

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH AND AGEING PORTFOLIO

Budget Estimates 2012-2013, 30 & 31 May and 1 June 2012

Question: E12-331

OUTCOME 12: Health Workforce Capacity

Topic: Overseas Medically Trained Spouses

Type of Question: Written Question on Notice

Number of pages: 3

Senator: Senator Fierravanti-Wells

Question:

The following questions are in relation to foreign citizen who migrated to Australia under the skilled occupation list and their overseas medically trained spouse, are placed in a more favourable position than an Australian citizen and their overseas medically trained spouse.

- a) How many people apply for a spousal exemption under clause 5.6 of the Guidelines to section 19AB of the *Health Insurance Act 1973*?
- b) How many spousal exemptions are granted annually?
- c) How many have been granted per year in the last five years?
- d) How many people apply for any exemption under section 19AB of the Act?
- e) How many exemptions under s19AB are granted annually? How many have been granted per year in the last five years?
- f) What is the Department's interpretation of the spousal provision clause 5.6 of the Guidelines to section 19AB of the *Health Insurance Act 1973*?
- g) Did the Department receive legal advice before making its original decision in regards to Dr Kavita Sarang? If not, why not?
- h) Did the Minister receive legal advice before making a decision in regards to Dr Kavita Sarang? If not, why not?
- i) If not, would the Department now seek legal advice?
- j) Is the Department concerned that Australian citizens are being discriminated against on the basis of their citizenship in the Department's current interpretation of clause 5.6 of the Guidelines?

Answer:

- a) The following table provides the number of medical practitioners who have applied to the Department of Health and Ageing for an exemption under the spousal provisions of clause 5.6 of the Guidelines for section 19AB of the *Health Insurance Act 1973* (the Act) for the last five years.

Year	2008	2009	2010	2011	2012
Number of individual medical practitioners who applied for a spousal exemption	92	89	133	124	141

- b) The following table provides the number of medical practitioners who were granted an exemption under the spousal provisions of clause 5.6 of the Section 19AB Guidelines by the Department for the last five years.

Year	2008	2009	2010	2011	2012
Number of spousal exemptions granted	60	61	81	73	87

- c) This information is provided in the table above.
- d) The Department does not have reliable data on the number of individual medical practitioners who apply for an exemption under section 19AB(3) of the Act as many of these applications may be rejected by the Department of Human Services before they reach the Department. For instance, if the doctor has restrictions on medical registration. However, the Department can advise that as at 31 May 2012, 8,396 individual medical practitioners held a valid exemption under section 19AB(3) of the Act.
- e) The number of exemptions under section 19AB(3) of the Act that have been granted to overseas trained doctors (OTDs) and foreign graduates of an accredited medical school (FGAMS) are available according to the financial year, commencing within the 2009-10 Financial Year. Data prior to this year is unreliable due to system issues.

The total number of section 19AB(3) exemptions that have been granted by financial year is as follows:

Year	2009-10	2010-11	2011-12 year to date*
Total Section 19AB exemptions granted	4,467	7,594	6,484

*Year to date figure as at 31 May 2012

A section 19AB(3) exemption is granted to allow a particular OTD or FGAMS to access the Medicare benefits arrangements at a specific location. It should be noted that section 19AB of the Act does not restrict an OTD or FGAMS to practising at a single location. Therefore, OTDs and FGAMS may hold multiple concurrent section 19AB(3) exemptions.

- f) The spousal provisions set out under clause 5.6 of the Section 19AB Guidelines allow an OTD or FGAMS to obtain a Medicare provider number on the basis of their spouse's employment arrangements meeting specified criteria. These criteria are satisfied if the applicant's spouse:
- is a medical practitioner not subject to the Medicare provider number restrictions;
 - is an OTD or FGAMS who holds an exemption under section 19AB(3) of the Act that enables full-time, ongoing access to the Medicare benefits arrangements for a particular area; or
 - is a person who is not a medical practitioner who has migrated to Australia for the purpose of undertaking employment within an occupation that is listed on the Skilled Occupation list.

A person is considered to have migrated if they have been granted a general skilled migration Visa by the Department of Immigration and Citizenship.

- g) No. Legal advice was not sought because the assessment of the application against the provisions and policy was considered by the delegate for the Minister under section 19AB(3) to be unambiguous.
- h) The Minister did not make the decision. The decision was made by the Minister's delegate.
- i) No. The application has been decided, and the Department is not aware of any new facts affecting the application.
- j) No. As with all provisions contained within the Section 19AB Guidelines, applicant OTDs and FGAMS are required to demonstrate that they meet eligibility criteria in order to be granted a section 19AB exemption and thereby access to a Medicare provider number. If the eligibility criteria for the relevant provisions are satisfied, the medical practitioner will be granted an exemption. This is not contingent upon their citizenship status at the time of application.

This applies to applications made under the spousal provisions. If the criteria for a spousal exemption are satisfied, the applicant medical practitioner will be granted the exemption. In the case that the applicant medical practitioner or their spouse subsequently obtains Australian citizenship or permanent residency their eligibility to obtain an exemption under the spousal provision will continue to be assessed according to the spouse's status at the time of migrating to Australia.