

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 22 May 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(76) Output 1.1: Migration and Temporary Entry

Senator Ludwig (L&C 97) asked:

In the last 12 months, have there been any of those instances or abuses of 456 visas that have come to the attention of the department of immigration?

If there is, could you give a general outline of what it is and the circumstances, bearing in mind the privacy implications.

Answer:

The Department investigates all alleged abuses of subclass 456 visas thoroughly to ensure that 456 visa holders are complying with visa conditions.

While the overall incidence of abuse is not high, the most common form of abuse would be where a person applies for a subclass 456 visa with the intention of undertaking medium or long-term employment in Australia. Such a scenario is more consistent with the policy intention of a subclass 457 Business (Long Stay) visa. Some applicants and companies may provide misleading or inadequate information in order to secure a subclass 456 visa.

All subclass 456 visas are subject to condition 8112 which states that "the holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident". Under policy, employment (and it follows, eligibility for this visa) may be appropriate when it is:

- an emergency (anything that is unplanned, unforeseen, unable to be filled by the Australian labour market and essential to an ongoing project); and
- very short term; and
- of a highly specialised nature (any occupation listed in ASCO Major groups 1-4).

The Department makes every possible effort to ensure that subclass 456 visa holders abide by the conditions of the visa. For example, during the 2005-06 program year:

- 6,892 subclass 456 applications (3.58% of the total) were refused because visa decision-makers could not be satisfied that the applicants met the legal requirements for grant of the visa.
- 238 subclass 456 visas were cancelled after grant when information came to the Department's attention that the visa holders no longer satisfied all legal requirements.
- 35 subclass 456 visa holders were refused immigration clearance at Australian ports after it was determined that they no longer satisfied all legal requirements.