

## QUESTION TAKEN ON NOTICE

**BUDGET ESTIMATES HEARING : 22 May 2017**

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(BE17/009) - AAT decision - visa cancellation of 6 Iranians - Appeal - Internal Product (DIBP)**

Senator Pratt, Louise (L&CA 26-27) asked:

Senator PRATT: I would like to ask these questions, and you are free to answer them or not answer them. On what grounds did the minister seek to cancel these six visas?

Mr Pezzullo: I would want to take that on notice and refresh myself as to the circumstances.

CHAIR: Do you think the minister cancelled them or the department?

Mr Pezzullo: It would depend on who the delegate is.

CHAIR: But ministerial decisions are not subject to the AAT, are they?

Mr Pezzullo: Some are reviewable and some are not. Ms Zakharoff and Ms de Veau can perhaps quickly dispose of that angle.

Ms Zakharoff: These decisions were made by departmental delegates.

Senator PRATT: What decisions did the AAT make in relation to their cases?

Mr Pezzullo: Before Ms Zakharoff answers I have said I would like to refresh myself as to the circumstances. If there is generalised information that does not go to their particular circumstances and that we can assist this committee with I am more than happy to come back to you. We have got a day and three-quarters together.

Senator WATT: Don't forget about the nights.

Mr Pezzullo: Days and nights. Thank you, Senator Watt. Once I refresh myself, if there is a general way in which we can talk about process, how delegations work—we clarified for the chair, for instance, the level of decision-making—I think that is all entirely appropriate. But when you start to ask, 'When did the travel occur? How many times did they travel?'—

Senator PRATT: No, I have not got questions to that end. Can I ask whether the minister has asked you or the department to start preparing a case to appeal or overturn the decision of the AAT in relation to these cases? Mr Pezzullo: Again, I will refresh my memory as to the facts of these cases and whatever I can come back with on the public record I will.

*Answer:*

A departmental delegate can cancel visas of non-citizens under section 109 of the *Migration Act 1958* (the Act) on the basis that they provided incorrect answers in relation to their visa applications.

Questions on specific Administrative Appeals Tribunal (AAT) decisions should be referred to the AAT.

The Department routinely provides advice to the Minister on AAT matters and provides the Minister with the opportunity to consider whether he would like to review the decisions of the AAT. The Minister has personal powers under section 133A and section 133C of the Act to set-aside a decision of the AAT and cancel a visa if the Minister is satisfied that it would be in the public interest to do so.