

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES HEARING: 13 FEBRUARY 2012

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(AE12/0298) Program 3.1: Border Management

Senator Cash asked:

How many IMAs, if any, have already applied for ministerial intervention?

Answer:

IMAs cannot apply for Ministerial Intervention (MI).

The Minister for Immigration and Citizenship (the Minister) may, however, exercise his discretion under Section 195A of the *Migration Act 1958* (the Act) to grant a visa to a person who is in detention (including an IMA) if he thinks it is in the public interest to do so.

The Minister has specified in his guidelines (*PAM3: Act- Compliance and Case Resolution - Case resolution – Case management – Minister’s detention intervention power*) that a request for MI under 195A can only be initiated by the Department in circumstances stipulated by him.

From 1 July 2010 to 2 February 2012, the Minister intervened under Section 195A to grant visas to three IMAs who were found to engage Australia’s non-refoulement obligations following an International Treaties Obligations Assessment (ITOA). The ITOA considered whether a case engaged Australia’s non-refoulement obligations under the Convention against Torture and Other Cruel, Inhuman or degrading Treatment or Punishment (ICCPR).