

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Workplace Gender Equality Agency

Department of Employment Question No. EMSQ15-000440

Senator Ludwig provided in writing.

Question

WGEA - Employment of non Australian citizens

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 Workplace Gender Equality Agency does not have guidelines to assist the Agency Head to assess when it is appropriate to hire non-Australian citizens. The Agency Head considers the legislative framework in conjunction with employment policy and advice issued by the Australian Public Service Commission. In practice, to be eligible to apply for positions with the Workplace Gender Equality Agency you must be an Australian citizen or eligible to apply for Australian citizenship. All ongoing employees engaged by the Agency are Australian citizens. Non-citizens may be engaged on a non-ongoing basis if they have a valid working visa. This is reflected in the selection documentation published on our website at the time a vacancy is advertised and in the contract of employment.
2. The Agency head is not required to consult with or seek the agreement of the Public Service Commissioner or any other authority in making a decision to engage a person

who is not an Australian citizen. Where such a decision is made by the Agency Head or their delegate, it is documented at the time and retained in the employee records.

3. This Agency is not aware of any provisions to overrule this decision.
 - a. Not applicable.
 - b. Not applicable.
 - c. No occasions.