

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Safe Work Australia

Department of Employment Question No. EMSQ15-000442

Senator Ludwig provided in writing.

Question

SWA - Employment of non-Australian citizens

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."

1. 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?
2. 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.
3. 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

Safe Work Australia relies on the guidance 'Citizenship in the Australian Public Service' issued by the Australian Public Service Commission when considering whether it is appropriate to engage non-Australian citizens as employees under the *Public Service Act 1999*. This guidance is available on the Commission website www.apsc.gov.au. Agency Heads are not required to provide a reason to anyone should they decide to engage a non-Australian citizen as an employee, and there are no provisions to over-rule an Agency Head's decision to hire non-Australian citizens.