before his marriage broke down, had established a family life (e.g. because of the birth of children). In the nature of things,

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this is not a situation which is likely to arise very often.

3. I am copying this minute to the members of 'H' Committee, the Foreign and Commonwealth Secretary, the Chief Whip and Sir Robert Armstrong.

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