

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 FEBRUARY 2012

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(AE12/0024) Program: Internal Product

Senator Cash asked:

McMillan provided the following DIAC figures which show the average number of days taken to resolve judicial review proceedings in refugee related matters in 2009-10. The figures in brackets are the comparable figures for 2005-06. McMillan went on to speculate that the figures for 2010-2011 are likely to be higher than 09-10 and higher again in 2011-2012. FMC – 145 (358); Federal Court – 110 (129); High Court original jurisdiction – 161 (261); High Court special leave – 142 (185). What is the department's view about the likely number of court challenges and how is that reflected in the budget?

Answer:

On 11 November 2010 the High Court delivered judgment in *Plaintiff M61/2010E v the Commonwealth*. This judgment held that the assessment of refugee claims made by offshore entry persons is subject to judicial review. This has increased and, as Professor McMillan predicted, will likely continue to increase the number of applications for judicial review of decisions relating to claims for protection.

Consequently, the Department sought additional funding for the internal and external legal expenses associated with the anticipated judicial review of the refugee status determinations (IMR litigation). The Department was allocated \$26.1 million for the 2011-12 and 2012-13 financial years for internal and external legal expenses associated with anticipated IMR litigation.

The 2011-12 Budget provided \$8.164 million over four years for two additional Federal Magistrates, support staff and some incidental travel to attend court circuit and on 23 January 2012, Mr Ronald Curtain and Mr Matthew Myers commenced as Federal Magistrates.