

Question on notice no. 60

Portfolio question number: OBE22-060

2022-23 Budget estimates October and November

Legal and Constitutional Affairs Committee, Home Affairs Portfolio

Senator Nick McKim: asked the Australian Border Force on 28 November 2022—

Senator McKIM: Thanks. I do understand the point that you are trying to make, but we've heard there is a jurisdictional error here. The question I would like an answer to is: have ABF officers have made that same jurisdictional error in regards to people from any other countries of origin, or has it just been confined to people from India?

Ms C Pearce: There is no confinement to just India. I'll take on notice any other errors of the exact same nature as those you have described.

Answer —

Please see the attached answer.

**SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
BUDGET ESTIMATES
OCTOBER 2022**

**Home Affairs Portfolio
Department of Home Affairs**

Program 3.4: Border Enforcement

OBE22-060 - Detention of Tourists

Senator Nick McKim asked:

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Ms C Pearce: There is no confinement to just India. I'll take on notice any other errors of the exact same nature as those you have described.

Answer:

During the period 1 July 2022 – 30 November 2022, ABF cancelled 340 visas at the border. Of the 340 cancellations at the border, 59 involved Indian nationals.

During this period, seven individuals have sought judicial review of the cancellation of their visa. Of these seven, six individuals were of Indian nationality. The Court has quashed, by consent the cancellation decisions with respect to five of these individuals on the basis that the decisions were affected by jurisdictional error. Three of these five cases were affected by jurisdictional errors of similar nature. The Minister successfully defended the remaining case.

Following an internal review, ABF implemented additional measure and training to enhance the visa decision making process for ABF officers at the border.