

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 22 May 2017

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(BE17/003) - AAT decisions for judicial review - Internal Product (DIBP)

Senator Pratt, Louise (L&CA 15) asked:

Senator PRATT: How many AAT decisions has the minister sought to put through for judicial review?

Ms De Veau: That is one I will need to take on notice. I can say that in the active migration and citizenship case load before courts, this financial year I think there are—at the moment—5,793 active cases. That spans a very wide variety of different types of decisions to do with migration law and citizenship law. In almost all of those we are the respondent, so it is the applicant appealing a decision, not the minister appealing. I do not have before me immediately the percentage of how many matters the minister has appealed, but it is something that I can probably obtain for you.

Senator PRATT: Okay, that sounds good.

Ms De Veau: I can add to that that where the applicants actually appeal, the department has a success rate of 92 per cent on defended matters. That is as at 30 April 2017, for our current financial year success rate. In previous years it has been in that vicinity.

CHAIR: We might have to come back to you Senator Pratt although it is a good segue to the questions that—

Ms De Veau: That is defended hearings—that is, judicial review matters.

Mr Pezzullo: Where we think that, as a matter of law, the AAT got it wrong or, I should say, that the decision has not been a merit review handled in accordance with our view of the law, we win 92 percent of those cases. In fact the last, Ms De Veau, as to why we are not winning the other eight percent, but I'll take that offline with her privately.

Ms de Veau: The majority of those matters are the applicants appeal. I will have to find the breakdown for ministers appeals.

Answer:

According to departmental records, between 1 July 2016 and 23 May 2017, the Minister for Immigration and Border Protection sought judicial review of five decisions of the Administrative Appeals Tribunal (AAT). All five judicial review applications concern decisions of the Migration and Refugee Division of the AAT in relation to an application for a Protection visa.