

Legal and Constitutional Affairs References Committee
Questions On Notice raised on the day of hearing (23 May 2013)

Inquiry into the Framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements Committee Hearing 23 May 2013

Question 1 – Senator Cash – p. 68 of *Hansard*

Senator CASH: When did the negotiations commence for the MOU?

Mr Wilden: The specific date would be hard to give you, but it was after the minister's announcements in early February. We can take it on notice if you like us to give you the specific date.

ANSWER:

Negotiations commenced 4 April 2013 and are continuing.

Question 2 – Senator Furner – p 68 of Hansard

Senator FURNER: Will the 300 extra inspectors assisting DIAC with this monitoring have the same powers as the DIAC inspectors or will they have additional powers?

Mr Wilden: They will have the same powers.

Senator FURNER: Can you just explain those powers? There was conflicting evidence provided today in terms of the type of records that can be expected and the process of turning up to the workplace—whether that is a notification process or just turning up unannounced. I would like some explanation of that sort of behaviour.

Mr Wilden: At this stage the plan is that the powers that will be given to the Fair Work inspectors will mirror those that the DIAC inspectors currently have, which go to the right to enter the workplace et cetera. We can provide more detail of that out of session if you like. The way that then gets enacted is that, as I said, we are only asking them to look at two specific things. We are only asking them to look at pay records, payroll et cetera related to the salary rates, and job descriptions or evidence, were it in documentary form, to be provided around the nature of the role that the 457 worker is performing and whether that meets with the purpose for which their visa was granted.

Senator FURNER: So that will satisfy what a DIAC investigator would normally investigate?

Mr Wilden: Yes. And in the event of a concern that the wages are not right or the job is not right, that then comes back into our monitoring unit and, if required, we will move it to the next level of investigation.

Senator FURNER: What is the process with regard to turning up announced or unannounced?

Mr Wilden: I am not the expert in the area so it is probably best that I take that question on notice and provide an answer to you.

ANSWER:

Of the 910 site visits conducted in the program year to 30 April 2013, 348 were announced; 327 were unannounced, the remaining 235 were either educational or pre-decision verification visits. Unannounced site visits are undertaken in response to serious allegations or in light of a sponsor's previous history with the department.

Question 3 – Senator Furner – p. 69 of Hansard

Senator FURNER: Your submission indicated that there were 990 complaints last year from the Fair Work Ombudsman of persons who were underpaid or an incorrect payment was being made to them. As I understand it, your submission indicates the number that were finalised. If you do not have that in front of you, could you provide on notice how many complaints may be outstanding that have not been finalised?

Mr Wilden: We will take that on notice.

Senator FURNER: I think you indicate that \$718,181 has been recovered for those 990 complaints. Could you also identify whether that is 990 persons or 990 complaints.

Mr Wilden: Okay, we will clarify that for you.

ANSWER:

For the 2011-12 financial year – the period to which the Fair Work Ombudsman (FWO) data noted in the Commonwealth Government submission, and referred to in Hansard, relates – FWO finalised 990 matters and received 907 matters in relation to subclass 457 and other temporary visa holders.

The 990 figure relates to complaints received by FWO rather than persons.

Question 4 – Senator Furner – p 69 of Hansard

Senator FURNER: I was interested in table 21 of the annual report, which deals with the monitoring process. There was an increase in sanctions of infringement notices from nine to 49. One of the witnesses today identified that as being a 600 per cent increase. If you do not have that on notice, I would like an understanding of what those particular infringement notices were for. If possible, are you able to explain some of the reasons why now?

Mr Wilden: I would prefer to take it on notice to get the detail for you.

ANSWER:

The 457 obligations framework was introduced in September 2009. The number of infringement notices increased from 9 in 2010-11 to 49 in 2011-12. The reason for this increase is that the department initially adopted an educative approach, especially when dealing with businesses whose sponsorship was approved before September 2009, and who may therefore have been unaware of the terms of the new obligations.

The 49 infringements served in 2011-12 identified failures of the following obligations (top three):

- Obligation to ensure equivalent terms and conditions – 45% of infringement notices
- Obligation to keep records – 27%
- Obligation to ensure visa holder works in the nominated position – 20%.

Note – 24% of infringement notices identified failures of two or more of the obligations.

Question 5 – Senator Furner – p 69 of Hansard

Senator FURNER: Can you indicate how many persons have contacted the dob-in line? How many complaints have been made in that area?

Mr Wilden: I did bring a number with me. I cannot specify at this stage 457s because, if it is a complaint about a sponsor, we then pursue that complaint or allegation about the sponsor, so it could be the employer nominated scheme, which is a permanent scheme, or it could be a 457. But during 2011-12 it was 540 against employers and sponsors, and to 30 April this year it has been 823.

Senator FURNER: So there has been an increase. How does that relate to previous years?

Mr Wilden: I would have to take that on notice.

ANSWER

The department is unable to produce these figures for previous years.

Any reports produced prior to this period (before the creation of the department's National Allegations Assessment Team) would use a different methodology to those produced after the NAAT was established.

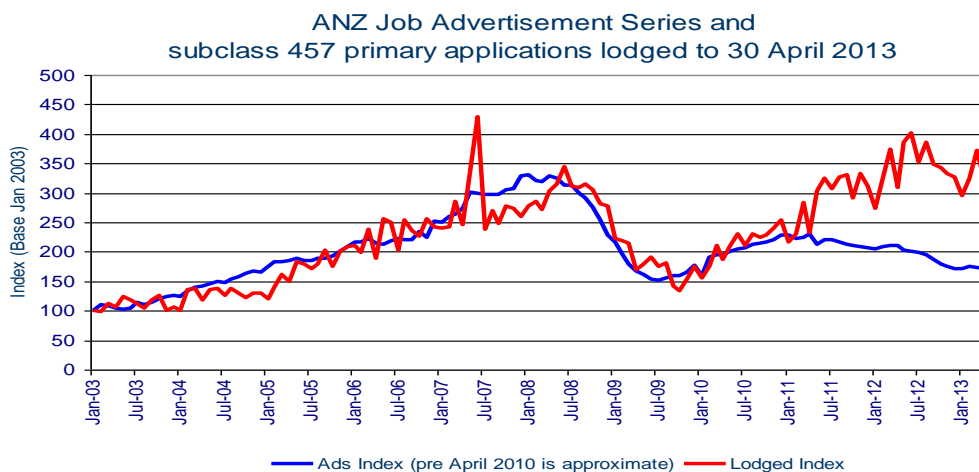
Question 6 – Senator Xenophon – p 71 of the Hansard transcript

Mr Kukoc: It is in our joint submission I think we provided a couple of charts where you can clearly see that there has been some departure between the trends in 457 lodgements and the ANZ job index and unemployment rate. Quite frankly, this was something that became of concern to the department last year, when we briefed the government and minister. That actually triggered the brief and the discussion in the Ministerial Advisory Council on Skilled Migration. That is how the integrity reform package started to develop. So the department is, may I say, on the watch all the time. We are well on the ball in this place.

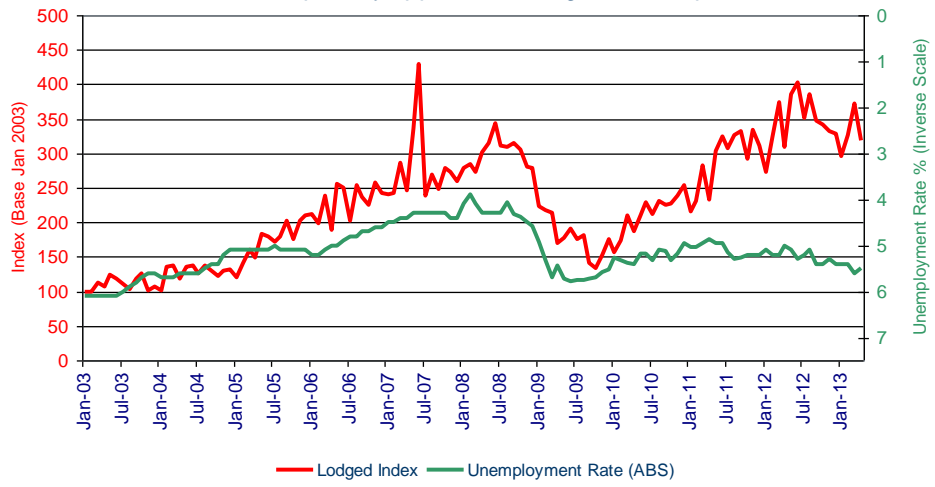
Senator XENOPHON: On notice, one of the witnesses of the Law Council of Australia—Ms Malyon, vice-chair of the migration law committee—gave an answer saying that there was not such a disconnect between the two. Perhaps the committee can refer that evidence to you to see whether you have any further view on that.

ANSWER:

QUESTION 6 – GOVERNMENT RESPONSE (FROM DIAC EMAIL)



Unemployment rate and subclass 457 primary applications lodged to 30 April 2013



Question 7 – Senators Wright and Humphries – p 72 of Hansard

CHAIR: Thank you for that. One of the earlier submissions from the University of Adelaide raised the issue of the risk of having permanent temporary workers in Australia and the consequences of that on policy.

There was some concerning evidence raised with the committee earlier today about the rate of injury and death of 457 visa holders. We have asked to have further information provided on notice about that. This is probably a question for DEEWR. What data is available about that? Are there statistics that would be held in states and territories? What do you know about that issue? It was something that was quite a concern to hear.

Mr Roddam: I would need to take that on notice to see what we do have.

Mr Wilden: Madam Chair, I can provide some information. We do hold a register of deaths of 457 visa holders and I can report that since 2007 we are aware of the deaths of 52 visa holders.

Senator HUMPHRIES: Are they deaths in the workplace?

Mr Wilden: No, just deaths. They could be non-workplace related as well.

CHAIR: Do you have a breakdown of the cause of death so that it could be ascertained whether it is workplace related or—

Mr Wilden: I will take that on notice, if you do not mind.

ANSWER

The department is aware of the deaths of 58 visa holders since 2007— 47 non work related and 11 work related. (The number of 52, previously reported, was incorrect).

Sponsors are not legally required to inform the department of deaths of visa holders so the register of deaths may not record all deaths.

The Department is not able to record causes of death.

Question 8 – Senators Xenophon and Wright – p 72 of Hansard

Senator XENOPHON: And supplementary to that so that there is a like-for-like comparison, we would like to know whether they are deaths in high-risk occupations—so, not just across the whole workforce but that particular occupation or that category. In that way, we could get a fair comparison as to whether there is a difference in death and injury rates or not.

CHAIR: I think the committee would be interested in getting the best available data on this particular question from wherever. So whichever department can provide us with that—

Mr Wilden: We will talk to colleagues about that.

ANSWER

Safe Work Australia does not collect data on workplace based incidents (including deaths) by residence or visa status. However – and noting DIAC data that shows that since 2007 there have been 58 deaths of subclass 457 visa holders – it may be possible for Safe Work Australia to match DIAC data on subclass 457 deaths with information from the National Coronial Information System (NCIS) to determine the number of these deaths which were work-related.

This analysis – which requires matching of different Government data sources by delegated Commonwealth Government officers – could not be undertaken in the time-frame requested by the Committee.

Question 9 – Senator Xenophon – p 70 of the Hansard

Senator XENOPHON: So that has been a factor. Given that there was a mining boom and that there was a significant increase in uptake in employment in certain trade, is that a like-for-like comparison? If apprenticeship commencements have been static over how many years, what period of time are you looking at?

Dr McEwen: Over 10 years it has not been static; it has slowly increased in trade apprenticeships in general. The trend has been—

Senator XENOPHON: Are you talking about over the last 10 years?

Dr McEwen: Over the last 10 years.

Senator XENOPHON: But, in relative terms, how many extra jobs have there been in, say, the resources sector for the areas of apprenticeships? Is there a correlation between those apprenticeships that could be relevant to the resources sector, where there has been a significant increase in employment?

Dr McEwen: We would not have that data.

Mr Roddam: We would need to combine our data to work that out.

Senator XENOPHON: Is that something that you could take on notice or is that a massive exercise?

Mr Roddam: We could take that on notice.

ANSWER:

Data to answer this question accurately is not readily available, with relevant sources – including the Australian Bureau of Statistics (ABS – labour force and employment data), Department of Immigration and Citizenship (DIAC – visa data) and National Centre for Vocational Education and Research (NCVER – apprenticeship) – collecting data differently and/or using different reference periods and methodologies.

The following figures and information is based on relevant published data. However, these figures should be considered in the context of the provided caveats.

Figure 1 (below,) shows data for the five years 2008 – 2012. For each of the data categories – employment, VET Student numbers and numbers of Primary 457 Visa applications granted and Visa holders – there has been an increase over the five years to 2012. However it is important to note that the data time series are not consistent and that the data series VET students by SkillsDMC is a proxy for measuring apprenticeships and trainees in the mining industry. Apprenticeship data specific to the mining industry is not available.

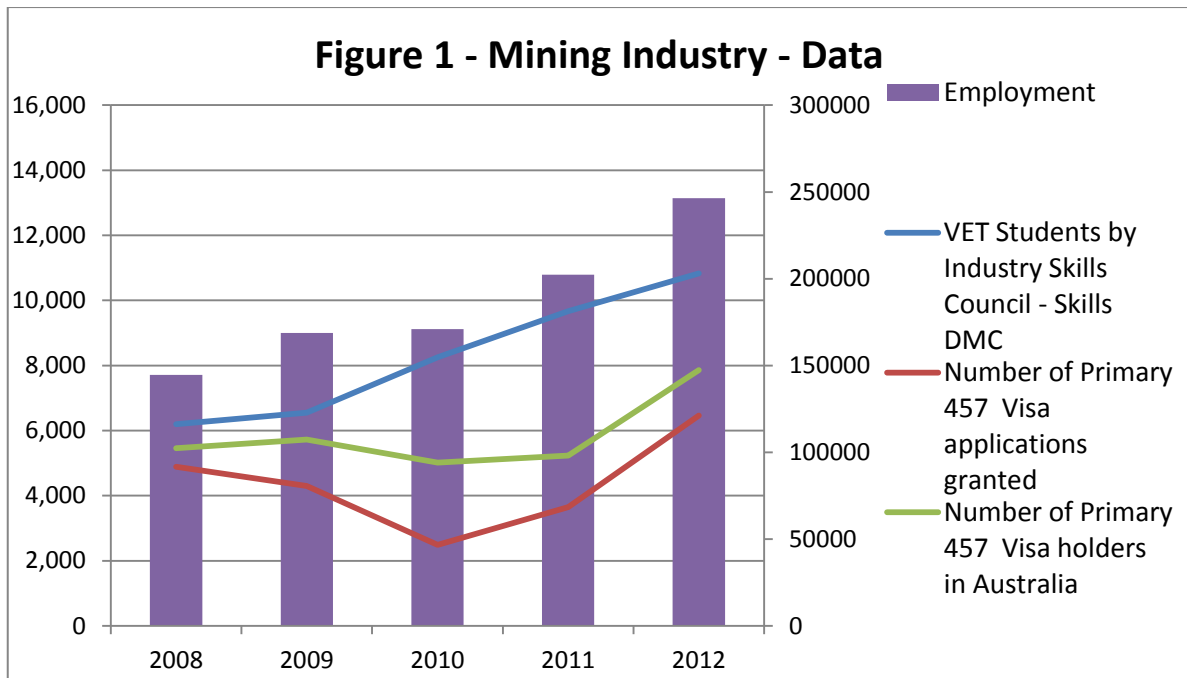


Figure 1: Mining Industry key data

Notes:

- Employment is shown as an average over the four quarters to July of each year for the mining industry.
- VET Students by Industry Skills Council – SkillsDMC shows the number of apprentices and trainees for the 12 months to September for each year as provided by SkillsDMC which is the Industry Skills Council for the resources and infrastructure industry.
- Number of Primary 457 Visa applications granted and number of Primary 457 Visa holders in Australia are shown by financial year – to 30 June of each year.

Figure 2 (below) shows the same data as above for the five years 2008 – 2012, but presented as a percentage of the workforce.

The number of VET students as a percentage of the workforce has increased over the five years to 2012. The trend lines show that both the number of Primary 457 Visa holders in Australia and the number of Primary 457 Visa applications granted, as a percentage of the workforce, have decreased over the five years to 2012.

The figure uses data that is publically available. However it is important to note that the data time series are not consistent and that the data series VET students by Industry skills council is a proxy for measuring apprenticeships and training in the mining industry. Apprenticeship data specific to the mining industry is not available. It is also important to note these data are for less than five per cent of the workforce.

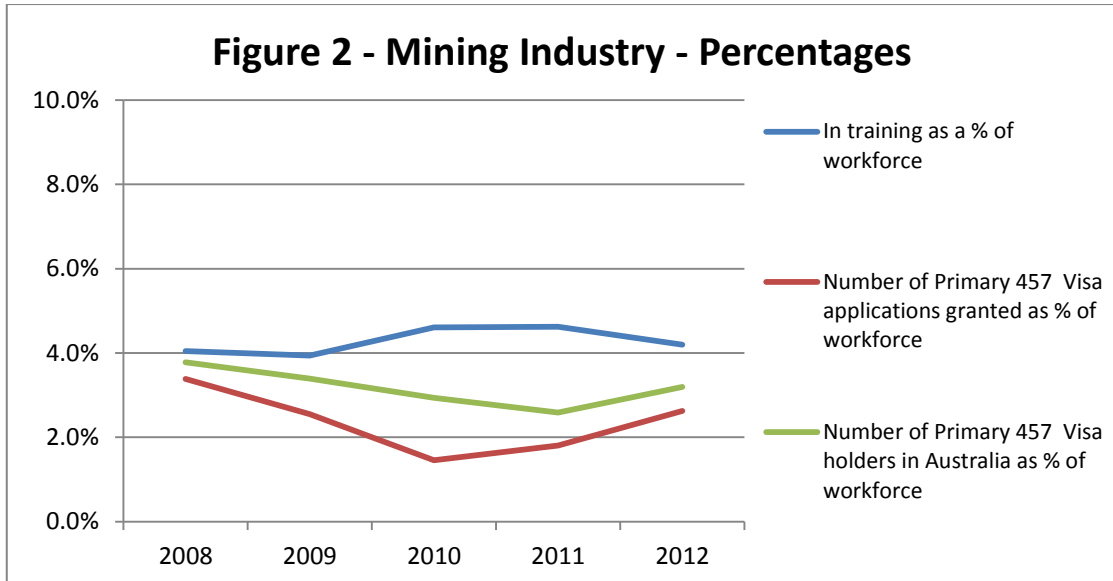


Figure 2: Mining Industry – percentages

Question 10 – Senator Xenophon – p 71 of the Hansard

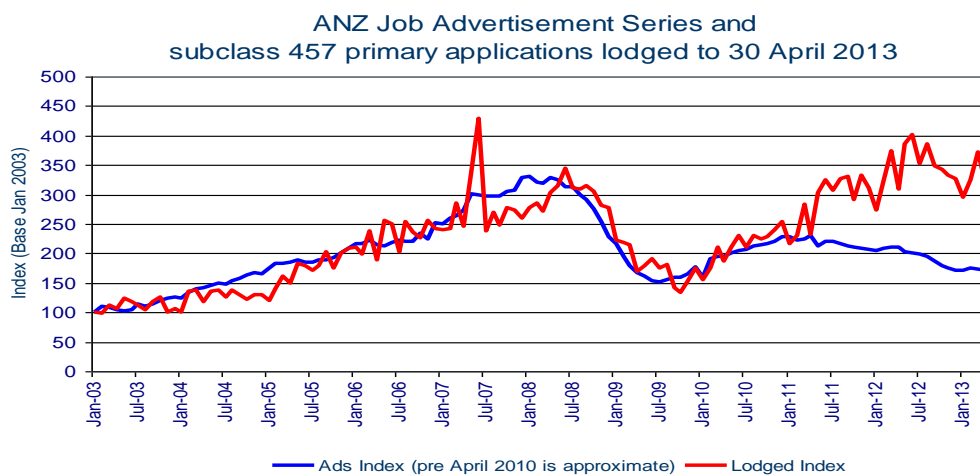
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Senator XENOPHON: On notice, one of the witnesses of the Law Council of Australia—Ms Malyon, vice-chair of the migration law committee—gave an answer saying that there was not such a disconnect between the two. Perhaps the committee can refer that evidence to you to see whether you have any further view on that.

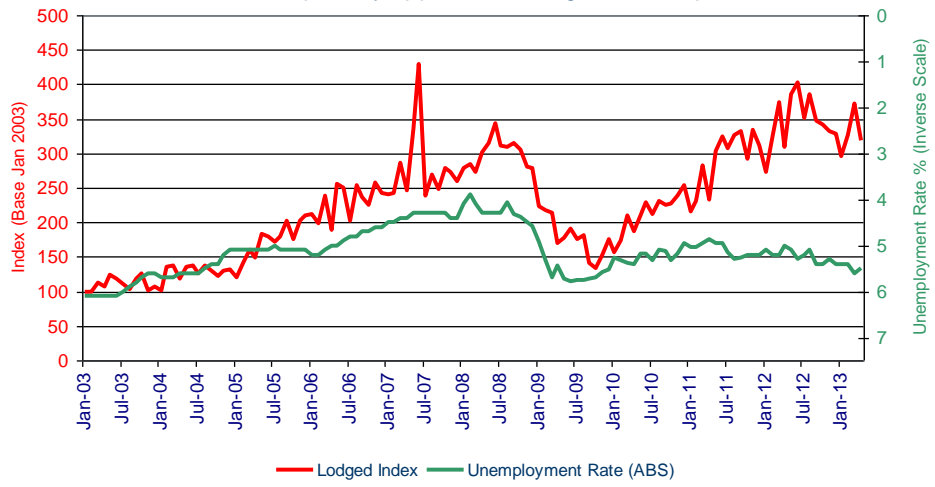
Refer to response for Question 6

ANSWER:

QUESTION 6 – GOVERNMENT RESPONSE (FROM DIAC EMAIL)



Unemployment rate and subclass 457 primary applications lodged to 30 April 2013



Question 11 – Senator Humphries – p 72 of the Hansard

Mr Wilden: Madam Chair, I can provide some information. We do hold a register of deaths of 457 visa holders and I can report that since 2007 we are aware of the deaths of 52 visa holders.

Senator HUMPHRIES: Are they deaths in the workplace?

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ANSWER:

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Question 12 – Senator Wright – p 73 of the Hansard

CHAIR: Obviously one of the issues that was raised with us is that some 457 visa holders will be working in industries of high-risk construction and so on and it would be very interesting to be able to compare those stats with the ordinary incidents of workplace accidents in those industries and more broadly as well. So thank you for that. Perhaps on that point as well, one of the submissions from the CFMEU was in relation to workers compensation entitlements for 457 visa holders who are injured while they are working in Australia. They submitted that the Commonwealth should amend its own Comcare legislation so that injured subclass 457 visa holders are able to retain benefits when they leave Australia and return home. They also recommended that the Commonwealth seek agreement of states and territories to ensure workers compensation legislation is amended so that injured subclass 457 visa holders are able to retain benefits when they leave Australia and return home as well. What is the current situation if someone on 457 visa is injured in the course of their employment and, as a result, the employment relationship is terminated because they cannot continue to do their job and they go home? What is the situation with regards to their entitlements to workers compensation?

Mr Wilden: In short and as you mentioned before, we are negotiating several MOUs with various state authorities. At this stage the approach is generally that we work with the employer to ensure that the 457 visa holder continues to receive the appropriate terms and conditions of their employment. When those first terms of employment are drawn up—and I will provide a bit more data on notice—they usually have a provision in the event of injury, and insurance, and how that supports an injured worker.

ANSWER:

Occupational health and safety issues are matters for state based WorkCover authorities. If the department becomes aware of issues that fall under the jurisdiction of another agency, this information is referred to the relevant agency for further investigation. In circumstances where a sponsor of a subclass 457 visa holder is found by a court or competent authority to have contravened a Commonwealth, State or Territory law such as the Workplace Relations Act (2009), the Department may also consider barring or cancelling the sponsor from the program. The department works cooperatively with these authorities, and has a MOU in place with Workcover NSW. Further negotiations are underway to expand the coverage of the MOU.

Question 13 – Senator Wright – p 73 of the Hansard

CHAIR: That is not the same as workers compensation, I realise that. The requirements are well and good, but how would we be sure, if someone were injured in the course of their employment and returned home, that they would receive, or continue to receive, workers compensation? I am imagining someone severely injured and perhaps when they return home they have not got the capacity to work there and support their family. How would we know?

Mr Wilden: The department does not. We only know of their situation in relation to the visa that they have and in the event that they depart the country then our obligation is in terms of the visa itself. We do not have any obligations or any role in looking at those broader issues of compensation and payment post that.

Mr Kukoc: It is really a matter for the state authority and the relevant state legislation.

CHAIR: In the Commonwealth's case it is the Commonwealth authority, isn't it, and the Commonwealth legislation? There is a recommendation that the legislation be amended.

Mr Roddam: I do not know the answer but I can take that on notice and find out from Comcare.

ANSWER:

Under the Comcare scheme, workers are entitled to continue to receive workers' compensation while overseas. This includes sponsored workers holding a subclass 457 visa, noting Section 120 of the Safety, Rehabilitation and Compensation Act 1988 requires workers to provide notice of departure from Australia (whether or not the workers propose to return to Australia).

The current legislation allows workers under the Comcare scheme, including sponsored workers holding a subclass 457 visa, to continue to receive workers' compensation on departure from Australia, noting overseas recipients of compensation were considered as part of the Review of the Safety, Rehabilitation and Compensation Act 1988 undertaken by Peter Hanks QC (the Report of which is available at http://foi.deewr.gov.au/system/files/doc/other/src_act_review_report.pdf).

Legal and Constitutional Affairs References Committee
Additional Questions On Notice received from Senator Cash

Inquiry into the Framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements Committee Hearing 23 May 2013

Senator Cash:

CFMEU call for legislated right of appeal

The CFMEU has called for Australian workers to have a legislated right of appeal if they miss out on jobs filled by foreign workers on 457 visas. Will the Department rule out any changes in this regard?

Answer:

The Department is not aware of any plans to introduce a legislative measure to address this issue.

\$3.4 million in the 2013-14 Budget for Dual arrangements with Fair Work Australia

- 1. How will the \$3.4 million dual arrangements with new workplace inspectors in Fair Work Australia, announced in the budget, will work?**

Answer:

The Department is in the process of negotiating an MOU with the Fair Work Ombudsman detailing how this operational arrangement will work.

The proposed MOU will put in place referral protocols between the two agencies and appoint liaison managers to ensure the speedy flow of information.

If the changes go ahead, FWO inspectors will, as part of their routine work, also now be able to ask questions and request documents that demonstrate whether a sponsoring employer is meeting the sponsorship obligations. In particular, they will focus on whether:

- 457 visa holders are being paid the market rates
- the job being done by the 457 visa holder matches the job title and description approved in their visa.

Only Departmental officers will have the power to take action against employers who are not meeting their obligations.

2. Who will have jurisdiction in what circumstances?

Answer:

The Bill will make it clear that a Fair Work Inspector is also an inspector for the purposes of the Migration Act and is able to exercise the powers conferred on inspectors by the Migration Act. Under the draft MOU, Fair Work Inspectors will gather information in relation to 457 visa matters. This will be passed to the Department for further investigation and action, as appropriate.

3. Was this measure recommended by the Department of Immigration at any stage?

Answer:

The department was asked to provide the Minister with a number of measures to improve the integrity of the Subclass 457 visa program, further to those measures the Minister announced on 23 February 2013. As a result, the department recommended in a submission of 26 February 2013, the measure to expand investigation powers to Fair Work inspectors.

At that time, there were 34 inspectors appointed under the Migration Act. The proposal to enable Fair Work Inspectors to conduct monitoring activities would significantly expand the government's capacity to monitor the 457 program and other sponsored visas. The Minister agreed on 4 March 2013.

4. How will monitoring be coordinated across agencies?

Answer:

The draft MOU sets out Liaison Managers within each Agency who will work together to determine common priorities and areas of joint interest. This coordination will largely drive the work that the FWO conduct on behalf of the Department.

5. Which authorities will have authority to enter the workplace? On what grounds could an employer visit be initiated – does it need to be triggered by a complaint?

Answer:

Both the Department of Immigration and Citizenship and the Fair Work Ombudsman already have powers to enter businesses in order to investigate breaches of their respective laws. The Bill puts it beyond doubt that Fair Work Inspectors may exercise powers for Migration Act purposes where they have entered under authority of the Fair Work Act.

Monitoring site visits can be triggered in a number of ways, including as a result of direct allegations by visa holders or indirect allegations made through other referrals (such as members of the community, members of parliament or the media). The Department may

also initiate site visits as part of campaigns that focus on particular industries or employers where a particular risk may be identified.

457 Visas

6. How many 457 visas were granted in 2012-13 to date and in what industries?

Answer:

Primary 457 visa grants 2012-13 to 30 April 2013:

Sponsor Industry	Grants
Other Services	6822
Construction	6684
Health Care and Social Assistance	6458
Information Media and	5540
Accommodation and Food Services	5391
Professional, Scientific and Technical	4665
Mining	4071
Manufacturing	3223
Education and Training	2815
Retail Trade	2511
Financial and Insurance Services	1870
Wholesale Trade	1329
Agriculture, Forestry and Fishing	1199
Electricity, Gas, Water and Waste	1006
Not Recorded	925
Transport Postal and Warehousing	843
Arts and Recreation Services	593
Public Administration and Safety	407
Rental, Hiring and Real Estate	353
Administrative and Support Services	241
Total	56946

7. How many do you anticipate will be granted in 2013-14?

Answer:

The Department doesn't forecast 457 visa grants.

8. What is the average processing time for subclass 457 visas granted under a labour agreement compared to those granted under a standard business sponsorship for the financial year to date?

Answer:

The current median processing time for a Subclass 457 visa granted under a labour agreement is 17 days, compared to 14 days for those granted under a standard business sponsorship, for this year to 31 March.

9. How many compliance officers work specifically on enforcing the 457 visa program? How does this compare to last year?

Answer:

There are currently 67 officers in the Department's Program Integrity Units who undertake audit and onshore site visit activities, including sponsor monitoring roles. Please note that this figure has been updated from the figure of 64 which was provided at Senate Estimates (27 May 2013). In 2011-12, Program Integrity Units were funded to the level of 64.7 staff (budget of \$5,677,886).

The percentage of Program Integrity Unit resource devoted exclusively to 457 monitoring generally falls within the range of 60 to 70 per cent of total PIU resource, depending on varying or emerging integrity needs. Non-monitoring work includes home visits to verify relationship claims under the partner program and pre-decision verification site visits for the Employer Nominated and Regional Sponsored Migration Schemes.

10. What was the budget for 457 compliance in 2012-13?

Answer:

The 2012-13 funding for Program Integrity Units is \$6,138,651 (additional temporary funding was provided in January 2013 to enable recruiting of additional staff for 457 monitoring activities for this year).

11. How does this compare with 2011-12? So the department has had its compliance budget cut at the same times applications have risen?

Answer:

The 2011-12 funding for Program Integrity Units was \$5,677,886. Together with the additional temporary funding that was provided in January 2013, the 2012-13 funding for Program Integrity Units represents an 8 per cent increase from the previous financial year.

12. How many active sponsors were there in 2012-13? How does this compare to previous years?

Answer:

There were 29,100 active Subclass 457 sponsors at 30 April 2013, 22,062 at 30 April 2012 and 18,540 at 30 April 2011.

13. How many sponsors were monitored by DIAC in 2012-13? How does this compare to previous years?

Answer:

There have been 1388 monitoring events commenced on sponsors for 2012/13 up to 30 April. 1295 monitoring events have been finalised in that same period in 2011-12 program year.

14. How many sponsors' sites were visited in 2012-13?

Answer:

910 site visits have occurred for 2012/13 up to 30 April.

15. How many sponsors were formally sanctioned?

Answer:

170 sponsors received an administrative sanction (barred or cancelled) up to 30 April 2013. Additionally 57 sponsors received an infringement notice in that same period.

16. How many sponsors were formally warned?

Answer:

129 sponsors received a formal warning up to 30 April 2013.

17. How many referrals were made to other agencies?

Answer:

13 referrals have been made up to 30 April 2013

18. How many sanctions were there?

Answer:

170 sponsors received an administrative sanction (barred or cancelled) up to 30 April 2013. Additionally 57 sponsors received an infringement notice in that same period.

19. In relation to the statement made by the Minister on April 28 2013, that “the number of visa rorts was in excess of 10,000” is there any empirical evidence to support the fact that there were 10,000 rorts occurring?

Answer:

The 10 000 figure quoted by the Minister was not provided by the department.

20. Following the Minister's interview in Sky news on April 28 2013, was the Department asked to provide evidence to back up the Minister's assertion?

Answer:

No.

21. What evidence was the Department able to produce to back up this claim?

Answer:

As the Department was not asked to provide evidence, the Department did not provide evidence in relation to the Minister's interview in Sky News on April 28 2013.

22. What is the normal or the acceptable margin of error within a program - at what point would alarm bells usually go off? Rorts detected in 1 percent of visa holders, 2 percent, 5 percent?

Answer:

The Department does not have a specific margin of error within the program. The Department analyses sanction rates by industry and concentrates its monitoring activities where the risk of non-compliance is considered high. Where relevant, the department also assess allegation information. So far, in 2012-13, the department's National Allegations Assessment Team (NAAT) has received a total of 23,347 allegations. DIAC systems do not currently allow reporting on allegations against specific visa categories.

23. How many complaints have the Dob-In line and Dob-in website received in relation to abuse of 457s? How many complaints have translated into investigations?

Answer:

In the 2011/2012 program year, the Department actioned 540 allegations in the employer sponsored category, which includes the Subclass 457 visa program. In 2012-13 to date (as of 30 April), 823 allegations have been actioned. It is not possible to differentiate the number of these allegations that were specific to the Subclass 457 visa program (as opposed to other employer sponsored visas).

How many complaints have translated into investigations?

This information is not currently reportable.

24. How many complaints or allegations has the Department received from the unions who gave evidence before this committee this morning?

Answer:

It is not possible to report on the number of allegations by source.

ENTERPRISE MIGRATION AGREEMENTS

25. When were EMAs first announced by the Government?

Answer:

EMAs were first announced in the 2011-12 Budget.

26. How many EMAs have been approved so far?

Answer:

One EMA for the Roy Hill Project has been approved in-principle.

27. How many EMAs are currently being negotiated? What is the current status of each of those submissions?

Answer:

Four EMAs are currently being negotiated, including the EMA for the Roy Hill Project. Negotiations are in progress for each of the EMAs.

28. How many staff are currently allocated specifically to deal with EMAs?

Answer:

The team responsible for EMA and Resource Sector Labour Agreements policy and program management currently comprises 10 staff: a Director, six staff working on program management (i.e. negotiation and administration of EMAs and individual Labour Agreements) and 3 staff working on policy. These staff are located in the DIAC National Office.

Visas lodged under an EMA will be processed by staff in DIAC's state network. As no EMAs have been finalised, no processing staff have yet been needed to work on deciding visa applications lodged under an EMA.

29. In what roles are they employed i.e. processing, negotiations?

Answer:

Staff currently allocated to work on EMAs are engaged in negotiations, policy and program management.

30. How many EMA's have been lodged or are in the pipeline? When were they lodged? Why have they stalled?

Answer:

There are four EMAs currently under negotiation.

The formal submission for the Roy Hill Project EMA was received on 23 December 2011.

Three further EMA requests were submitted on 7 May 2012 and were assessed as complete on 23 August 2012.

None have stalled – all four requests are under active negotiation.

REGIONAL MIGRATION AGREEMENTS

31. When were the Regional Migration Agreements first announced?

Answer:

Regional Migration Agreements were announced in the 2011-12 Budget.

32. How many have been approved so far?

Answer:

None

33. How many applications have been made for access to a Regional Migration Agreement? On what date were each of these submissions received?

Answer:

One, from the Northern Territory. The final submission was received on 5 December 2012. Further information in relation to the submission was requested on 15 February 2013, and was provided on 18 March 2013

34. How many are currently being negotiated – what is their status? On what date were each of these submissions received?

Answer:

One agreement is being negotiated, with the Northern Territory. The Submission is currently being considered by the Commonwealth. Some preliminary discussions have also been held with representatives of North West New South Wales and the Pilbara.

A Preliminary submission was received on 4 May 2012. Further information was requested by DIAC on 30 May 2012, and received in July 2012. A final submission was received on 5 December 2012, and further supporting information provided on 18 March 2013.

35. When did the Northern Territory first indicate their intention to make a submission to the RMA? What is the current status of the Northern Territory application? What has been the reason for the delay?

Answer:

The first formal indication was the joint public announcement on 16 February 2012 between former Minister Bowen and former NT Minister Delia Lawrie. A Preliminary submission was received on 4 May 2012. Further information was requested by DIAC on 30 May 2012, and received in July 2012. A final submission was received on 5 December 2012, and further supporting information provided on 18 March 2013. The submission is currently being considered by the Commonwealth. We do not consider there has been a delay. The submission has taken some time to be compiled by the Northern Territory. It is a lengthy (500 pages approx.) and detailed submission and requires detailed consideration.

36. I refer to an article on the ABC website on the 19th April this year, where NT Treasurer, Dave Tollner, said the Commonwealth had given the green light to a regional migration agreement under which foreign workers can be brought to the Northern Territory.

The article goes on to say, “after talks with federal Immigration Minister Brendan O’Connor, Mr Tollner says he has secured an agreement for the Territory to import

200 workers in 17 occupations, including construction and hospitality.... He (O'Connor) has agreed that the Northern Territory will get a regional migration agreement that will be in place by the first of July".

Two days later, a second article appeared which stated "But the Immigration Minister's spokeswoman says while they had a productive meeting, no agreement has been made."

The article quoted Mr Tollner as saying "Well, certainly that was the discussions that we'd had...Brendan O'Connor made it very clear to me that he was keen to see a regional migration agreement in the Northern Territory and it was something that we could hope for in the very near future."

How does the Department explain such a disparity of views between the NT Treasurer and the Minister?

Answer:

The Department cannot comment on the discussions Minister had with Minister Tollner. The submission is being considered, but an agreement has not yet been made.

Questions For DIAC and DEEWR

- 37. With reference to the announcement of the new online tool "Worker Rights and Obligations" which I understand is a video available on DIAC's YouTube channel – can you provide a breakdown of the costs associated with producing that video? Did Unions Australia contribute any funds towards the production of the video, given the promotion of Unions Australia in the middle of the production, or was it entirely funded by taxpayers?**

Answer:

The video was produced internally within the Department.
The cost associated with sub titling the video into 6 languages was \$9,174.00.
No funds were received from any third parties in relation to the production of the video.

- 38. The media release issued on 22 May 2013, states that "the online tool is based on an information booklet developed by DIAC, with the ACTU, DEEWR and the Fair Work Ombudsman". What is the title of the information booklet? Is it available online and if so, where?**

Answer:

The video complements an existing booklet titled "Your Rights and Obligations: Immigration Facts for Workers". That booklet is available online in English and six languages:
<http://www.immi.gov.au/skilled/rights-obligations-workers.htm>