

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Additional Estimates 2010-2011**

**Agency - Fair Work Australia**

**DEEWR Question No.EW0733\_11**

**Senator Ronaldson asked on 23/02/2011, Hansard page 58.**

**Question**

**NUMBER OF WRITTEN SUBPOENAS**

Senator RONALDSON—Just to go back, under your powers, which you outlined to me at the May estimates last year, I think, you had the power to subpoena, effectively, individuals and documents, didn't you? Is that right? Mr Nassios—Yes, so long as there is a connection to that service. Senator RONALDSON—I understand. If there was not I am sure you would find yourself in another jurisdiction somewhere justifying your decision to issue the subpoena. And the written subpoenas you said before numbered how many? Mr Nassios—I would have to take that on notice.

**Answer**

Fair Work Australia has provided the following response.

I refer to the Senate's Order of 13 May 2009 governing the raising and treatment of claims of public interest immunity in committee proceedings. I consider the provision of the information required to answer questions EW0728\_11, EW0733\_11, and EW0735\_11 would be harmful to the public interest. I am of this view for the following reasons.

The legislative scheme of the Fair Work (Registered Organisations) Act 2009 is directed at ensuring that an organisation discharges obligations of accountability to its members in relation to the financial affairs of the organisation through proper and regular disclosure of financial information.

Inquiries are conducted under section 330 of the Fair Work (Registered Organisation) Act 2009 (RO Act) into whether Part 3 of Chapter 8 of the RO Act, the reporting guidelines made under that Part, regulations made for the purposes of that Part, or the rules or an organisation relating to its finances or financial administration have been, or are being, complied with.

If there are reasonable grounds for doing so, an investigation into whether a civil penalty provision has been contravened can be conducted. If, at the conclusion of an investigation, I as General Manager am satisfied that the reporting unit concerned has committed a contravention, the reporting unit must be notified and I may do all or any of the following:

- (a) issue a notice to the reporting unit requesting that the reporting unit take

specified action, within a specified period, to rectify

- (b) apply to the Federal Court for an order under Part 2 of Chapter 10 (civil penalty provisions);
- (c) refer the matter to the Director of Public Prosecutions for action in relation to possible criminal offences

Each of questions EW0728\_11, EW0733\_11, and EW0735\_11 seeks information about the ongoing investigation. The information sought relates to the documents received by my delegate (EW0728\_11), the number of "subpoenas" (a written notice under s 335(2)(c) of the RO Act) issued by my delegate (EW0733\_11), and the requests made by my delegate during the course of the investigation (EW0735\_11).

As the investigation has not concluded and no decision has been made by me whether to take action under any or all of the actions specified in (a), (b), and (c) above, the prospect of inflicting prejudice by answering any of questions EW0728\_11, EW0733\_11, and EW0735\_11 on persons and the organisations the subject of the investigation, is substantial.