

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Resources, Energy and Tourism Portfolio

Budget Senate Estimates

31 May 2011

Question: BR9
Topic: Mine Safety
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Senator Cameron asked:

Senator CAMERON: Can you provide details to me of the numbers of foreign workers who will be brought to Australia to assist in either building or operating mine sites or resource projects around the country? Let us say 'resource projects'; that is a wider net. I would like to know how many are coming in. I would like to know what the department is doing to ensure the safety of those workers and whether any processes are being implemented with state governments on a formal basis in relation to safety. Could you give me the numbers that you expect of overseas workers on each project that is underway in the minerals sector, and could you advise me as to whether there have been any notified injuries or deaths of workers generally in the industry or deaths or injuries of workers who have been brought in here to do temporary work. Could you also give us the detail of the countries of origin of the workers who are coming in. What are the skills of those workers and what checks are in place as to whether they have the skills that are required? Is this all part of your responsibility?

Ms Constable: We can certainly provide that information. My understanding is that the number of people coming into Australia where there might have been deaths is zero. In terms of country of origin, we can certainly provide that information to you. In respect of individuals, people need to be appropriately qualified. The mining industry is very conscious of safety conditions. The unions in each of the states certainly make sure that every single individual is appropriately ticketed to be able to work on mine sites.

Senator CAMERON: That is not true. How do they do that?

Ms Constable: General inspections occur, and legislation is in place on mining in all of the states. In fact, we are working between the three big mine states right now on core mine safety legislation.

Senator CAMERON: Can you take this on notice: can you then provide me details of how unions can access these workers that are coming in? Does the department see any impediments to unions having free and available access to these workers to make sure that the skills are available and these workers are being treated fairly and reasonably? It would be appreciated if you could provide that. That is part of your responsibility, I would assume, if you have raised it with me, the issue of unions?

Answer:Number of overseas workers in resources sector

Australia's permanent skilled migration program will total 125,850 people in 2011-12. Whether these workers will work in the resources sector or not will depend on employment opportunities within the sector. Australia's temporary skilled migration program, the 457 visa program, is an uncapped, demand-driven, sponsored visa. This means that the number of temporary overseas workers that will arrive will depend on the number of vacancies that exist that cannot be filled by

local labour. In the 2010-11 program year to 30 April 2011, there were 3,020 overseas workers sponsored under the 457 visa in the mining industry. This represents a 55 per cent increase over the same period in 2009-10. The labour market appears to be tightening, so the Department expects there will be more temporary overseas workers coming to Australia in the coming year. The Department has contacted several companies with major projects at an advanced stage of development (construction underway or financially committed), and the companies that were able to respond collectively estimate that they will require approximately 2,300 skilled temporary migrants during the construction phase for these projects.

Safety requirements for overseas workers

The Department of Immigration and Citizenship (DIAC) have advised that subclass 457 visa holders must demonstrate that they have the required level of English proficiency and the skills necessary to perform the occupation in order to be granted a visa. This includes mandatory skills assessments for some trade occupations for citizens of certain countries. These skills assessments are performed by registered training organisations on behalf of the Australian Government.

Overseas workers are afforded all the same protections as Australians under Australian workplace law. In addition, sponsors of 457 visa holders are required to adhere to a set of sponsorship obligations. These obligations include the requirement to provide overseas workers with the same terms and conditions as those provided to Australians performing equivalent work. Sponsors are monitored by DIAC's sponsor monitoring team, to ensure that they comply with their obligations. DIAC's inspectors have general powers to undertake inspections under the *Migration Act 1958*. Where sponsors fail to meet their obligations the Government may:

- bar them from sponsoring any more overseas workers;
- cancel the sponsorship;
- issue the sponsor with an Infringement Notice (i.e. fine them); and/or
- apply to a court for a civil penalty order.

Safety regulation in resources sector

Occupational health and safety laws are regulated by individual state and territory jurisdictions. While arrangements vary from state-to-state, occupational health and safety laws generally include provisions for the right of entry of union officials to address health and safety matters arising at the workplace.

In addition, mining specific safety and health legislation in Queensland and New South Wales also includes further provisions for union appointed health and safety inspectors, who have additional investigative powers relating to health and safety matters, as well as the power to issue improvement and prohibition notices.

Work is currently underway, through Safe Work Australia, to harmonise occupational health and safety legislation across Australia. The model Work Health and Safety (WHS) Act developed through this process (to be implemented in all states and territories on 1 January 2012) includes provisions for authorised union representatives to enter a workplace to inquire into a suspected contravention, or to consult and advise workers. This advice may include warning any person that the union officer reasonably believes them to be exposed to a serious risk to his or her health or safety. Authorised union representatives, referred to in the Act as WHS entry permit holders, may consult with any worker who is a member, or eligible to be a member, or a relevant union; or any worker who works at that workplace.

Mining industry fatalities and injuries

A summary of fatal accidents in the mining industry over the past decade is outlined in the table below. Fatality and other incident data is reported to state and territory mine safety inspectorates, which are either separate mining regulatory bodies or part of broader work safe authorities, depending on the jurisdiction. There is currently no national reporting of mining injury data, other than through the Minerals Council of Australia annual safety performance report. Similarly, workers compensation data is obtained by work cover authorities in each state and territory. Aggregated workers compensation data is available online through the Safe Work Australia National Statistics Online Database.

Financial Year	Fatalities in mining industry
2009-10:	10*
2008-09:	17
2007-08:	4
2006-07:	14
2005-06:	11
2004-05:	10
2003-04:	12
2002-03:	12
2001-02:	7
2000-01:	14

* note – includes one onshore petroleum fatality in NSW, which is classified as a mining fatality only in NSW.

There is no requirement to report whether workers involved in fatal accidents and other incidents are migrant workers (for example, holders of 457 visas) through either incident reporting data or workers compensation data. Most jurisdictions do not make any such distinction in their data.

The mine safety agencies New South Wales and Queensland have advised that there are few migrant workers in the mining industry in their states, and while there is no formal reporting mechanism, it is understood that there were no known fatalities in recent years involving migrant workers. In Western Australia, there had been no fatalities involving migrant workers in the two years to 31 May 2011. In May 2009, a Philippine worker was fatally injured while performing maintenance work on a bulldozer. On 4 June 2011, an Irish worker was fatally injured during a scaffolding removal operation at a ship loading wharf (this was is classified as a mining accident in Western Australia, as Western Australia includes the processing and transportation of mining materials as part of a mining operation – which is not the case in most jurisdictions).

Country of origin of overseas workers (top 10 source countries)

Subclass 457 primary visa holders in Australia as at 31 May 2011,
 where the sponsor industry was Mining
 (Note – 457 visas are valid for up to 4 years)

Sponsor Industry	Citizenship Country	Primary Visa Holders
Mining	United Kingdom	1,320
	United States of America	640
	China, Peoples Republic of	470
	Philippines	440
	Canada	400
	South Africa	310
	Ireland, Republic of	180
	India	160
	Indonesia	150
	Papua New Guinea	130
	Other countries	130
Total	5,440	

Source: Department of Immigration and Citizenship, 2011 (BE4182.01)

Table Note 1: Figures rounded to the nearest 10

Table Note 2: sponsor industry determined by self-selection

Table Note 3: 457 visas are valid for up to 4 years, and the figures in this table represent the total number of 457 visa holders in Australia as at 31 May 2011. As such, the above total is not inconsistent with the 3,020 457 visas that have been issued in the 2010-11 program year to 30 April 2011.