

Senate Standing Committee on Environment and Communications
Answers to Senate Estimates Questions on Notice
Supplementary Budget Estimates Hearings October 2015
Communications Portfolio
Australian Communications and Media Authority

Question No: 149(e)

Australian Communications and Media Authority

Hansard Ref: Written, 2/11/2015

Topic: Staffing - employment of non-Australian citizens

Senator Ludwig, Joe asked:

I refer you to section 22 (8) of the Public Service Act 1999 which says:

"An Agency Head must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so."

1. Does the department have guidelines or similar to assist Agency Heads to assess when it is appropriate to hire non-Australian citizens? If no, do individual agencies have their own guidelines? If yes to either:
 - a) Please provide a copy.
 - b) When did they come into effect?
 - c) Can Agency Heads decide to go against the advice? If yes, under what circumstances?
2. Are Agency Heads required to provide a reason to anyone for hiring non-Australian citizens? If yes:
 - a) Who are they required to report the reason to?
 - b) Does this reporting happen before or after the hire has been made?
 - c) Is this reason provided in writing? If no, how is it provided?
 - d) Can you please provide a list of reasons that have been used since the Federal election in September, 2013.
3. Are there any provisions to over-rule a Head of Agency's decision to hire a non-Australian citizen? If yes:
 - a) Who can over-rule this decision?
 - b) Under what circumstances can it be over-ruled?
 - c) How many times has this occurred since the Federal election in September, 2013.

Answer:

1. The ACMA has guidelines 'Recruitment and Work Opportunities, People Management Instruction' to assist the Agency Head.
 - a) Attached.
 - b) 18 November 2008.
 - c) In line with the guideline the Agency Head, in exceptional circumstances and when considered appropriate for the agency, may engage a person as an ongoing employee who is not an Australian citizen. Non-ongoing employees are not required to hold Australian citizenship, but must be in Australia under a legal arrangement that includes the right to work for at least the period of proposed employment.

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2. No, although the Agency Head, in exceptional circumstances, may determine that Australian citizenship requirements do not apply when advertising an ongoing vacancy. In this situation, the Agency head will consider the exercise of this discretion on a case-by-case basis, and where this occurs may give approval to the ongoing engagement of a non-citizen if:
 - > the nominated person is eligible for and actively seeking Australian Citizenship, and would obtain it within a specified period of time;
 - > the nominated person has permanent resident status; or
 - > it would be in the ACMA's interests to engage the nominated person, having regard to their skills, qualifications and experience and the availability of similarly skilled Australian citizens.
 - a) Not applicable.
 - b) Not applicable.
 - c) Not applicable.
3. No.