

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 30 October 2006

IMMIGRATION AND MULTICULTURAL AFFAIRS PORTFOLIO

(162) Output 1.1: Migration and Temporary Entry

Senator Evans asked:

1. Under the Migration Act can a sponsoring employer sack a 457 visa holder at any time?
2. Does the employer have to justify the dismissal in any way to the Department?

Answer:

1. The *Migration Act* 1958 does not make any prescriptions in relation to the termination of employment of Subclass 457 visa holders. Termination of employment is prescribed by relevant workplace laws. If a sponsor were to unlawfully terminate a Subclass 457 visa holder's employment, this would be a breach of their sponsorship undertakings and could result in the sponsor being sanctioned. Other remedies may also apply under laws administered by other agencies.
2. The employer is not required to justify a Subclass 457 visa holder's dismissal to the department due to answer one. The sponsor is required to notify the department within 5 working days after a Subclass 457 visa holder ceases to be in the sponsor's employment.