

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 24 MAY 2011

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(BE11/0127) Program 1.1: Visa and Migration

Senator Cash asked:

Unlike other immigration processes where the Minister vests decision making powers to departmental delegates at a business branch level. Why it is for approval of a Labour Agreement is the decision maker either the Minister, or rests with those who maintain Departmental Executive Powers?

Answer:

The Minister's power to enter into Labour Agreements derives from the executive power of the Commonwealth under s61 of the Constitution.

The executive power of the Commonwealth under s61 of the Constitution enables the Crown, through its Ministers, 'to undertake all executive action which is appropriate to the position of the Commonwealth under the Constitution and to the spheres of responsibility vested in it by the Constitution'. 'Executive action' includes entering into contracts and agreements.

For reasons of administrative necessity the Minister may exercise his or her executive powers or functions through an authorised departmental official. The Minister has authorised the First Assistant Secretary, Migration and Visa Policy Division to enter into certain Labour Agreements on his behalf.