

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 27-28 May 2013

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(BE13/0095) PROGRAM – 1.1: Visa and Migration

Senator Furner (L&CA 39) asked:

Senator FURNER: On notice, please identify some examples of where DIAC has located those noncitizens but have not been able to take action against the employer. Can you also, for the committee's sake, set out how the department intends to enforce the new provisions?

Answer:

Examples of where the Department has located non-citizens working illegally but has not been able to take action against the employer include:

- (1) a major operation in the meat processing industry where an intermediary operating as a labour hire agency had referred 80 non-citizens for work under false identities;
- (2) a series of operations in the construction industry where a large number of intermediaries had been engaging or referring for employment large numbers of non-citizens when those workers were not permitted to work and many were using false identities; and
- (3) an operation in the agriculture industry in which non-citizens who did not have permission to work were engaged and referred for work.

The above cases were the subject of comprehensive investigation and the preparation of briefs of evidence for submission to the Commonwealth Director of Public Prosecutions (CDPP). The CDPP found that these matters were not suitable for criminal prosecution. (The Report of the 2010 Review of the *Migration Amendment (Employer Sanctions) Act 2007* (Howells Review) – pages 65-67).

The department will enforce the new provisions consistently with its overall compliance strategy. Employer awareness is provided to businesses to encourage them to do the right thing through education and awareness. Regular compliance work will continue with Illegal Worker Warning Notices issued to those employers who have committed a breach of the legislation. If there is a repeat offence, the department may move to serve an infringement notice and then, if necessary, progress to civil penalty proceedings. In serious cases involving exploitation, the department may proceed straight to criminal prosecution.