

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2015 - 2016

Department/Agency: ABS

Question: SBT 162-164

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."

162. 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:
- a. Please provide a copy.
 - b. When did they come into effect?
 - c. Can Agency Heads decide to go against the advice? If yes, under what circumstances?
163. Are Agency Heads required to provide a reason to anyone for hiring non-Australian citizens? If yes:
- a. Who are they required to report the reason to?
 - b. Does this reporting happen before or after the hire has been made?
 - c. Is this reason provided in writing? If no, how is it provided?
 - d. Can you please provide a list of reasons that have been used since the Federal election in September, 2013.
164. Are there any provisions to over-rule a Head of Agency's decision to hire a non-Australian citizen? If yes:
- a. Who can over-rule this decision?
 - b. Under what circumstances can it be over-ruled?
 - c. How many times has this occurred since the Federal election in September, 2013.

Answer:

162a. Yes, the ABS has guidelines on employment in the ABS which cover citizenship, which align with the Public Service Act and information available on the Australian Public Service Commission (APSC) website. The relevant extract from the ABS guidelines is below.

Citizenship

To be eligible for employment with the ABS, a person must be an Australian citizen. This applies to both ongoing and non-ongoing employment. Employees are required to provide evidence of their Australian citizenship.

The citizenship requirement will only be waived in exceptional circumstances and must be approved by the Australian Statistician on a justifiable need and suitability basis. Prior to issuing an eligibility waiver, the Australian Statistician must:

- identify a justifiable exceptional business requirement (for the waiver);
- conduct and document a risk assessment;
- determine the period covered by the waiver;
- ensure the non-citizen has the appropriate work rights/visa; and
- gain agreement from the prospective employee to meet *all* conditions of the waiver.

Where an eligibility waiver is sought for a position that requires a security clearance, this must be undertaken in consultation with the Security Section and in compliance with the requirements set out in the ABS Personnel Security Policy, 'Eligibility Waivers'.

The Australian Statistician and/or may also impose other conditions of employment, such as:

- obtaining Australian citizenship within a prescribed timeframe;
- probation;
- formal qualifications;
- security and character clearances and health assessments

The ABS must notify prospective employees in advance of any conditions applying to their engagement

The ABS may also impose various other conditions of employment such as probation, formal qualifications, security and character clearances and health assessments. The ABS must notify prospective employees, in advance, of any conditions applying to their engagement.

162b. A requirement around citizenship has been in ABS guidelines since at least 1996 – the guidance has been updated periodically.

162c. The guidelines above (at 162a) outline the process the Australian Statistician follows.

163. No.

164. No.