

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 17 OCTOBER 2011

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(SE11/0269) Program 4.1: Visa Compliance and Status Resolution

Senator Cash asked:

On page 152 of the Annual Report you say that amendments to the migration regulations which began on July 1 provide “clarity for decision-makers and provide an appropriate period within which to decide Bridging Visa E applications” what are those time frames?

Answer:

In July 2011 changes were made to the *Migration Regulations 1994* (the Regulations) to address a number of anomalies and inconsistencies in grounds and condition clauses relating to Bridging E Visas subclasses 050 and 051 (BVE 050 and BVE 051). One of these changes amended Regulation 2.24 (2)(a) to extend the prescribed period within which a BVE decision must be made (where character issues arise).

Before the July regulation change, the ‘prescribed period’ for deciding a BVE application, under Regulation 2.24 (2)(a) was two working days for a non-citizen who has been immigration cleared or who is an eligible non-citizen referred to in sub-regulation 2.20(6) or 28 days for all other applicants. If the decision-maker was unable to meet this timeframe, a visa was taken to have been granted to the non-citizen under section 75 of the Act and the client had to be released from immigration detention.

The regulation amendments allow a Detention Review Officer deciding a BVE application to extend the period for deciding the visa application to 90 days where they have concerns that the client may fail the character test. To do this, they sign a declaration that they reasonably suspect that the applicant may fail the character test and are extending the timeframe for a decision.