

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING : 26 May 2015

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(BE15/106) - Companies - 457 - Programme 2.3: Visas

Senator Hanson-Young, Sarah (L&CA 89) asked:

Senator HANSON-YOUNG: Thank you. You mentioned the 90 days. I refer to somebody who leaves the company they are working for on a 457 or, indeed, perhaps are fired as a result of whatever has happened and they are dismissed. In a situation where somebody has been working for a company that is now part of an investigation with the Commonwealth Ombudsman, is that 90 days a strict rule? Do those workers have to leave the country within that 90-day period, even if the company they were working for and the circumstances is being investigated?

Mr Wilden: I will take that on notice.

Senator HANSON-YOUNG: Do you see what I am saying?

Mr Wilden: I think so. That is why I am taking it on notice. I will need to see the record.

Senator HANSON-YOUNG: I would also like to know: if that is the case, do people have to stick by the 90-days rule, even in the circumstances where a company is being investigated by the Ombudsman? If not, is there some way of being able to appeal the deportation notice or being able to apply for a bridging visa? Is there another way through for the workers in that circumstance?

Mr Wilden: I will take it on notice.

Answer:

Subclass 457 visa holders have a condition attached to their visa which states they cannot cease employment for more than 90 consecutive days. Sponsors are obligated to advise the department if a 457 visa holder has ceased employment with their business.

In situations where 90 calendar days have passed since the employment cessation date, the visa holder will be in breach of the 8107 visa condition if they were still in Australia and had not been nominated by a new sponsor nor submitted an application for a different visa. Once 90 days have passed, the department notifies the visa holder of its intention to consider cancellation of the visa and invites them to respond. The 457 visa holder's response to this notification, and other external factors known to the department, such as a Commonwealth Ombudsman investigation into the sponsoring business, would be taken into consideration.