

QUESTION TAKEN ON NOTICE

ADDITIONAL ESTIMATES - 25 FEBRUARY 2014

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(AE14/002) PROGRAMME – 1.1: Visa and Migration

Senator Carr (L&CA 6) asked:

Senator KIM CARR: I just indicate that I will put a question on notice regarding the workload, the case load, for both the Migration Review Tribunal and the Refugee Review Tribunal, given that time is so short.

Answer:

There were 13 887 reviews completed by the MRT-RRT in the period 1 July 2013 to 31 January 2014. The table at Attachment A provides a breakdown of Migration Review Tribunal (MRT) cases decided by visa category with set aside rates and average processing times. The table at Attachment B provides a breakdown of Refugee Review Tribunal (RRT) cases decided by country with set aside rates and average processing times, and whether or not the applicant was an Illegal Maritime Arrival (IMA).

Tribunal systems do not have comprehensive information or data across all case categories on a range of matters including country of origin and method of arrival of non-citizens into Australia. When an application is lodged with the tribunals, the department provides or makes available all relevant information that the department holds. Departmental files are then returned to the department once a review has been completed.

The person who applies to the tribunals in some cases is an Australian citizen or permanent resident who is the sponsor or a close relative, or an Australian company or business. A company or business is the review applicant in relation to employment or business related visas if the visa applicant is outside Australia, and in relation to the review of sponsorship and nomination decisions.

In the majority of reviews (92 per cent) completed by the tribunals in the period 1 July 2013 to 31 January 2014, the review applicant sought a review of a decision to refuse to grant a visa. A visa is typically refused as the delegate has found that the visa applicant has not met one of the criteria for the visa as set out in the *Migration Act 1958* and the *Migration Regulations 1994*. This may be a criterion specific to the visa or one of the general visa criteria such as the health criteria.

In 5 per cent of cases, the review applicant sought review of a decision to cancel a visa. A visa may be cancelled on a number of grounds including the use of false information to obtain the visa and not complying with visa conditions.

In 3 per cent of cases, the review applicant is a company, business or education provider seeking review of another kind of decision such as a sponsorship or nomination decision.

For reviews completed in the period 1 July 2013 to 31 January 2014, the average age of review applicants across all case categories other than family visas and cases where a company or business was the review applicant, was in the range of 26 to 42 years. In family visa cases the average age of review applicants was 30.

For reviews completed in the period 1 July 2013 to 31 January 2014, 68 per cent of review applicants were male and 32 per cent female.

For reviews completed in the period 1 July 2013 to 31 January 2014, 55 of the protection visa reviews completed involved a person identified as an unaccompanied minor.

The application fee for making an application to the tribunals is \$1 604. This applies in all cases except where a review is sought of a bridging visa decision by a person in immigration detention. It can be reduced by 50 per cent in cases of severe financial hardship. For protection visa cases, the fee is not payable at time of lodgement. The full fee is payable after the end of the review if the decision is that Australia does not have a protection obligation. For cases where the fee is paid at lodgement, the fee can be reduced by 50 per cent in cases of severe financial hardship, and an amount equivalent to 50 per cent of the fee is refunded at the end of the review if the decision under review is overturned.

As explained during the 25 February 2014 hearing, the tribunals do not separately cost cases by category. The cost per case in 2012-13 was \$3 747. It is likely to have reduced this year given the increased number of cases decided.

If the tribunals overturn a decision, it may set aside the decision, set aside the decision and substitute another decision, or set aside the decision and remit the matter to the department to reconsider having regard to any directions made. In visa refusal cases the tribunals almost invariably set aside and remit with a direction that the applicant meets one or more criteria. The department then considers the remaining criteria to grant the visa, including assessing any need to update health, character and security checks. In visa cancellation cases, the tribunals set aside the decision to cancel the visa. This restores the visa cancelled. In cases involving sponsorship and nomination decisions, the decision under review may simply be set aside (e.g. in relation to a cancellation or bar decision), or a decision to approve a sponsor or nomination substituted. All overturn, remitted or set aside decisions are identified as 'set aside' in the attached tables.

ATTACHMENT A

MRT cases decided in the period 1 July 2013 to 31 January 2014

Type of visa sought	Number of cases finalised	Set aside rate	Average processing time*
Bridging	215	9%	11 days
Family	692	37%	344 days
Nomination/ Sponsor	451	34%	549 days
Other	375	34%	225 days
Partner	1,149	47%	480 days
Permanent business	892	40%	557 days
Skilled	2,852	23%	301 days
Student cancellation	619	15%	285 days
Student refusal	3,524	22%	445 days
Temporary work	532	21%	448 days
Visitor	649	52%	166 days
Total	11,950	29%	

*average calculated from date of lodgement for MRT cases

ATTACHMENT B

RRT cases decided in the period 1 July 2013 to 31 January 2014

Country	Number of cases finalised			Set aside rate	Average processing time*
	Illegal maritime arrivals	Other RRT applicants	Total		
China	0	398	398	10%	218
Sri Lanka	214	29	243	20%	230
India	0	236	236	9%	181
Pakistan	13	142	155	42%	291
Lebanon	0	124	124	20%	218
Nepal	0	101	101	3%	321
Iran	37	37	74	57%	215
Afghanistan	65	5	70	69%	163
Fiji	0	69	69	10%	245
Egypt	0	63	63	43%	323
Bangladesh	5	53	58	12%	308
Jordan	0	25	25	12%	263
Zimbabwe	0	24	24	25%	327
Malaysia	0	23	23	13%	148
Nigeria	0	20	20	10%	308
Turkey	0	20	20	40%	308
Stateless	11	8	19	42%	197
Indonesia	0	17	17	12%	166
Iraq	8	9	17	41%	209
Tonga	0	15	15	13%	104
Other	6	160	166	23%	234
Total	359	1,578	1,937	21%	234

*average calculated from the date the department's documents are provided