

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2014-2015

Outcome 2 - Workplace Relations & Economic Strategy

Department of Employment Question No. EM0789_15

Senator McKenzie provided in writing.

Question

Ethical Clothing Australia

- In relation to the grant to Ethical Clothing Australia that has been terminated, can the Government advise how many prosecutions were undertaken as a result of the funding provided?
- What compulsory compliance powers does Ethical Clothing Australia have compared to the Fair Work Ombudsman?
- What were the stated outcomes of the funding provided to Ethical Clothing Australia?
- Were those outcomes met?
- How many sweat shops were closed down as a result of the funding provided to Ethical Clothing Australia?

Answer

- Nil. Ethical Clothing Australia operates a voluntary accreditation scheme and has no legislative or regulatory powers, and therefore cannot undertake any prosecutions. The Fair Work Ombudsman has not identified any prosecutions that were the direct result of assistance from Ethical Clothing Australia.
- Ethical Clothing Australia has no compulsory compliance powers. The Fair Work Ombudsman has legislative powers to investigate and prosecute any breaches of the *Fair Work Act 2009*. The following table compares some of the powers:

Compliance Powers	Ethical Clothing Australia	Fair Work Ombudsman	Fair Work Act and/or Regulations
Statutory responsibility to determine whether the Act and instruments have been complied with	No	Yes	FW Act s 706
Statutory right to enter and inspect work premises	No	Yes	FW Act s 708

Statutory right to require production of records or documents while on premises	No	Yes	FW Act s 709 (d)
Statutory right to notify people of failure to observe requirements, and require rectification	No	Yes	FW Reg 5.05
Give a compliance notice requiring a person to take specified action (including to pay employees)	No	Yes	FW Act s 716
Give an infringement notice for record keeping and pay slip contraventions (requiring payment of a fine)	No	Yes	FW Act s 558 FW Reg 4.04
Litigation - seek court orders where there is contravention of civil remedy provisions (including orders for back pay to employees, compensation, injunction, and penalty)	No	Yes	FW Act s 539, 545 – 547

- The stated purpose of the funding agreement is “to support the development and promotion of the Homeworkers Code of Practice (the Code) and the Ethical Clothing Australia label, aimed at improving conditions for textile, clothing and footwear industry outworkers”. Ethical Clothing Australia is required to meet this purpose by undertaking activities including (but not limited to) ensuring the efficient and effective administration of the Code accreditation process and educating industry stakeholders on the Code, their legal obligations and rights under legislation, and the need for corporate responsibility in terms of ethical employment practices.
- Ethical Clothing Australia’s annual and six monthly performance reports indicate that it has generally met its requirements in terms of activity measures.
- As noted above, Ethical Clothing Australia has no powers to close down ‘sweat shops’ in its own right. The Fair Work Ombudsman advises it has not closed down any ‘sweat shops’ as the result of assistance from Ethical Clothing Australia.