

**HOME AFFAIRS PORTFOLIO
DEPARTMENT OF HOME AFFAIRS**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Senate Select Committee on Job Security

11 October 2021

QoN Number: 09

Subject: Recommendations made on outstanding Labour Agreement applications

Asked by: Matthew Canavan

Question:

Senator CANAVAN: I've asked about these in Senate estimates before. Could I get a status update on how many revisions to the MILAs are outstanding at the moment: how many have been resolved, say, since the last information you provided at estimates late May or early June?

Mr Willard: Certainly, Senator. When you asked in March, I think there were 30 meat industry labour agreements requests on hand. That was made up of 12 requests for a new agreement and 18 requests to vary an existing agreement. As at 31 August, of those 30 requests, 27 have been finalised and three remain on hand.

Senator CANAVAN: Are you able to say which companies the three relate to?

Mr Willard: I don't have information on all three companies that it relates to. Can I take that on notice and perhaps get back to you?

Senator CANAVAN: Okay, thank you. And, for those three, has the department made recommendations or provided a brief to the minister? Effectively, I'm asking is there a decision outstanding for the minister to make to finalise those? Or is the department still considering the applications?

Mr Willard: I'm aware we've provided a brief for at least one of those three. I'd have to check again for the other two and come back to you. I can include that in the response.

Senator CANAVAN: Okay, can you take that on notice as well. Thank you.

Answer:

The status of the three Meat Industry Labour Agreement (MILA) is outlined below

- A request to vary an existing MILA for JBS Australia, has now been approved by the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs (the Minister) and the Deed of Variation is now in effect.
- A new MILA for Midfield Meat International is currently with the Minister for decision.
- A new MILA for Kilcoy Pastoral Company Limited cannot be approved until the relevant legislative instrument is updated to include new regions for sponsorship of overseas workers for the Skilled Employer Sponsored Regional (subclass 494) visa.

**HOME AFFAIRS PORTFOLIO
DEPARTMENT OF HOME AFFAIRS
AUSTRALIAN BORDER FORCE**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Select Committee on Job Security

11 October 2021

QoN Number: 10

Subject: Breaches and Fines in relation to undocumented workers

Asked by: Tony Sheldon

Question:

CHAIR: Back to this question, going a little bit further on the use of undocumented workers: how many breaches or fines have occurred in the last five years? What's the number year by year? I appreciate that you may have to take that on notice.

Mrs Huey: I will have to take that on notice, I'm sorry. I don't have those figures for five years to hand.

CHAIR: Are you aware of any companies that have been punished with financial breaches because of employing undocumented workers?

Mrs Huey: I will take that on notice, noting that I'm responsible for the workforce within the ABF. I'm not working in the enforcement area at this time.

CHAIR: Is there somebody else who can answer that, if there isn't a standard?

Mr Willard: I can't give you a precise figure. I would note that the ABF does publish sanctions of employers on their website. There is a register that lists all the sanctions they've imposed. Just looking at it, it looks like we'll have to take it on notice, because it doesn't aggregate them, but there is that information available publicly that lists sanctioned employers.

CHAIR: Does it identify those companies that have had undocumented workers being exploited or identify the amount of penalty that is paid?

Mr Willard: It references a regulation that the company failed to meet and was sanctioned on. Sorry, I'd have to take it on notice. There are about 1,000 items on the website.

CHAIR: Thank you. It does make sense to take it on notice, with that many there, so I appreciate you taking it on notice.

Answer:

Data table

Number of Illegal Worker Warning Notices issued

Financial Year	Warnings Issued
2016-2017	402
2017-2018	323
2018-2019	314
2019-2020	184
2020-2021	150
2021-2022 to 30 Sep	19

Number of Infringement Notices issued

Financial Year	Values	Fine amount
2016-2017	12	\$132,840
2017-2018	19	\$214,920
2018-2019	12	\$179,550
2019-2020	8	\$209,790
2020-2021	19	\$525,096
2021-2022 to 30 Sep	5	\$31,968

As data has been drawn from a live systems environment, the figures provided may differ slightly in previous or future reporting.

The ABF adopts a tiered compliance approach encouraging compliance through education in the first instance, aimed at preventing exploitation before it occurs and drawing attention to employer processes and requirements.

Education and awareness visits are an effective, highly visible deterrent to encourage voluntary compliance and to collect against information gaps that inform further proactive disruption action planning.

Where non-compliance is identified, Illegal Worker Warning Notices (IWWNs) are issued to lay the required foundation for infringements if the non-compliance continues. However, if the non-compliance is of a serious and systemic nature, infringement notices can be issued without the issuance of IWWNs.

The ABF maintains a publically available register of approved work sponsors who have breached their sponsorship obligations pursuant to mandatory publication requirements set out in the *Migration Act 1958*. This register does not include companies found to be in breach of matters relating to unlawful non-citizens.

**HOME AFFAIRS PORTFOLIO
DEPARTMENT OF HOME AFFAIRS
AUSTRALIAN BORDER FORCE**

PARLIAMENTARY INQUIRY SPOKEN QUESTION ON NOTICE

Select Committee on Job Security

11 October 2021

QoN Number: 11

Subject: Making an example of a Company under investigation

Asked by: Tony Sheldon

Question:

CHAIR: Professor Allan Fels, who chaired the Migrant Workers' Taskforce, said that Home Affairs should make an example out of these companies—I'm referring to companies like Teys, if the allegations are proven correct—and suspend their entitlement to access foreign labour. Would that be an effective mechanism to dissuade exploitation?

Mr Willard: I should be clear: I'm certainly not referencing any individual company in terms of these comments, but there are penalties that can apply that involve cancellation of sponsorship, which means the employer can no longer access visa holders through the sponsored arrangements.

CHAIR: Are you able to give us a list of those companies that are under investigation?

Mr Willard: I will have to take that on notice.

Answer:

Employers who have breached sponsorship obligations in relation to foreign workers are listed on the Australian Border Force's (ABF) public register at <https://www.abf.gov.au/about-us/what-we-do/sponsor-sanctions/register-of-sanctioned-sponsors>. There are currently 1,143 businesses listed on this register.

These employers may be subject to a range of sanctions including, but not limited to, one or more of the following:

- infringement notices;
- civil action in relation to breach of contract; and/or
- termination or suspension of labour agreements and/or sponsorships, preventing future access to overseas workers through these arrangements.

The Department of Home Affairs (the Department) and ABF are investigating entities in the meat industry who are suspected of engaging in fraud and/or exploitation of workers. It is not appropriate to comment further on either the number, or identity of the entities currently under investigation.

The Department conducts a range of checks before agreeing to any labour agreement request. Where a business is considered not to be of good standing, their request will be refused. Labour agreements and associated legislation contain a number of requirements that minimise the risk of sponsored overseas workers being exploited. For example, businesses must ensure that overseas workers receive pay and conditions at least equivalent to the Australian award rate.

The ABF regularly undertakes sponsor monitoring, including unannounced site visits, to ensure businesses are complying with their legislative and contractual obligations. The Department and ABF have existing information sharing and referral arrangements in place with the Fair Work Ombudsman to effectively manage allegations or incidents of worker exploitation. Both agencies also engage with businesses and peak industry bodies to raise awareness of current issues of concern and identify strategies to mitigate risks to overseas workers.