

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 1 November 2005

IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS PORTFOLIO

(25) Output 1.1: Non-Humanitarian Entry and Stay

Senator Bartlett (L&C 49) asked:

I gather the Sydney skills shortage list, which I asked questions about a few times before, was found to be all above board by the court – is that right?

Answer:

The Sydney Skills Shortage List was set out in Gazette Notice 36. In the recent Full Federal Court matter of *Twinn v MIMIA* judgment was handed down on 24 November 2005. In that case a majority of the Court found that paragraph 4 of Gazette Notice 36, insofar as it makes provision for the definition of a skilled occupation by reference to the geographical location of the sponsor, was invalid. Whilst the majority held that the exercise of power in part 4 of the Gazette Notice was an invalid exercise of power, the Court did not make orders to this effect as that Gazette Notice had been revoked.

The Migration Regulations and the wording of the Sydney Skills Shortage List were both amended prior to the judgment in *Twinn*, as a result of issues raised by the case. Nevertheless, the impact of the judgment on the current Regulations, the current Sydney Skills Shortage List and generally is being considered by the Department and the Department's solicitors.