

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING : 17 October 2016

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(SE16/020) - Prosecutions under the Customs Act - Programme 1.2: Border Management

Senator Carr, Kim (L&CA 75) asked:

Senator KIM CARR: Can you give us a breakdown of the fines that have been administered and the companies that have been—

Mr Outram: No, I cannot identify the companies right here.

Senator KIM CARR: But surely if it is a prosecution it is a public matter.

Mr Outram: It may be public, but I do not have the information in front of me.

Senator KIM CARR: No. I will take it on notice. I do not expect you to have that in your head.

Answer:

Prosecution Outcomes

There have been three successful prosecutions for importing asbestos in recent years:

- In 2008, Alcan pleaded guilty to seven charges for importing equipment containing asbestos in breach of section 233(1) (b) of the *Customs Act 1901 (the Customs Act)*. The Court fined Alcan \$70,000 and costs of \$20,000.
- In 2012, the Court found an international engineering company, Clyde Bergemann Senior Thermal Pty Ltd (CBST), guilty of two counts of importing prohibited imports, namely chrysotile asbestos contrary to section 233(1) (b) of the Customs Act. The Court fined CBST \$64,000 including costs.
- In December 2014, the Court found a 50-year-old Australian man guilty of importing asbestos and fined him \$10,000 and costs of \$4500.

Other infringements

The importation of asbestos is a strict liability offence under section 233(1)(b) of the Customs Act. Penalties can therefore be applied under the Customs Act Infringement Notice Scheme for asbestos detections that do not proceed to prosecution.

There have been a total of five infringement notices issued in relation to asbestos since the current *Customs Act 1901* Infringement Notice Scheme commenced in February 2014.

Details of these infringement notices (date served/amount) are:

- 29 October 2014– \$7650
- 30 March 2015 – \$7650
- 18 September 2015 – \$7650
- 25 February 2016 – \$8100
- 10 March 2016 – \$8100.

All were issued to corporate entities.

The increase from \$7650 to \$8100 takes into account the increase in the value of a penalty unit (from \$170 to \$180) that came into effect for alleged offences committed after 31 July 2015.

The Department is unable to disclose the details of the entities that were subject to an infringement notice, as payment of an infringement notice is not an admission of guilt.

Penalty action is currently being progressed or considered for a further 10 detections of asbestos at the border.