

COMMITTEE

Senate Select Committee on Temporary Migration

Attorney-General's Department

Question date: 13 May 2021

Question type: Written

The Committee asked the following question:

1. In response to written question on notice (number two) received on 29 October 2020, the Attorney-General's Department provided the Select Committee on Temporary Migration (the committee) with an update on the implementation of each recommendation from the Migrant Workers' Taskforce report. Provide the committee with a further update on the status of each of the recommendations arising from the Migrant Workers' Taskforce report.
2. Your response to written question on notice (number five) received on 29 October 2020 states that in 2018-19, there were 496 small claims filing in the Federal Circuit Court, with 413 filings finalised. How many of the 413 finalised filings resulted in the recovery of underpayments or other entitlements?
 - a. What was the average time for these claims to be finalised?
 - b. How many temporary visa holders had to leave the country while they had an ongoing small claims filing in the Federal Circuit Court and were unable to recover their underpayments or other entitlements?

The response to the Committee's question is as follows:

1. The Attorney-General's Department is leading work in response to 15 of the 22 recommendations of the Migrant Workers' Taskforce, all of which were accepted in principle by the Government. In response to these recommendations, the Government has:
 - established an interagency group, chaired by the department, to maintain whole of government oversight of work to implement the recommendations (**recommendation 1**)
 - extensively consulted with stakeholders on possible reforms to the *Fair Work Act 2009* through two discussion papers and the JobMaker Industrial Relations Compliance and Enforcement Working Group (**recommendations 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12**)
 - provided additional resources to the Fair Work Ombudsman to support its work as the national workplace regulator, including providing \$47.3 million to the Fair Work Ombudsman in the 2020-21 Budget to: improve public awareness of the regulator and enhance its tools and education resources (\$11.3 million); establish an Employer Advisory Service to provide free, tailored, written advice to small business (\$12.9 million); and establish a dedicated Corporate Sector Assurance

Team to identify, investigate and respond to non-compliance by large corporates (\$22.3 million) (**recommendation 10**)

- continued consultations on the establishment of a national labour hire registration scheme (**recommendations 11 and 14**)
- compiled a central register of data and research to inform future policy development (**recommendation 22**).

Furthermore, the Government has:

- implemented initiatives to enhance migrant workers' awareness of workplace rights and entitlements, including through information provided in visa grant notices (**recommendation 2**)
- improved and expanded education materials for migrant workers, including dedicated resources on the Fair Work Ombudsman and Study in Australia websites (**recommendations 2, 15, 16 and 17**)
- implemented outcomes from a review of the Fair Work Ombudsman and Department of Home Affairs assurance protocol, and continues to regularly monitor the effective operation of the protocol (**recommendation 21**), and
- improved the collection and analysis of agricultural labour force data by the Australian Bureau of Agricultural and Resource Economics and Sciences (**recommendation 22**).

The Government has also announced that it will strengthen protections for migrant workers under the migration framework (**recommendations 19 and 20**).

Consultation is ongoing regarding the remaining recommendations.

2. Of the 413 finalised small claims filings in the 2018-19 period, the average time until finalisation was 5.6 months, according to data provided by the Federal Circuit Court of Australia.

The Federal Circuit Court has advised that its case management system does not record whether a decision was in the applicant's favour, or data on the visa status of applicants.