

**Senate Economics Legislation Committee**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Supplementary Budget Estimates

2015 - 2016

**Department/Agency: ACCC**

**Question: SBT 148-150**

**Topic: Staffing - Employment of non-Australian citizens**

**Reference: written - 30 October 2015**

**Senator: Ludwig, Joe**

**Question:**

I refer you to section 22 (8) of the Public Service Act 1999 which says:

"An Agency Head must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so."

148. Does the department have guidelines or similar to assist Agency Heads to assess when it is appropriate to hire non-Australian citizens? If no, do individual agencies have their own guidelines? If yes to either:
1. Please provide a copy.
  2. When did they come into effect?
  3. Can Agency Heads decide to go against the advice? If yes, under what circumstances?
149. Are Agency Heads required to provide a reason to anyone for hiring non-Australian citizens? If yes:
1. Who are they required to report the reason to?
  2. Does this reporting happen before or after the hire has been made?
  3. Is this reason provided in writing? If no, how is it provided?
  4. Can you please provide a list of reasons that have been used since the Federal election in September, 2013.
150. Are there any provisions to over-rule a Head of Agency's decision to hire a non-Australian citizen? If yes:
1. Who can over-rule this decision?
  2. Under what circumstances can it be over-ruled?
  3. How many times has this occurred since the Federal election in September, 2013.

**Answer:**

148. Yes
1. The *ACCC Citizenship Policy* (Attachment A).
  2. 2004.
  3. Section 22(8) of the Public Service Act 1999 prescribes that an Agency Head must not engage, as an APS employee, a person who is not an Australian citizen, unless the Agency Head considers it appropriate to do so. As the Agency Head of the ACCC/AER, under the *ACCC Citizenship Policy*, the

Chairperson may exercise this discretion on a case-by-case basis, taking account of the following:

- the person must be eligible for and actively seeking Australian citizenship, and would obtain it within a reasonable period. The Chairperson must be satisfied that it would, in all the circumstances, be appropriate to appoint the person, or
- it would be in the ACCC/AER's interests to engage the person, having regard to their skills, qualifications and experience and the availability of similarly skilled persons who are already Australian citizens.
- the person must have a visa allowing them to work in Australia.

Where the Chairperson waives the citizenship requirement the person will be engaged on a non-ongoing basis pending granting of citizenship or for such period as the Chairperson considers appropriate.

If the person fails to obtain citizenship by an agreed deadline (the end of their term as a non-ongoing employee) their employment will be terminated unless the Chairperson determines otherwise.

If the person is on transfer or transfer pending promotion, they will return to their original agency if they fail to obtain citizenship by an agreed deadline, unless the Chairperson determines otherwise.

Engagement cannot occur or cannot be extended if the person does not have a valid work visa for the term of the engagement.

149. No.

150. No.