

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 27 – 28 May 2009

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(62) Program : MRT-RRT

Senator Hanson-Young asked:

Budget Paper Number 2 (page 335) mentions that the Government plans “to implement a system of complementary protection for people to whom Australia has non-refoulement (non-return) obligations under international human rights treaties, other than the 1951 Convention Relating to the Status of Refugees.” The Budget Paper also says: “Currently, individuals who cannot be granted refugee status, but also cannot return home as their lives could be threatened (or they would be at risk of torture), can only be granted a visa through ministerial intervention powers, which are non-compellable and non-reviewable.”

(1) As with the health requirement, does the Tribunal believe that the absence of a clear pathway for these cases through the Protection Visa process has led to the Tribunal being required to consider appeals which are occurring solely so the applicant can pursue a request for ministerial intervention?

(2) Has any effort been made to quantify the number of such appeals which raise non-refoulement matters outside the Refugee Convention?

(3) Is it anticipated that there will be any extra costs for the Tribunal from these changes? Or is it anticipated that by providing a single transparent visa pathway for all non-refoulement applicants – thus enabling all humanitarian issues to be assessed when the visa claim is first lodged - that there will be a lower number of appeals coming through the Tribunal?

(4) Has the RRT been consulted about these plans?

(5) Is it anticipated that extra training will be required to ensure Tribunal members are conversant with the provisions of the Convention Against Torture and other human rights treaties?

Answer:

(1) The Refugee Review Tribunal (RRT) annually receives a small number of review applications from applicants who state that their applications have been lodged for the sole purpose of seeking access to Ministerial intervention on humanitarian grounds and not Refugee Convention grounds.

(2) The RRT does not maintain statistics on the number of such cases. However, we estimate that 20 per cent of all Protection visa cases will require additional time to consider complementary protection issues.

The RRT maintains statistics on the number of cases that RRT Members refer to the Department for the Minister's consideration of the exercise of his powers under section 417 of the *Migration Act 1958*. 69 referrals were made in 2007-08 and 54 referrals were made from 1 July 2008 to 30 April 2009.

(3) The RRT will receive additional funding in 2009-10 and out years for additional work to be incurred in reviewing protection visa applications in which complementary protection claims are made.

(4) The RRT has been consulted about the introduction of a complementary protection scheme.

(5) Comprehensive training on complementary protection issues will be required and is planned for all Members.