

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 FEBRUARY 2012

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(AE12/0239) Program 3.1: Border Management

Senator Xenophon asked:

From a policy perspective, does the use of foreign crew members employed under vastly inferior conditions to replace Australian crew members on domestic flights constitute “exploitation of vulnerable workers” in the sense used by Kruno Kukoc in his presentation to the Australian Industry Group’s conference on 28 November 2011: “No doubt, from time to time, you will read or hear about some employers who seek to take advantage of foreign workers as a means of undercutting Australian terms and conditions of employment. The department takes a dim view of illegal work hire practices because they: can reduce work opportunities for Australians; may put businesses that comply with the law at a competitive disadvantage; can contribute to the exploitation of vulnerable workers.”

Answer:

DIAC has a range of powers to investigate and sanction employers that employ workers illegally, breach their sponsorship obligations or employ foreign workers in breach of the workers’ visa conditions.

Employers in the airline industry that employ foreign workers on Temporary Business (Long Stay) subclass 457 visas are subject to a range of sponsorship obligations, including to provide foreign workers with terms and conditions of employment that are no less favourable than the employment conditions that apply to Australian workers in the same occupation.

Airline crew occupations are not eligible for standard subclass 457 visas. Should an employer wish to sponsor foreign workers to work solely on domestic flights, they are required to seek a Labour Agreement and adhere to the accompanying sponsorship obligations. There are currently no Labour Agreements in place, or being sought, for airline crew occupations.

The airline crew special purpose visa arrangements do not make reference to remuneration or other employment conditions. Allegations relating to the underpayment of workers on these visas fall within the responsibilities of the Fair Work Ombudsman.

These provisions were not however designed for foreign airline crew to perform identifiably separate tasks from their international airline crew work in Australia.

Ahead of considering any regulatory changes, the Department would work cooperatively with any airline it suspects of using the SPV arrangements beyond their intended purpose to ensure the airline understands the Department's expectations and could seek to implement monitoring arrangements. DIAC has clarified this expectation with the Qantas Group and will also be communicating with industry more broadly.