

**Senate Standing Committee on Education and Employment**

**QUESTIONS ON NOTICE  
Budget Estimates 2014-2015**

**Agency - Fair Work Ombudsman**

**Department of Employment Question No. EM0816\_15**

**Senator Tillem asked on 2 June 2014 on proof Hansard page 31**

**Question**

**FWO - unpaid infringements**

Senator TILLEM: What I would like on notice is: what has happened post issue of an infringement where it has not been paid; what steps are taken; and how many of them have actually been prosecuted beyond that. In terms of the compliance notices, what is the maximum penalty for a compliance notice? Mr Campbell: A single contravention would be, I think, \$51,000 at the moment. Senator TILLEM: We may have looked at this in previous estimates, but on notice if you could just refresh our memories in terms of how many of them have not been complied with that would be good. Ms James: I will note for the record that we have instituted proceedings in a number of matters where compliance notices have gone unpaid recently, so we can provide you with that information as well if you like.

**Answer**

The Fair Work Ombudsman is empowered to issue infringement notices for record keeping and pay slip contraventions in accordance with sections 535, 536 and 558 of the *Fair Work Act 2009* (the Act) and regulations 3.30 – 3.44 of the *Fair Work Regulations 2009*. The Fair Work Ombudsman issued 103 infringement notices between 1 July 2013 and 31 March 2014. Of these, 16 remain unpaid.

The effect of the infringement notice being issued is that when an employer pays the fine, the Fair Work Ombudsman cannot take the employer to court for the breaches to the Act set out in the notice. There is no penalty for failing to pay an infringement notice fine. If the employer does not pay the fine, the Fair Work Ombudsman may take the employer to court in relation to the breaches to enforce the civil remedy provisions of the Act.

The Fair Work Ombudsman's approach to date has been to consider the nature and circumstances of the contraventions in accordance with our litigation policy and whether it is appropriate to institute civil proceedings.

The maximum penalty for failure to comply with a compliance notice is \$5,100 for an individual and \$25,500 for a corporation.