

QUESTION TAKEN ON NOTICE

ADDITIONAL BUDGET ESTIMATES HEARING: 9 FEBRUARY 2010

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(6) Program 1.1: Visa and Migration

Senator Humphries (L&C 16-18) asked:

How many times has the minister exercised his power to disclose personal information under section 140ZH of the Migration Act this year to date and last financial year? Provide the number of times that discretion has been used to disclose information to a visa holder or a former visa holder, to an approved sponsor or former approved sponsor or to a Commonwealth, state or territory agency. What measures are in place to ensure this power is used for the purpose it was intended and the impact of those measures on the number of visas granted.

Answer:

The Minister has exercised his power to disclose personal information under section 140ZH of the *Migration Act 1958* on three occasions since 14 September 2009 (the date on which the *Migration Legislation Amendment (Worker Protection Act) 2008*, which amended the *Migration Act 1958* came into effect). Prior to 14 September 2009, section 140V of the Act provided the Minister the power to disclose personal information. The Department did not routinely keep records relating to the use of this power prior to 14 September 2009, however, the recent reforms provided an opportunity to facilitate collection of this information in a more systematic way.

All three disclosures made under section 140ZH of the Act have been to Commonwealth, State or Territory agencies at their request. Disclosures made under this provision were conducted through executive level departmental employees. In all three instances information was sought from the requesting authority as to the intended use of the information prior to the information being disclosed. The Department was satisfied that the disclosure was for the purpose of administering or enforcing a law of the Commonwealth, State or Territory. Disclosures made under 140ZH of the Act have had no impact on the number of visas granted.

The Department is negotiating Memorandums of Understanding (MOU) with Commonwealth, and State and Territory agencies to facilitate the sharing of information for the purposes of monitoring compliance with regulatory requirements administered by the Department and the authority with which the MOU is held. The exchange of this information through the MOU will occur under section 140ZH of the Act. The MOUs outline the purposes for which this information can be used and the security of the information. These exchanges of information may have implications for the number of visas granted.

The Department has used its discretion to disclose information relating to sponsors to a Commonwealth, State or Territory agency a total of 17 times since

14 September 2009. These disclosures have not required the Minister to exercise his power to disclose personal information under section 140ZH of the Act.

Please also note that at L&C 18 of the Hansard, the Secretary indicated that he would follow up on whether there was an issue with the official consolidation of the Migration Act 1958, with particular reference to the numbering of s140ZH.

It is now apparent that the Secretary's hard copy version of the Act had not been renumbered, and that the numbering of the provisions in the Austlii version (referred to by Senator Humphries) was correct. The reason for the difference between the Secretary's reprint dated 18 August 2008 and the version Senator Humphries downloaded from Austlii dated 8 February 2010 is that there were amendments made to section 140V which commenced on 14 September 2009, which had not yet been incorporated into the Secretary's version of the reprint.

The Secretary wishes to pass on his apologies for any confusion this may have caused.