

## Senate Standing Committee on Education and Employment

### QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

#### Agency - Fair Work Commission

Department of Employment Question No. EMSQ15-000446

Senator Ludwig provided in writing.

Relates to previous Department of Employment Question No EMSQ15-000244

#### Question

##### FWC - 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

1. No, the Fair Work Commission does not have guidelines concerning employment of non-Australian citizens.
2. No.
3. No.