

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

**2006-2007 SUPPLEMENTARY BUDGET SENATE ESTIMATES HEARING
2ND NOVEMBER 2006**

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

Outcome 2: Higher productivity, higher pay workplaces

Output Group 2.1: Workplace relations policy and development

Output 2.1.2: Workplace relations legislation development

Question Number: W599-07

Question:

Senator Marshall asked in writing: How many cases has the Minister intervened in for 2005 and 2006 to date? What was the nature of the Commonwealth's intervention in each case, and what was the cost of each intervention? What was the total cost of running these interventions?

Answer:

The Minister has intervened in 20 cases and the Attorney-General intervened in one case, for which the Department was responsible for costs, in the period 1 January 2005 to 30 November 2006.

The nature and cost (GST exclusive) of each intervention as at 30 November 2006 was:

AIRC

The Minister intervened in the public interest in the following cases:

1. In the matter of an Appeal against the decision of Commissioner Gay at Melbourne on 19 August 2005 in an application by Australian Liquor Hospitality and Miscellaneous workers Union under section 113 to vary the *Australian Liquor Hospitality and Miscellaneous Workers Union Support Employment (Business Enterprises) Award 2001* C2005/4523

Decision: Discontinued 22/11/2005

Nature of case: An appeal under s.45 of the pre-reform *Workplace Relations Act 1996* regarding a decision to vary an award under s.113.

Expenditure total: \$18,944.65

2. *Application by Construction, Forestry, Mining and Energy Union* C2004/279

Decision: Not yet finalised
Nature of case: s.108 proceeding regarding an application to vary an award under s.113 of the pre-reform *Workplace Relations Act 1996*.
Expenditure total: N/A (DEWR In House)

3. *s114 review on application by Minister against decision issued by VP Lawler on 6 April 2006 (PR971973)*

Decision: Handed down on 02/05/2006
Nature of case: The Minister sought a review of a decision relating to the operation of transitional provisions in the legislation - *Workplace Relations Amendment (WorkChoices) Act 2005* items 19, 20, 20A of Part 4 of Schedule 4.
Expenditure total: \$52,961.84

4. *Application by Shop, Distributive and Allied Employees Association - Victorian Branch and other matters (C2005/5652 et al)*

Decision: Final applications withdrawn 08/05/2006
Nature of case: Application to vary Minimum Wage Orders under section 501 of the pre-reform *Workplace Relations Act 1996*.
Expenditure total: \$5,472.00

5. *TNT Australia Pty Ltd Riteway Transport Pty Limited t/as Riteway Express and Transport Workers' Union of Australia (PR973479)*

Decision: Handed down on 31/07/2006
Nature of case: Appeal about SDP Hamburger's construction and interpretation of s.496 of the *Workplace Relations Act 1996* and the AIRC's power to restrain industrial action under that section.
Expenditure total: \$17,393.73

6. *Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia and Tyco Australia Pty Ltd trading as Wormald (PR974317)*

Decision: Handed down on 12/10/2006
Nature of case: Appeal against the order of DP Ives for a protected action ballot to be held on the basis that the parties were not genuinely trying to reach agreement.
Expenditure total: \$1,160.60

7. *Applications by Minister under section 114 of the pre-reform Workplace Relations Act 1996 of the Transport Workers' (Armoured Vehicles) Award 2004, the Nurses (Victorian Health Services) Award 2000 and the Information Technology Industry (Professional Employees) Award 2001 (PR974467)*

Decision: Handed down on 27/10/2006
Nature of case: The Minister sought Full Bench review of three Commission orders on the basis that they had been made beyond jurisdiction.
Expenditure total: \$37,205.02

8. *Australian Air Express Pty Ltd and Transport Workers' Union of Australia* (PR959754)
Decision: Handed down on 05/07/2006
Nature of case: An appeal against the decision of SDP Lloyd to refuse certification of an agreement pursuant to Part VIB Division 2, s.170LJ of the pre-reform *Workplace Relations Act 1996*.
Expenditure total: \$31,843.25
9. Safety Net Review 2005
Expenditure total: \$43,601.44
10. *Australian Liquor, Hospitality and Miscellaneous Workers Union Supported Employment (Business Enterprises) Award 2001* (PR961607)
Decision: Handed down on 19/08/2005
Nature of Case: The Government was granted leave to intervene on 1 February 2005 on a claim by the Liquor, Hospitality and Miscellaneous Workers Union for an award variation that sought new wage arrangements for workers with a disability in Business Services.
Expenditure total: N/A (DEWR In House)
11. *Construction Forestry Mining and Energy Union* (C2006/3140)
Decision: Not yet decided
Nature of Case: This case is about the ability to replicate a state demarcation order in the federal system.
Expenditure total: \$0.00 (no payments yet made)
12. s120- Appeal by Australian Taxation Office (C2006/3308)
Decision: Not yet decided
Nature of Case: The Minister has intervened to make submissions as to the appropriate interpretation of the right of entry provisions, specifically what is an 'unreasonable request'.
Expenditure total: \$0.00 (no payments yet made)
13. *Village Roadshow Limited and Carter* (C2006/3107)
Decision: Not yet decided
Nature of Case: The Minister intervened in the appeal by the employer to put submissions on the correct interpretation of the genuine operational reasons exclusion (s.643(8) and (9) of the *Workplace Relations Act 1996*).
Expenditure total: \$6,938.80

Federal Court

The Minister intervened in the public interest in the following case:

14. *Quality Maintenance Services Pty Ltd and AFMEP & KIU & Ors* (V1326/2004)
Decision: Commonwealth withdrew - discontinued 02/05/2006

Nature of case: Federal Court proceedings relating to industrial action by employees of Quality Maintenance Services Pty Ltd.
Expenditure total: \$11,471.56

Other Courts and Tribunals

Queensland Industrial Relations Commission

15. *Application to Amend Building and Construction Industry Award* (B397[2003]Decision)

Decision: Handed down on 01/08/2006
Nature of case: The Government sought intervention on the grounds: (a) if the application is successful, the outcome would directly impact on the interest of the Australian Government as a major client of the Queensland building and construction industry; and (b) public interest, including any effect of the decision on the building industry and the Queensland and Australian economies. The Full Bench of QIRC felt that the Minister had sufficient grounds to intervene in the matter based on the Australian Government's special interest in, and responsibility for, the national economy, of which the building construction industry is a vital part. The Bench noted that "the Minister's involvement [in the application] will provide a unique perspective".
Expenditure total: \$30,356.85

NSW Industrial Court

16. *Hagans v OLD UGC Inc and Others* ([2006] NSWIRComm 329)

Decision: Handed down on 17/10/2006
Nature of case: The Attorney-General intervened on behalf of the Commonwealth under s.78B of the *Judiciary Act 1904*, regarding a matter arising under the Constitution.
Expenditure total: \$21,073.75

New South Wales Industrial Relations Commission

17. *State Wage Case 2006* ([2006] NSWIRComm 204)

Decision: Handed down on 26/06/2006

Queensland Industrial Relations Commission

18. *State Wage Case 2006* (B/2005/1198)

Decision: Handed down on 27/07/2006

Western Australian Industrial Relations Commission

19. *State Wage Case 2006* (2006 WAIRC 04608)

Decision: Handed down on 26/06/2006

South Australian Industrial Relations Commission

20. *State Wage Case 2006* ([2006] SAIRComm 18)

Decision: Handed down on 05/07/2006

Tasmanian Industrial Commission

21. *State Wage Case 2006* (T12395 of 2005)

Decision: Handed down on 27/07/2006

Expenditure total: \$513,566.11 (for all State Wage Cases)

The total cost of these interventions was \$791,989.60 (GST exclusive).

Estimated cost: Based on the FOI calculator it has taken approximately 4 hours at an estimated cost of \$80 to prepare this answer.