

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 30 October 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(128) Output 1.1 Migration and Temporary Entry

Senator Carr (L&CA written) asked:

1. In connection with the 457 visa program, does the Workplace Minister advise the Immigration Minister on whether a would-be employer sponsor will be meeting the MSL requirements attached to the visas?
2. Does the Workplace Minister, or DEWR, have a role in advising DIMA and its Minister about whether existing employer sponsors under the 457 program are in fact meeting the requirements in this regard?
3. Does DEWR and its Minister have the power to make a determination as to whether an existing employer sponsor under the 457 program is meeting the MSL requirement?
4. Does the Minister for Immigration have the power to vary the level of the MSL, and/or to waive requirements that the MSL be paid to 457 holders?

Answer:

1. The Office of Workplace Services (OWS) provides information to DIMA on employers of possible concern that is maintained on DIMA's watch list for the processing of sub-class 457 visas. This list includes employers who may have in the past breached workplace laws including underpayment. This is the best guide to whether an employer will comply in the future.
2. DIMA works closely with OWS on these matters.
3. OWS investigates matters under the Workplace Relations Act. In its investigations, it may encounter circumstances where an employer is meeting the relevant industrial instrument but not the MSL. In one such instance, the employer has made good the difference. OWS and DIMA work closely on these matters.
4. Under the *Migration Regulations* 1994, the Minister for Immigration and Multicultural Affairs updates the Gazetted Minimum Salary Levels from time to time. There is no provision to 'waive' the MSL as stipulated in the Gazette Notice. Under a Labour Agreement, it is possible to allow for a base salary below MSL but this can never go below the relevant industrial instrument. Labour Agreements provide a mechanism to address circumstances that cannot be addressed via standard visa provisions.

