

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Fair Work Ombudsman

Department of Employment Question No. EMSQ15-000398

Senator Lines provided in writing.

Question

FWO - Foreign workers

Last year, how many foreign workers did you recoup costs for? And, how much was the value of those underpayments, entitlements etc? Of those, do you know how many were on 457 visas? Can you provide a breakdown of the visa class each person was on?

Were the Department of Immigration involved in all of those investigations? And, were they notified of the results?

Answer

The Fair Work Ombudsman can, and does, enforce workplace laws under the *Fair Work Act 2009* with respect to all workers in Australia, irrespective of their visa status or conditions. In addition, we assist the Department of Immigration and Border Protection by monitoring compliance with specific 457 visa sponsorship obligations under the *Migration Act 1958*.

As such, the Fair Work Ombudsman and the Department of Immigration and Border Protection have an ongoing dialogue and share intelligence between a range of officers on a range of matters of mutual interest to our Agencies. Some interactions are in relation to, and in accordance with, the MOU between the Agencies. Other interactions may relate to other operational, compliance, policy or media issues.

In relation to workplace laws under the *Fair Work Act 2009*, in 2014–2015 the Fair Work Ombudsman finalised 1971 matters from dispute forms received from overseas workers. \$1,640,499 was recovered for 488 workers.

Of the dispute forms received from overseas workers, 181 (8 per cent) were from international students, 930 (43 per cent) related to subclass 417 working holiday visas and 315 (15 per cent) involved subclass 457 temporary skilled work visas.

The above information is based on cases where workers elect to disclose that they are on a visa, and/or their visa class. Some workers may disclose the former and not the latter, or neither.

As part of the Fair Work Ombudsman's 457 visa monitoring role, we check nominated salaries are being paid and the visa holder is performing the nominated position approved in their visa. Where employers are not meeting these obligations, the matter is referred to the Department of Immigration and Border Protection for it to assess the appropriate action under migration laws.

In 2014–2015, a total of 702 entities employing 1611 temporary skilled work visa holders were assessed by the Fair Work Ombudsman, 223 entities were referred to the Department

of Immigration and Border Protection due to concerns that wages or position obligations were not being met for 328 employees.

These activities are outlined on pages 39–40 of the Fair Work Ombudsman’s 2014–2015 Annual Report, available at www.fairwork.gov.au/about-us/reports-and-submissions/annual-reports.