

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2005-2006 SUPPLEMENTARY BUDGET SENATE ESTIMATES HEARING
2 and 3 NOVEMBER 2005**

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

Outcome 2: Higher productivity, higher pay workplace

Output Group 2.2: Workplace relations implementation

Output 2.2.3: Workplace relations services

Question Number: W639-06

Question:

Senator Marshall asked in writing:

At the last round of Estimates, the Committee was told about a compliance campaign targeting 300 employers in the Building and Construction Industry in NSW, Victoria and WA.

Of the 315 employers' time and wage records, it was found that 145 had breached their responsibilities. 68 had been found to be underpaying their workers.

- (a) Has the Campaign now been finalised?
- (b) If so, when did it complete its work?
- (c) If not, when will it complete its work?
- (d) Has a Report been done?
- (e) If so, can the Committee receive a copy.
- (f) Can the Committee be provided with an extensive brief about this Campaign, its aims, its objectives, its outcomes.
- (g) Following on from the Campaign, has the Department initiated prosecutions against the 145 employers found to be in breach of the law?
- (h) If so, how many? And what has been the outcome, if resolved.
- (i) If not, why not?
- (j) What further compliance campaigns have been undertaken by the Department in this regard?
- (k) Are there plans for any further campaigns like this one?
- (l) If not, why not?
- (m) Wasn't this a recommendation of the Royal Commission?

Answer:

- (a) (b) and (c) The campaign was finalised in July 2005, aside from action associated with the court proceedings mentioned below.
- (d) and (e) No report has been prepared.
- (f) See attached.
- (g) (h) and (i) The Department has initiated proceedings against one employer. This matter has not been resolved. All other matters where a breach was determined to have occurred were resolved on a voluntary basis.
- (j) (k) (l) and (m) Full details of targeted education and compliance campaigns undertaken by the Office of Workplace Services (OWS) in all sectors over the past two years were provided to the Committee in response to Question W341-06. OWS will undertake an increased number of targeted education and compliance campaigns under the proposed workplace relations reforms across sectors to further protect the rights of workers and to inform employers of their obligations. It is anticipated that further campaigns would be undertaken in the building and construction industry as part of these activities.

TARGETED BUILDING AND CONSTRUCTION INDUSTRY COMPLIANCE CAMPAIGN

Background

In May 2004, Minister Andrews announced that the Office of Workplace Services (OWS) was to conduct an education and compliance campaign in relation to employee entitlements in the building and construction industry. The campaign was to be conducted in New South Wales, Victoria and Western Australia.

The announcement stated that “a new compliance campaign will target employers in Australia’s \$46 billion building and construction industry to ensure employees are receiving their correct entitlements. The education and compliance campaign aims to deal with rogue employers who do not meet their legal obligations to provide employee entitlements. Departmental inspectors will inspect the time and wage records of a sample of employers and follow up any breaches of federal awards and agreements”.

The campaign was part of the Australian Government’s response to the recommendations of the Royal Commission into the Building and Construction Industry.

Conduct of Campaign

The campaign included:

Ministerial media release announcing the start of the campaign	31 May 2004
Letter from the Minister to employer associations seeking their support	3 June 2004
Paid advertising in major daily newspapers for employees, inviting them to phone WageLine or check WageNet for further information about their entitlements if they think they are being underpaid	5, 15, 24 June 2004
DEWR direct mail to around 34,000 employers informing them of the campaign and where they can go to check their obligations	From 23 June 2004
Further letter to employer organizations enclosing information about the campaign for publication in their journals	12 July 2004
Paid advertising in industry journals aimed at employers	23 June 2004
Request for selection of time and wage records of a sample of 315 employers	From August 2004

Outcomes

The compliance phase entailed an inspection of the time and wages records of a sample of 315 employers. These 315 employers were drawn from each of the three states in proportion to the respective number of employers in the industry in each state. Some employers were selected because they had a history of non-compliance, while the remainder were randomly chosen from the respondency lists in federal building industry awards.

Of the 315 employers, a total of 152 employers (48 per cent) have been found in breach of their federal award, agreement, or the *Workplace Relations Act 1996* (the Act). The majority of these breaches (71 per cent), were of a technical nature. ‘Technical’ breaches are breaches of the time and wages records and payslips Regulations of the Act – usually entailing the keeping of incomplete records or the non-issue of payslips or the issue of insufficiently detailed payslips. The remaining 29 per cent of breaches were monetary, mainly involving the underpayment of wages. A total of \$84,063 for 88 breaches has been recovered on behalf of employees in underpaid entitlements. Ninety-nine per cent of employers have rectified their breaches voluntarily. One departmental prosecution action has been recommended – this matter remains unresolved.

A summary of the outcomes of the campaign is detailed below.

	National	NSW & ACT	Vic	WA
Number of requests for records	315	152	101	62
Number of employers breached	1522	69	59	24
Number of employers who voluntarily complied with breach notices	151	68	59	24
Number of employers that have refused to rectify breaches	1	1	Nil	Nil
Number of small claims action recommended	1	1 ¹	Nil	Nil
Number of employers where departmental litigation recommended	1	1	Nil	Nil
Monetary breaches recorded	88	38	33	17
\$ recovered	\$84,063	\$58,199	\$19,697	\$6,167
Non-monetary breaches recorded (pay slips, time & wage records not maintained or inaccurate etc)	208	70	110	28

Given most of breaches can be attributed to poor record keeping, OWS is exploring a national education campaign, in consultation with the Australian Building and Construction Commission, on the keeping of records in the building and construction industry. In addition, record keeping information on WageNet has been reviewed.

¹ One ACT matter resolved voluntarily on the court house steps before the hearing