

**Question on notice no. 85**

**Portfolio question number: BE22-085**

**2022-23 Budget estimates**

**Legal and Constitutional Affairs Committee, Home Affairs Portfolio**

**Senator Nick McKim:** asked the Department of Home Affairs on 19 April 2022—

Please provide the Committee with an update of the information provided in the following response to a previous Question on Notice:

AE21-291 - Transitory Persons - Ministerial Determinations

**Answer —**

Please see the attached answer.

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
BUDGET ESTIMATES  
MARCH / APRIL 2022**

**Home Affairs Portfolio  
Department of Home Affairs**

**Program 2.1: Migration**

**BE22-085 - Transitory Persons - Ministerial Determinations**

Senator Nick McKim asked:

Please provide the Committee with an update of the information provided in the following responses to previous Question on Notice:

AE21-291 - Transitory Persons - Ministerial Determinations

For each month since 19 July 2013 please provide:

- a. the number of transitory persons in respect of whom a submission has been made to the Minister contemplating a residence determination.
- b. the number of transitory persons in respect of whom the Minister has made a residence determination.
- c. the number of transitory persons in respect of whom the Minister has declined to make a residence determination.
- d. the number of transitory persons in respect of whom more than one submission has been made to the Minister contemplating a residence determination.
- e. the number of transitory persons in respect of whom the Minister has granted a visa under s 195A
- f. the number of transitory persons in respect of whom the Minister has made a determination under s 46B to allow a transitory person to make a valid application for a visa.

*Answer:*

Residence Determination (Questions a-d)

Month*	Referred	Intervened	Declined	Re-Referred
July 2013 - October 2014	0	0	0	0
November 2014	<5	<5	0	0
December 2014	0	0	0	0
January 2015	0	0	0	0
February 2015	10	5	5	0
March 2015	7	7	0	0
April 2015	<5	0	0	0
May 2015	14	<5	0	0
June 2015	<5	10	0	0
July 2015	9	<5	0	0
August 2015	5	14	0	0

Month*	Referred	Intervened	Declined	Re-Referred
September 2015	0	0	0	0
October 2015	8	0	<5	0
November 2015	14	<5	0	0
December 2015	27	22	0	<5
January 2016	45	38	0	0
February 2016	78	73	0	0
March 2016	50	47	<5	<5
April 2016	12	6	<5	0
May 2016	16	13	<5	0
June 2016	6	<5	9	0
July 2016	<5	<5	0	0
August 2016	7	<5	0	0
September 2016	5	5	0	0
October 2016	5	<5	<5	0
November 2016	20	10	0	6
December 2016	7	14	<5	<5
January 2017	11	24	0	<5
February 2017	6	26	0	<5
March 2017	21	7	0	<5
April 2017	0	11	0	0
May 2017	35	6	0	<5
June 2017	13	29	<5	<5
July 2017	5	14	<5	0
August 2017	<5	5	<5	<5
September 2017	11	5	0	0
October 2017	<5	9	<5	0
November 2017	6	<5	0	<5
December 2017	7	6	0	0
January 2018	6	5	0	<5
February 2018	<5	6	0	0
March 2018	6	6	<5	<5
April 2018	9	6	<5	0
May 2018	7	8	0	<5
June 2018	<5	<5	0	0
July 2018	27	26	0	0
August 2018	24	25	0	0
September 2018	46	30	0	<5
October 2018	50	45	<5	0
November 2018	138	132	<5	5
December 2018	68	80	0	5

Month*	Referred	Intervened	Declined	Re-Referred
January 2019	22	32	0	0
February 2019	29	7	0	0
March 2019	38	30	15	<5
April 2019	20	<5	0	0
May 2019	15	24	0	<5
June 2019	<5	5	5	0
July 2019	18	10	<5	0
August 2019	28	45	<5	<5
September 2019	28	<5	<5	<5
October 2019	11	7	30	<5
November 2019	14	<5	5	<5
December 2019	34	9	<5	<5
January 2020	0	<5	<5	0
February 2020	<5	<5	0	0
March 2020	<5	<5	0	0
April 2020	0	<5	0	0
May 2020	0	0	0	0
June 2020	<5	<5	0	<5
July 2020	11	0	0	0
August 2020	0	11	0	0
September 2020	0	0	0	0
October 2020	0	0	0	0
November 2020	23	23	0	0
December 2020	0	0	0	0
January 2021	0	0	0	0
February 2021	<5	0	0	0
March 2021	0	0	0	0
April 2021	0	<5	0	0
May 2021	0	0	0	0
June 2021	0	0	0	0
July 2021	<5	0	0	0
August 2021	48	42	6	0
September 2021	0	<5	0	0
October 2021	0	0	0	0
November 2021	<5	0	<5	<5
December 2021	<5	<5	<5	<5
January 2022	0	0	0	0

*\*The above information is in respect of transitory persons who arrived after 19 July 2013 and were transferred from a regional processing country (RPC) to Australia under section 198B, 198E or 198G of the Migration Act 1958 (the Act) for a temporary purpose.*

The Department received ministerial direction not to refer persons who arrived after 19 July 2013 for consideration under section 197AB of the Act for a possible residence determination. This was formalised in the section 197AB Ministerial Guidelines signed on 18 February 2014, establishing persons who arrived after 19 July 2013 should not be referred for consideration unless there were exceptional circumstances.

The guidelines were later amended (signed 29 March 2015) to specifically include where a person was transferred from an offshore processing centre to Australia for medical treatment or otherwise could be referred for consideration under section 197AB of the Act.

#### Sections 195A and 46B (Questions e-f)

Information on transitory persons referred to the Minister for consideration under section 195A prior to July 2018 is not available in departmental systems in a reportable format.

<b>Month*</b>	<b>Intervened under section 195A to grant a Bridging visa</b>	<b>Intervened under section 46B to allow Bridging visa applications</b>
July 2018	0	0
August 2018	0	0
September 2018	60	0
October 2018	0	0
November 2018	85	0
December 2018	0	0
January 2019	0	0
February 2019	0	0
March 2019	59	0
April 2019	0	0
May 2019	85	0
June 2019	0	0
July 2019	0	0
August 2019	0	0
September 2019	58	58
October 2019	0	0
November 2019	84	0
December 2019	0	0
January 2020	0	0
February 2020	0	0
March 2020	0	0
April 2020	0	0
May 2020	<5	83
June 2020	0	0
July 2020	0	0
August 2020	60	0
September 2020	216	<5
October 2020	0	0

<b>Month*</b>	<b>Intervened under section 195A to grant a Bridging visa</b>	<b>Intervened under section 46B to allow Bridging visa applications</b>
November 2020	0	0
December 2020	7	0
January 2021	64	0
February 2021	69	0
March 2021	6	260
April 2021	7	0
May 2021	<5	0
June 2021	0	0
July 2021	0	79
August 2021	<5	165
September 2021	0	132
October 2021	0	0
November 2021	<5	83
December 2021	8	0
January 2022	0	0

*\*The above information is in respect of transitory persons who arrived after 19 July 2013 and were transferred from an RPC to Australia under section 198B, 198E or 198G of the the Act for a temporary purpose*