

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING : 08 February 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(AE16/062) - Ministerial determinations under section 26(3) - Programme 2.1:
Citizenship**

Senator Bilyk, Catryna (L&CA 95) asked:

Ms Dacey: Can you tell me how many ministerial determinations have been made under section 26(3), which is:

If the person is required to make a pledge of commitment and has not done so, the Minister may determine, in writing, that the person cannot make the pledge until the end of a specified period if the Minister is satisfied ...

Are you able to tell me that for each of the years 2013-14, 2014-15 and 2015-16?

Mr Williams: Yes, on notice.

Senator BILYK: And, once again, perhaps you could do that country of birth as well. Thank you. Would all the determinations being made be made for a period of 12 months if the minister determines—26(3)?

Mr Williams: I would have to check that. I do not know the answer to that.

Senator BILYK: Okay; take it on notice. Are you able to tell me about the process behind the minister making a determination?

Mr Williams: No. It is not something I have a great deal of depth of knowledge about. Again, I could take it on notice and provide you an explanation.

Senator BILYK: Thank you. So, you probably cannot tell me then how applicants are notified about the determination?

Mr Williams: No, only on notice.

Senator BILYK: Once again, when you are taking this on notice—and I presume all the questions about determination are going to be taken on notice—can you let me know whether they have to acknowledge the determination, what factors are used in the determination and whether character and identity is included, and whether these factors have been assessed already for visa grants?

Mr Williams: Will do.

Answer:

- (a) Departmental records indicate as at 31 January 2016, 71 people whose application for Australian citizenship by conferral was approved, had their citizenship ceremony deferred by a departmental delegate of the Minister under s26(3).
- (b) No. This information may only be extracted from departmental records at a point in time. It is not available retrospectively because the system event on a particular date may change.

- (c) Determinations would usually be for 12 months, however some cases will be less than 12 months depending on the circumstances.

All applicants regardless of how and when they arrived in Australia, including those who have received an approval letter relating to their application for Australian citizenship, are subject to ongoing assessment by the Department should further information become available. In these circumstances an application will not be allocated to a citizenship ceremony or, if they have, they may be advised by the Department that they cannot attend the ceremony.

In writing, as required by the *Australian Citizenship Act 2007*.

- (d) There is no requirement for an applicant to acknowledge the determination.

A determination under s26(3) may be made if information becomes available which means that a person's visa may be cancelled or that the person has been, or may be, charged with an offence under Australian law.

A person's visa may be cancelled for a range of reasons including fraud, character, identity or non-compliance with visa conditions.

Identity and character assessments under the *Australian Citizenship Act 2007* (the Act) are assessments from the birth of the applicant, which take into account migration and other information where relevant, such as where changes to identity information may have occurred. The criteria and requirements of the Act are different to those found in visa streams under the *Migration Act 1958* and associated *Regulations*. It is possible for a person to satisfy the requirements of a particular visa but not to meet or satisfy the requirements of the citizenship legislation.