

**HOME AFFAIRS PORTFOLIO  
DEPARTMENT OF HOME AFFAIRS**

**PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE**

Senate Legal And Constitutional Affairs Legislation Committee  
Migration Amendment (Protecting Migrant Workers) Bill 2021 [Provisions]

**23 February 2022**

**QoN Number: 01**

**Subject: Assurance Protocol - Date of Implementation**

**Asked by:** Raff Ciccone

**Question:**

**Senator CICCONE:** Is the Assurance Protocol advertised to people once they're on a visa, to let them know that it exists?

**Ms Moy:** Yes, it is.

**Senator CICCONE:** Many people have also asked about that firewall between the Fair Work Ombudsman and the department. They obviously want people to come forward and report exploitation. The figure was 77?

**Ms Moy:** Seventy-seven.

**Senator CICCONE:** How does that compare to previous years?

**Ms Moy:** That's 77 in total since the protocol has been in place.

**Senator CICCONE:** How long has it been now?

**Ms Moy:** I'll have to come back to you with the actual date. The Fair Work Ombudsman will generally come to us, the ABF—representing the ABF as well—and say: 'We have an individual; this is the situation, and this is the issue.' The ABF will then look to reconnect that person with a sponsoring employer and look at what their visa conditions are. If that person has been, for want of a better example, threatened or told that their visa would be cancelled et cetera, we can actually look at their visa eligibility and conditions. In those cases that have been referred to us—77 people—nobody has had a visa cancelled. We're looking for a positive reconnection to their program or a positive outcome in terms of that person being here for employment.

**Answer:**

- The Assurance Protocol commenced in February 2017.
- As at 31 January 2022, 77 migrant workers have been referred under the Assurance Protocol since it commenced.
- None of those visa holders have had their visas cancelled.

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**PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE**

Senate Legal And Constitutional Affairs Legislation Committee  
Migration Amendment (Protecting Migrant Workers) Bill 2021 [Provisions]

**23 February 2022**

**QoN Number: 02**

**Subject: VEVO System - Employer checks on Employee Visa Working Rights**

**Asked by:** Sarah Henderson

**Question:**

With respect to concerns raised by ACCI about the VEVO system, does the Department of Home Affairs consider it is reasonable for employers to conduct a quick and simple check of the visa working rights of their employees?

**Answer:**

Yes. Employers or third party providers who refer a non-citizen for work are expected to check whether a prospective employee is a non-citizen, and if so, check the employee's visa status and work related conditions before offering them a job.

The Migration Act contains offences and civil penalty provisions in relation to an employer / third party provider who allows / refers a non-citizen to work either in breach of work-related visa conditions or as an unlawful non-citizen (sections 245AB, 245AC, 245AE and 245AEA).

Currently, an employer or third party provider can rely on a defence against these offences, if they used the relevant departmental system (currently VEVO) or undertook other reasonable steps to verify a non-citizen's visa status and conditions.

The new positive obligations build on the existing framework and provide greater clarity about the responsibility of employers (and other parties in the employment chain) to verify a non-citizen's visa status and conditions before they offer the non-citizen a job. Further, the Bill offers flexibility to employers to acquit their obligations directly, through a third-party provider / checking service, or through the worker initiating the check themselves through VEVO.

The shift from a defence to a positive obligation will help to ensure that checks are being undertaken appropriately in the interests of protecting employers from inadvertently contravening the existing, well-established 'allow / refer' offences.