

QUESTION TAKEN ON NOTICE

BUDGET ESTIMATES HEARING: 21-22 MAY 2012

IMMIGRATION AND CITIZENSHIP PORTFOLIO

(BE12/0268) Program 2.1: Border Management

Senator Xenophon asked:

The Department's response to additional estimates question on notice AE12/0240 seems to suggest that ignorance of the law is a defence. Could you explain how this requirement for employer compliance information and illegal worker warning notices actually works? Further to that, does this in any way shift the compliance burden onto you as the regulator?

Answer:

The employer compliance program aims to provide guidance, education, assistance and transparent information to enable employers to understand the implications of employing someone who does not have an entitlement to work in Australia.

As a matter of policy, employers who are found to be employing workers in breach of their visa conditions, or who have no right to work in Australia, are first cautioned by way of an Illegal Worker Warning Notice. These employers are also provided with information about how to avoid the risk of employing people without the correct work rights, and are encouraged to register and use the free Visa Entitlements Verification Online (VEVO) service to check the status of their non-citizen workers.

If an employer subsequently employs workers who do not have work rights, having previously been warned about the practice and been given information about how to avoid doing so, then further compliance action may be initiated. Deliberate, repeat or high-risk non-compliance by employers will be actively pursued by the department through the enforcement of penalties and litigation when necessary.

Responsibility to comply with the law surrounding employment of workers without work rights in Australia rests with the employer not with the department.