

COMMITTEE INQUIRY QUESTION

(Question No. 9)

Senator Kimberley Kitching asked the Department of Defence, upon notice, on 16 November 2021:

There has been some confusion in evidence to date about the operation of the exclusion clause in the relevant LEE regulation, IMMI 12/127, which excludes individuals who were employed in a private security capacity from LEE certification.

1. What was the rationale for including this clause when the regulation was initially drafted?
2. Can you please outline the exact circumstances in which this exclusion for 'private security contractors' is intended to apply?
3. How have Defence, DFAT and Home Affairs interpreted and applied this exclusion over the duration of the LEE program?
4. In practice, has this exclusion only been applied in relation to private security contractors in relation to security staff external to the Australian embassy in Kabul, or are there other cohorts of contractors who worked with Australian forces that have been denied LEE certification because of this exclusion in the regulation?

The Department of Defence has provided the following answer to the Senator's question:

3. Defence has interpreted clause 3 (b) of IMMI12/127 to explicitly exclude any individual who is or was an Afghan government or military official or employed in a private security capacity. Defence advised anyone who was in one of these categories that they would be ineligible at the time of their initial inquiry.
4. Defence certified a small number of private security contractors from Tarin Kowt as ineligible.