

**FAIR WORK AUSTRALIA**  
ANNUAL REPORT 2011–12

## PUBLICATION INQUIRIES

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A full list of Fair Work Australia offices is included in Appendix A of this report.

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Annual Report of Fair Work Australia

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This report was printed by Camten, Melbourne, Victoria.



THE HONOURABLE JUSTICE ROSS AO  
PRESIDENT

The Hon Bill Shorten MP  
Minister for Employment and Workplace Relations  
Minister for Financial Services and Superannuation  
Parliament House  
Canberra ACT 2600

25 September 2012

Dear Minister,

I am pleased to present to you the annual report of Fair Work Australia for the year ended 30 June 2012.

This report is provided pursuant to section 652 of the *Fair Work Act 2009*.

Yours sincerely,





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# 1.

## OVERVIEW OF FAIR WORK AUSTRALIA

### 1.1 PRESIDENT'S INTRODUCTION

I commenced as President of Fair Work Australia on 1 March 2012. I would like to take this opportunity to thank my predecessor, Justice Geoffrey Giudice AO, for his outstanding contribution to the Tribunal during his stewardship.

This annual report covers the second full year of operation of the new national workplace relations system.

During the reporting period the tribunal's workload increased—in particular there were 18 709 hearings and conferences conducted by members, compared to 13 957 in the previous year, an increase of 34 per cent. The tribunal's timeliness performance also improved in some areas—half of all single enterprise agreements were finalised within 17 days of lodgement, a reduction of five days compared to the previous year.

Australia has had a national workplace relations tribunal for over a century. It is one of our key national institutions. The tribunal, currently known as Fair Work Australia, has undergone many changes in jurisdiction; name; functions and structure.

The tribunal has endured by successfully adapting to changes in its legislative environment and because it is seen as providing an independent, competent and professional dispute settlement service.

But past success does not guarantee future survival. Even successful institutions have a tendency to decline unless they continue to innovate.

Over the past 18 months or so, Fair Work Australia has been subjected to sustained criticism about the time it has taken to complete investigations into the Health Services Union (HSU).



One issue which must be addressed is already clear. The current name of the Tribunal is confusing and does not adequately distinguish between the two separate arms of Fair Work Australia.

The Tribunal is the adjudicative arm of Fair Work Australia and deals with matters such as the facilitation of bargaining; the prevention and resolution of industrial disputes; the maintenance of a safety net of fair minimum wages and a range of individual disputes, including unfair dismissals.

The administrative arm supports the tribunal in carrying out its functions and also carries out a range of statutory functions in relation to registered organisations.

The HSU investigations were carried out by the administrative arm of Fair Work Australia pursuant to powers conferred on the General Manager by the *Fair Work (Registered Organisations) Act 2009*. The tribunal arm of Fair Work Australia has nothing to do with such inquiries and investigations.

Legislative change is required to clarify the tribunal's role and its independence. The independence and standing of the tribunal are central to the operation of the *Fair Work Act 2009* (Fair Work Act) and the attainment of parliament's objectives. The key legislative change required relates to the name of the tribunal.

The recent report of the review into the Fair Work Act—'Towards more productive and equitable workplaces: An evaluation of the Fair Work legislation' (the Review Report) recommended that "... the *Fair Work Act 2009* be amended to change the name of Fair Work Australia to a title which more aptly denotes its functions... the new title contain the word 'Commission' and that it no longer contain the words 'Fair Work'."

I support the review's recommendation.



Justice institutions rely ultimately on public confidence. While a name change is important, it alone is not enough. The tribunal must continue to innovate and improve its performance.

In the second half of 2012 the tribunal will announce a set of initiatives directed at ensuring that it fulfils its role as an accessible, fair, efficient and accountable national institution. I look forward to the support of our members, staff and stakeholders in the implementation of those initiatives.

I would like to take this opportunity to thank the Members of the tribunal for their work throughout 2011–12. I would also like to thank the General Managers, Tim Lee and Bernadette O'Neill, for their commitment to the organisation during a challenging year. Finally, I would like to thank Fair Work Australia's staff. Without their hard work, the tribunal would not be able to function at such a high level.

A handwritten signature in black ink that reads "Iain Ross". The signature is written in a cursive, slightly slanted style.

Justice Iain Ross  
President

## 1.2 GENERAL MANAGER'S OVERVIEW

I am pleased to provide this first annual report since my appointment as General Manager in February 2012. I extend my thanks and appreciation to my predecessor, Tim Lee, for his leadership as the inaugural Fair Work Australia General Manager.

In February 2012, the organisation bid farewell to the inaugural Fair Work Australia President, Justice Giudice AO. On behalf of all staff, I thank Justice Giudice for his leadership and commitment to the tribunal since his appointment in 1997.

I also welcome the new President of Fair Work Australia, Justice Ross AO, who commenced on 1 March 2012.

The President and I share a commitment to improving services through more accountability, accessibility and greater engagement. The expectations of participants, self-represented applicants and respondents along with those of frequent users, continue to grow and present ongoing challenges and opportunities for Fair Work Australia to provide appropriate information and assistance.

The last year provided significant challenges for the administrative arm of Fair Work Australia. We have reviewed all aspects of our services and identified many ways to improve. We anticipate that the ongoing implementation of these initiatives over the next 12 months will provide a strong foundation for delivering improved and more efficient services to all users of the national workplace relations tribunal.

I sincerely thank the dedicated staff of Fair Work Australia who have risen to the challenges of the



past year and demonstrated great positivity and resilience. Along with all Fair Work Australia staff, I am committed to assisting the President and all members of the tribunal in the years ahead through working collaboratively, through innovation and through a commitment to excellence.

A handwritten signature in black ink, appearing to read 'Bernadette O'Neill'. The signature is fluid and cursive.

**Bernadette O'Neill**  
General Manager

## 1.3 WHO WE ARE

Fair Work Australia is the national workplace relations tribunal. The work of the tribunal is primarily conducted by members, with the support of Fair Work Australia's administrative staff.

In accordance with section 577 of the *Fair Work Act 2009* (Fair Work Act), the tribunal is required to perform its functions and exercise its powers in a way that:

- is fair and just
- is quick, informal and avoids unnecessary technicalities
- is open and transparent, and
- promotes harmonious and cooperative workplace relations.

The head of the tribunal is the President. The President is responsible for ensuring that the tribunal performs its functions and exercises its powers in a way that is efficient and serves the needs of Australian employers and employees.

The President oversees the work of the tribunal members, who are drawn from a range of backgrounds such as unions and employer associations, human resources and management, the public service and the legal profession.

The President is assisted by the General Manager, who oversees the administrative work performed by the staff of Fair Work Australia.

### 1.3.1 A national workplace relations system

This national workplace relations system covers all private sector employment in Australia (with the exception of some businesses in Western Australia) and some public sector and local government employment.

The system is administered and overseen by Fair Work Australia, along with the Fair Work Ombudsman and the Fair Work divisions of the Federal Court of Australia and the Federal Magistrates Court of Australia.

### 1.3.2 Our history

The tribunal is one of Australia's oldest national institutions. Its origins date back more than a century to the time of Federation. Its work and decisions have played an integral role in Australia's social history.

The first national workplace relations tribunal was established as the Commonwealth Court of Conciliation and Arbitration with the passage of the *Conciliation and Arbitration Act 1904*. The most recent legislative change has been the enactment of the Fair Work Act in 2009 and the subsequent establishment of the current tribunal, Fair Work Australia.



## 1.4 WHAT WE DO

The tribunal has a range of powers and functions under the Fair Work Act. These include:

- handling unfair dismissal claims
- assisting with the resolution of workplace disputes
- dealing with industrial action
- assisting in the agreement-making process and approving agreements
- setting minimum wage rates, and reviewing and adjusting modern awards, and
- dealing with certain applications from employer and employee organisations.

Members perform these functions in a variety of ways, including by conducting conferences and hearings by telephone, video link and in person. Some matters are dealt with 'on the papers' or 'in chambers', in circumstances where members have been provided

with enough material by the parties to make a decision without conducting a hearing or conference.

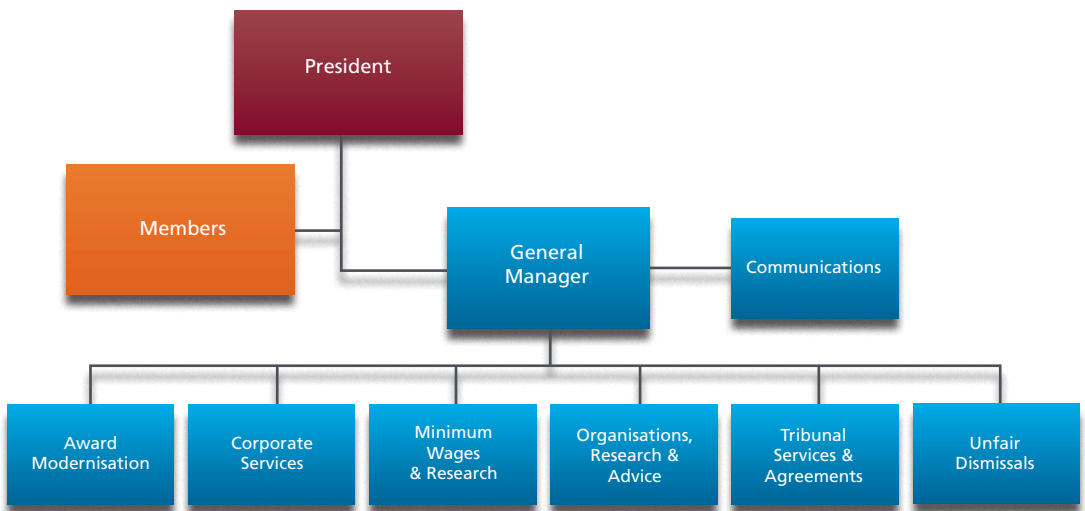
### 1.4.1 Administrative responsibilities

Fair Work Australia has responsibilities relating to the registration of unions and employer associations and their financial accountability.

Much of this work is conducted by the administrative arm of Fair Work Australia and is governed by the *Fair Work (Registered Organisations) Act 2009* (Registered Organisations Act).

# 1.5 FAIR WORK AUSTRALIA ORGANISATIONAL STRUCTURE

CHART 1: ORGANISATIONAL CHART



## 1.5.1 Members

There are three types of members:

- **Full-time members**, including the President, Deputy Presidents and Commissioners. Full-time members are appointed until the age of 65.
- **Additional members** are members of both Fair Work Australia and of a state industrial tribunal.
- **Minimum wage panel members** are part-time and sit only on annual wage reviews. These members are appointed for a set period of up to five years.

Members are based in Melbourne, Sydney, Brisbane, Perth, Adelaide, Canberra, Hobart and Newcastle. They travel to Darwin, Wollongong and rural and regional locations to conduct hearings and conferences.

A list of members as at 30 June 2012 is included in Appendix E.

## 1.5.2 The panel system

The tribunal deals with almost all industries and occupations across Australia. To ensure that the matters are dealt with quickly and with appropriate expertise, a panel system has been created.

Each panel specialises in particular industries or a particular subject matter (e.g. termination of employment matters). Tribunal members are assigned to one or more panels to which they have relevant experience and to provide an even distribution of workload across the tribunal.

A member of the tribunal, known as a panel head, has administrative responsibility for the work of each panel. Generally, when applications are lodged with the tribunal, administrative staff allocate them to the relevant panel head. The panel head then allocates the work among the members on his or her panel.

- **Six industry panels**—Fair Work Australia deals with the full range of industries across Australia. One hundred industry categories have been identified and split across six panels, and members are assigned to one or more of the six industry panels.
- **Termination of employment panel**—termination of employment applications make up a large proportion of the applications filed with the tribunal, and most members deal with these matters on a regular basis. The panel head is responsible for allocating these matters to members.
- **Organisations panel**—the members on this panel are responsible for matters relating to unions and employer organisations (known as registered organisations), including applications to register an organisation or cancel an organisation's registration. (Fair Work Australia's administrative arm also deals with matters relating to registered organisations. See section 3.6 for more information.)
- **Major resources/infrastructure projects panel**—this panel deals with major projects. These are projects with a capital value of at least \$1 billion, or that have a particular regional significance. The two projects that were assigned to the panel in

2011–12 were the two largest projects underway in Australia at the time, worth a combined capital value of \$35 billion.

- **Minimum Wage Panel**—this panel conducts an annual wage review, determines the federal national minimum wage and reviews modern award wages each year.

### 1.5.3 Staff

Staff are overseen by the General Manager, who is a statutory appointee and the agency head. Together, the General Manager and the staff of Fair Work Australia constitute a statutory agency.

Staff are organised into the following work areas:

- General Manager's office
- award modernisation and contact centre
- communications
- corporate services
- minimum wages and research
- organisations, research and advice
- tribunal services and agreements, and
- unfair dismissals.

As at 30 June 2012, there were 313 staff members. More information on staff can be found in section 4.5.



## 1.6 YEAR AT A GLANCE

**TABLE 1: FAIR WORK AUSTRALIA OVERVIEW**

	2011–12	2010–11	% change
Lodgments	37 444	37 262	0.5%
Hearings and conferences with members <sup>1</sup>	18 709	13 957	34%
Published documents	13 846	11 648	18.9%
<b>Two-year financial summary</b>			
Net cost of services	\$76 868	\$72 695	5.7%
<b>Our people</b>			
Overall staff	313	318	-1.6%
New employees	56	62	-9.7%
Separations	59	45	31.1%

(1) The number reported in the 2010–11 Annual Report included unfair dismissal conferences conducted by FWA staff. This figure is not included this year.

### Outcomes

The 2011–12 portfolio budget statement for Fair Work Australia outlines a single planned outcome and the tribunal's program of work which contributes to that outcome.

#### OUTCOME 1:

Simple, fair and flexible workplace relations for employees and employers through the exercise of powers to set and vary minimum wages and modern awards, facilitate collective bargaining, approve agreements and deal with disputes.

#### PROGRAM 1:

Dispute resolution, minimum wages, orders and approval of agreements.

**TABLE 2: FAIR WORK AUSTRALIA KEY PERFORMANCE INDICATORS**

Key performance indicators	2011–12 budget target	Actual 2011–12 results	Number
Improve or maintain the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications	Median time of 34 days	Median time taken was 28 days	10 073 finalised conciliations
Improve or maintain average <sup>1</sup> time taken to list applications relating to industrial action	Median time of 3 days	Median time taken was 3 days	889 applications listed
Improve or maintain the average <sup>1</sup> agreement approval time	Median time of 32 days <sup>2</sup>	Median time taken was 17 days	8149 agreements approved
Completion of annual wage review	By 30 June 2012	1 June 2012	

(1) Measured as median number of days.

(2) Target specified in 2011–12 Portfolio Budget Statements.

**TABLE 3: FAIR WORK AUSTRALIA CASES**

	Cases lodged			Timeliness	
	2011–12	2010–11	Change	Median	90th percentile
Award variations <sup>1</sup>	29	196	-85.2%	-	-
Agreement <sup>2</sup>	8565	7209	18.8%	17 days	54 days <sup>3</sup>
Orders relating to good faith bargaining <sup>4</sup>	530	464	14.2%	-	-
Dispute notification <sup>5</sup>	2627	1974	33.1%	17 days	41 days <sup>6</sup>
Order relating to industrial action <sup>7</sup>	1446	1159	24.8%	3 days <sup>8</sup>	-
General protections applications (s.365 and s.773)	2303	2045	12.6%	26 days	48 days <sup>9</sup>
Unfair dismissal applications (s.394)	14 027	12 840	9.2%	28 days	38 days <sup>10</sup>
Unfair dismissal applications (s.394)—finalised by dealing with an objection to the application	226	201	12.4%	-	-
Unfair dismissal applications (s.394)—finalised by substantive arbitration	325	316	2.8%	-	-
Appeals <sup>11</sup>	184	175	5.1%	81 days	213 days <sup>12</sup>

(1) Applications lodged under ss.157, 158 and 160 of the Fair Work Act.

(2) Applications lodged under s.185.

(3) Lodgment to finalisation of applications under s.185 of the Fair Work Act only.

(4) Applications made under ss.229, 236, 238, 240, 242 and 248 of the Fair Work Act.

(5) Applications made under ss.372, 526 and 739 of the Fair Work Act and 699 and 709 of the *Workplace Relations Act 1996*.

(6) Lodgment to first listing.

(7) Applications made under ss.418, 419, 423, 424, 425, 426, 437, 447, 448, 459, 472 and 526 of the Fair Work Act.

(8) Lodgment to first listing.

(9) Lodgment to first listing.

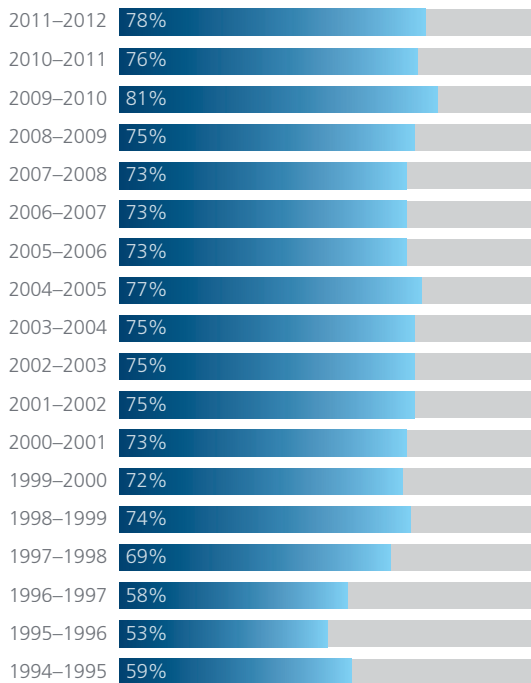
(10) Lodgment to conciliation.

(11) Includes appeals under s.604 of the Fair Work Act and s.120 of the *Workplace Relations Act*.

(12) Lodgment to finalisation.



**CHART 2: CONCILIATION SETTLEMENT RATE<sup>1</sup>**



(1) Conciliation settlement rate includes s.394 applications for an unfair dismissal remedy, s.365 applications to deal with general protections disputes involving dismissal and s.773 unlawful termination applications, as well as applications for relief under s.643 of the *Workplace Relations Act 1996* for unlawful, harsh, unjust or unforeseeable termination of employment.

More information on unfair dismissal settlement rates can be found in Table 19.

**TABLE 4: NUMBER OF HEARINGS AND CONFERENCES BY LOCATION**

Location	Number
Adelaide	378
Brisbane	1367
Canberra	235
Darwin	43
Hobart	82
Melbourne	4062
Newcastle	221
Perth	519
Sydney	2263
Wollongong	58
Other places	294
In chambers	6107
Telephone	2208
Video	872
<b>Total</b>	<b>18 709</b>

## 1.7 OUR CLIENTS

Fair Work Australia comes into contact with a broad cross-section of the Australian community, including:

- small, medium and large businesses
- individual employees
- unions and employer associations
- federal, state, territory and local governments, and
- legal practitioners, human resources professionals and other workplace advisers.

The work of the tribunal, particularly its high profile cases and statistics, is also of interest to academics and students, the media and overseas workplace relations tribunals.

In 2011–12, 37 444 applications were lodged with the tribunal. The Help Line handled 172 459 inquiries and electronic updates were sent to 28 400 subscribers across a range of free services.

### 1.7.1 Service charter

Administrative staff strive to provide a service to clients that is:

- informative, accurate and timely
- prompt, courteous and respectful, and
- professional and helpful.

The Fair Work Australia service charter provides details of the nature and level of services clients can expect from administrative staff, and outlines what clients can do if they are unhappy with the service provided. Fair Work Australia seeks to investigate and respond to complaints within 15 business days. A copy of the Service Charter can be found at Appendix D.

A separate mechanism is available for complaints regarding members.

### 1.7.2 Accessibility

Fair Work Australia continues to work towards increasing accessibility for all Australians, including those with a disability; those with English language difficulties and those with technical constraints such as older browsers and low-speed internet connections.

In 2011–12, staff engaged with clients over the phone using the national Translating and Interpreting Service (TIS) and the national relay service, and provided translators for hearings and conferences upon request.

### 1.7.3 Advisory assistance

It is not the role of Fair Work Australia staff to provide legal advice or interpretation of the Fair Work legislation to members of the public. Individuals and employers can seek advice and assistance from the Fair Work Ombudsman, unions, employer associations, legal advisers, workplace relations consultants and community legal centres.

Recognising the important role played by community legal centres, Fair Work Australia worked with a number of these centres in 2011–12 to assist in increasing the expertise of their staff in workplace relations matters. Tribunal members and Fair Work Australia staff met with legal centre representatives to explain our processes and invited them to visit the tribunal and attend hearings and conferences. We also provided feedback on information material developed by the centres prior to its publication.

# 2.

## WORK OF THE TRIBUNAL

### 2.1 OVERVIEW

#### 2.1.1 The President

The head of Fair Work Australia is the President. The president is also a judge of the Federal Court of Australia and carries the title 'Justice'.

On 27 October 2011 Justice Geoffrey Giudice AO announced his resignation as President of Fair Work Australia to take effect on 29 February 2012. Justice Giudice was appointed President of the Australian Industrial Relations Commission on 17 September 1997 and was the inaugural President of Fair Work Australia.

On 24 February 2012 Justice Iain Ross AO was appointed the new President of Fair Work Australia and commenced his appointment on 1 March 2012.

#### 2.1.2 The members

Members are appointed under Division 5, Part 5-1 of the Fair Work Act. Deputy presidents and

commissioners are appointed by the Governor-General through a merit-based process that takes into account experience and qualifications.

A full list of members as at 30 June 2012 can be found at Appendix E.

#### **Appointments**

In addition to the appointment of Justice Ross, the following new members were appointed to the tribunal during 2011–12:

- Commissioner Booth, Commissioner Jones and Commissioner Lee—3 October 2011
- Deputy President Booth—19 March 2012
- Commissioner Riordan—26 March 2012
- Deputy President Sams, Commissioner Asbury and Commissioner McKenna—30 March 2012



- Commissioner Bull and Commissioner Gregory—10 April 2012.

On 24 February 2012, Commissioner Smith was appointed as Deputy President.

### **Resignations and retirements**

In addition to Justice Giudice, the following members left the tribunal during 2011–12:

- Commissioner Thatcher—18 July 2011
- Deputy President Ives—31 January 2012.

## **2.2 AGREEMENTS**

One of the objects of the Fair Work Act is to achieve productivity and fairness through an emphasis on enterprise-level collective bargaining.

Fair Work Australia plays an important role in the agreement-making process. In most cases employers and employees make agreements without the assistance of the tribunal but in some instances one or more parties (or ‘bargaining representatives’) will approach the tribunal for it to make orders or to generally deal with a bargaining dispute. The aim is to assist the parties to reach an agreement, if possible.

Once made, an agreement comes into operation after it has been approved by Fair Work Australia. This process involves ensuring that the required procedural steps for the making of the agreement have been followed, as well as assessing the content of the agreement to make sure:

- that it includes mandatory terms
- that it does not include any unlawful terms or exclude the national employment standards (NES), and
- that employees are better off overall when compared with the relevant modern award.

Fair Work Australia is also asked from time to time to vary, extend or terminate agreements.

An agreement is required to include a procedure for settling disputes about any matters arising under the agreement or the NES. The majority of agreements provide a role for the tribunal in that procedure. Dispute resolution under agreements is dealt with as part of the broader section on dispute resolution later in this part.

As the figures that follow demonstrate, assisting with agreement-making and approving agreements occupies a significant amount of the tribunal’s time

and resources. This is to be expected in light of the prominence given to enterprise bargaining under the Fair Work Act.

### 2.2.1 Assistance with agreement-making

Fair Work Australia has various powers to assist the bargaining process. These powers may be exercised only if one or more parties make an application to the tribunal.

The tribunal can deal with a bargaining dispute if requested to do so (under s.240 of the Fair Work Act) and may exercise mediation or conciliation powers; make recommendations; or express opinions to assist the parties to reach an agreement or resolve the dispute. Fair Work Australia can make a binding determination (or 'arbitrate') only if all parties consent to it doing so.

Under a separate provision (s.230), Fair Work Australia may make specific orders to promote bargaining where good faith bargaining requirements are not being met or where bargaining is not proceeding efficiently or fairly because there are multiple bargaining representatives involved.

Fair Work Australia can also be called upon to determine whether a majority of employees in an enterprise want to bargain for an agreement (s.236: a majority support determination). This arises in situations where an employer has not agreed to bargain voluntarily. The tribunal member may use any method they consider appropriate to determine whether the relevant majority exists, with the usual methods being signed petitions and formal ballots.

If there is a dispute about whom a particular agreement will cover, Fair Work Australia may be asked to make a scope order (s.238) to promote fair and efficient bargaining. Before issuing such an order, the tribunal needs to be satisfied that the group of employees to be covered is 'fairly chosen'.

Where formal applications are made for bargaining orders, majority support determinations or scope orders, Fair Work Australia may attempt to resolve issues in dispute through conciliation before proceeding to a formal hearing. As noted in section 1, the tribunal is required to perform its functions in a manner that is fair and just, but must also perform its functions quickly, informally and by avoiding unnecessary technicalities. Where the parties consent, tribunal members will often attempt to use conciliation and other less formal methods to resolve disputes. This means that many of the formal applications set out in Table 5 do not proceed all the way to a final decision but are resolved by consent.

Fair Work Australia may also be asked to make an order allowing two or more employers to bargain together, in which case they are treated as one employer. This is known as a 'single interest authorisation', and can be made where the employers carry on similar activities under the same franchise, or where the Minister approved the employers bargaining together because they share particular common interests.

Bargaining representatives or employee organisations seeking a multi-enterprise agreement covering low-paid employees may ask Fair Work Australia to make a low-paid authorisation under s.243. If granted, this enables the tribunal to provide additional assistance to the parties to facilitate bargaining.

In 2011–12, Fair Work Australia received 530 applications under the agreement assistance categories set out above. A breakdown for each category is set out in Table 5.

### 2.2.2 Agreement approval, variation, extension and termination

There are three types of agreements that may be lodged with Fair Work Australia for approval: single-enterprise agreements, greenfields agreements and multi-enterprise agreements. Fair Work Australia may

## CASE STUDY: VICTORIAN NURSES DISPUTE

<b>APPLICATION:</b>	s.240 application for Fair Work Australia to assist with bargaining and s.424 application to terminate protected industrial action
<b>ISSUES:</b>	Negotiations for a new agreement and protected industrial action by nurses
<b>OUTCOME:</b>	Agreement reached with extensive assistance from the tribunal



### The Victorian Government and the nurses commenced negotiations for a new agreement in September 2011.

The main issues in dispute between the Australian Nursing Federation (ANF) representing the nurses and the Victorian Hospitals Industrial Association (VHIA) were about wages and nurse-to-patient ratios.

When the parties realised they would be unable to reach an agreement, they sought assistance from Fair Work Australia.

Starting in early November 2011, Commissioner Gooley met with the ANF and the VHIA repeatedly over a period of five months. During private conferences, including on weekends and late into the night, the Commissioner assisted the parties towards an agreement.

The Commissioner worked to focus the parties' attention on the matters in dispute rather than historical grievances and spent time with them updating their agreement to ensure it was relevant and complied with the Fair Work Act. When the conferences became unproductive, the Commissioner adjourned and made arrangements for later dates.

Nurses engaged in protected industrial action from 10 November 2011, which led to the closure of hundreds of hospital beds as well as surgery cancellations. On 16 November, a Full Bench comprised of Senior Deputy President, Justice Boulton, Senior Deputy President Acton and Commissioner Lewin suspended the action for 90 days on the basis of a threat to the personal safety or health, or the welfare, of people in need of public health care services.

The Full Bench opted to suspend the action, rather than terminate it, to allow discussions and negotiations between the parties to continue, with the assistance of Commissioner Gooley. The bench felt this would allow the parties to focus their efforts on seeking to resolve the differences between them rather than dealing with the problems associated with the industrial action.

On 16 March 2012, with Commissioner Gooley's assistance, an enterprise agreement was finally concluded. In all, the Commissioner presided over 20 conferences lasting over 100 hours.

**TABLE 5: BARGAINING APPLICATIONS—LODGMENTS, 2011–2012**

Type of application	No. of applications
s.229—Application for a bargaining order	99
s.236—Application for a majority support determination	62
s.238—Application for a scope order	30
s.240—Application to deal with a bargaining dispute	307
s.243—Application for a low-paid authorisation	1
s.248—Application for a single interest employer authorisation	31
<b>Total</b>	<b>530</b>

also vary or terminate these agreements, in certain circumstances.

In addition to these categories, there are a range of instruments which were created under previous legislation and which have continued operation under the Fair Work legislation. These instruments are called agreement-based transitional instruments. Fair Work Australia can be called upon to vary or terminate these instruments.

Single-enterprise agreements make up the bulk of agreements that Fair Work Australia is asked to approve (in excess of 90 per cent as demonstrated in Table 6). Tribunal members must be satisfied that employees covered by an agreement have genuinely agreed to the agreement. This involves assessing whether the employees have been given a copy of the agreement and any incorporated material; have had the terms and effect of the agreement appropriately explained to them; and have been properly notified of the voting arrangements. Members must also ensure that employees were not asked to approve the agreement until at least 21 days after the employer notified them of their rights to be represented in bargaining.

The member must also ensure that the agreement:

- meets the ‘better off overall test’ (sometimes called the ‘BOOT’)

- contains mandatory terms relating to its nominal expiry, dispute settlement, flexibility and consultation, and
- does not exclude the NES or contain unlawful matters (ss.186 and 187).

The better off overall test involves assessing the agreement to ascertain whether each employee would be better off under the agreement than if the relevant modern award applied. In exceptional cases, where a business is in difficulty, Fair Work Australia can approve an agreement even if the test has not been satisfied, as long as it would not be contrary to the public interest.

In certain circumstances where the tribunal member has concerns that the approval requirements have not been met, he or she can accept an undertaking from the employer to meet those concerns and approve the agreement accordingly. The member is required to seek the views of all known bargaining representatives for the agreement before accepting an undertaking, which then forms part of the agreement.

The continuing trend is for agreements to detail numerous matters dealing with the employment relationship. Most agreements would contain at least 50 clauses, with many running to 100 or more. As such, the approval process generally requires a careful assessment of the agreement’s provisions to ensure the legislative requirements are met.

**TABLE 6: ENTERPRISE AGREEMENT APPROVAL—LODGMENTS, 2011–2012**

Type of application	Lodged	Approved	Not approved	Application withdrawn	Total finalised <sup>1</sup>
s.185—Single-enterprise	7812	7440	79	264	7783
s.185—Greenfields	705	665	3	27	695
s.185—Multi-enterprise	48	44	1	3	48
<b>Total</b>	<b>8565</b>	<b>8149</b>	<b>83</b>	<b>294</b>	<b>8526</b>

(1) Results are not confined to applications lodged in this period.

**TABLE 7: ENTERPRISE AGREEMENTS—TIMELINESS, LODGMENT TO FINALISATION, 2011–2012**

Type of application		KPI <sup>1</sup>	Percentage of matters		
			50%	85%	90%
2011–12	s.185—Single-enterprise—lodgment to finalisation (days)	32 days	17 days	41 days	53 days
	s.185—Greenfields—lodgment to finalisation (days)		21 days	42 days	58 days
	s.185—Multi-enterprise—lodgment to finalisation (days)		35 days	91 days	91 days
2010–11	s.185—Single-enterprise—lodgment to finalisation (days)	32 days	22 days	73 days	NA
	s.185—Greenfields—lodgment to finalisation (days)		15 days	37 days	NA
	s.185—Multi-enterprise—lodgment to finalisation (days)		27 days	192 days	NA

(1) Fair Work Australia Budget Statements—Outcomes and Performance—Programme 1 (p284) 'Improve or maintain agreement approval time'.

Fair Work Australia is not required to hold a hearing when approving agreements. In an effort to minimise inconvenience to the parties many agreements are approved based on the written material provided by bargaining representatives. In some cases, tribunal members will request additional information from the parties before granting approval. If a doubt remains about whether the agreement meets the legislative requirements, it is likely that a hearing will be arranged.

Table 6 demonstrates the number of agreements in each of the three categories lodged for approval, approved, not approved, applications withdrawn prior to approval and total finalised in 2011–12. The total figure of 8526 finalisations is an increase of 744 on the figure from 2010–11.

Table 7 shows the median number of days taken to process 50 per cent, 85 per cent and 90 per cent of agreements. The table shows a significant

improvement for finalisation of 85 per cent of all agreements from 2010–11 (down to 42 days from 80) and particularly for single-enterprise agreements, which as noted above make up the bulk of all agreements. Half of all single-enterprise agreements were finalised within 17 days of lodgment, a reduction of five days on the 2010–11 figure.

In 2012–13, timeliness benchmarks will be placed on agreement applications from 1 July 2012. The benchmarks set are that 50 per cent of agreement applications will be finalised in three weeks, 90 per cent in eight weeks and 100 per cent within 12 weeks.

Fair Work Australia also deals with applications to vary or terminate agreements. In the case of variations, these can be by agreement between the employer (or employers) and the employees, or to remove an ambiguity or uncertainty. An employer (or employers) and employees can also agree to apply to terminate



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**FAIR WORK AUSTRALIA'S BUDGETARY PERFORMANCE TARGET IS TO IMPROVE OR MAINTAIN THE 32-DAY AVERAGE APPROVAL TIME FOR AGREEMENTS. IN 2011–12, ACTIVE MEASURES WERE TAKEN TO TRACK THE PROGRESS OF AGREEMENT APPLICATIONS FROM LODGMENT TO FINALISATION AND TO PROVIDE ADMINISTRATIVE RESOURCES TO ASSIST WITH COMPLEX APPLICATIONS.**

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an agreement before its nominal expiry date. After an agreement's nominal expiry date, one or more of the parties it covers can apply to have it terminated, in which case Fair Work Australia is required to consider:

- public interest grounds
- the views of the parties, and
- the likely effect that a termination will have on the parties.

Overall, there were 12 683 applications for agreement approval, variation and termination made in 2011–12. This includes 3638 applications to terminate individual and collective agreement-based transitional instruments.

### 2.2.3 Industrial action

In certain circumstances employees are able to take 'protected' industrial action in support of a proposed agreement. Industrial action will be 'protected' (or in other words attract an immunity from being sued) if it is authorised by a protected action ballot. The employees' bargaining representative must apply to Fair Work Australia for an order requiring a ballot to be conducted. This is known as a 'protected action ballot order'.

The tribunal is required, as far as practicable, to determine an application for a ballot within two working days after the application is made.

Fair Work Australia received 1011 applications for a protected action ballot order in 2011–12. In 2010–11, Fair Work Australia received 759 such applications.

The applicant for the order or the ballot agent (often the Australian Electoral Commission) can ask Fair Work Australia to vary the ballot order after it is made. The applicant can also apply to Fair Work Australia to revoke the order.

For industrial action to retain its protected status, the action must commence within 30 days of the declaration of the results of the ballot. An applicant for the order can apply to Fair Work Australia to have this period extended by up to 30 days.

Where protected industrial action is causing, or is threatening to cause, significant economic harm to the parties, Fair Work Australia can suspend or terminate the action on its own initiative or on application by certain interested parties (s.423).

Similarly, if action is endangering the life, personal safety, health or welfare of the population or part of it, or causing significant damage to the Australian economy, Fair Work Australia must suspend or terminate the action (s.424). In this particular case, the tribunal must as far as practicable determine an application within five days of it being made, or make an interim order suspending the action if this is not possible.

Fair Work Australia can be asked to suspend protected industrial action where appropriate if it would assist in resolving the matters in dispute (s.425) and also where the action is causing significant harm to a third party in certain circumstances (s.426).

Where industrial action (or threatened action) is not protected, an application can be made to Fair Work Australia to order that the industrial action stop or not occur under ss.418 or 419. The tribunal is required to resolve an application within two days of it being made, or make an interim order stopping the action.

## CASE STUDY: QANTAS

<b>APPLICATION:</b>	s.424(1) application by the Minister to terminate or suspend the industrial action
<b>ISSUES:</b>	Industrial action by Qantas threatening to cause significant damage to the tourism and air transport industries
<b>OUTCOME:</b>	Industrial action terminated. Parties moved into compulsory conciliation



**Qantas had been negotiating new enterprise agreements for licensed engineers, ground staff and long-haul pilots with three unions since August 2010.**

Negotiations stalled in early 2011. Each union successfully applied for protected action ballot orders, and from May 2011, employees began industrial action including work stoppages and overtime bans.

Extensive conciliation took place before Vice President Watson (AIPA), Senior Deputy President Kaufman (ALAEA) and Deputy President Sams (TWU). While the issues were narrowed, full agreement was not able to be reached.

On Saturday 29 October 2011, Qantas announced that all of the relevant employees would be locked out from 8 pm on Monday 31 October, and immediately grounded its fleet worldwide.

Following Qantas' announcement, the Minister for Employment and Workplace Relations lodged an urgent out-of-hours application with the tribunal seeking an order to stop the airline's proposed industrial action on the basis of its potential to cause

significant damage to one or more important parts of the Australian economy.

Shortly after the application was lodged, Fair Work Australia convened an urgent hearing on the evening of Saturday 29 October before a Full Bench comprised of Justice Giudice, Senior Deputy President Watson and Commissioner Roe. Staff and associates attended Fair Work Australia offices in Melbourne, Canberra and Sydney. The hearing began at 10 o'clock that evening, and continued until almost 1.30 am the next day.

At 2 pm on Sunday 30 October, the hearing reconvened and continued through to 2 am on Monday 31 October when the Full Bench decided to terminate all industrial action immediately. The decision was made less than 36 hours after Qantas' announcement and before its proposed lockout took effect. The Full Bench decision was subsequently upheld by the Federal Court. The bargaining disputes then moved into a compulsory conciliation period. The ALAEA and Qantas later reached agreement on the terms of a workplace determination and this was approved by a Full Bench in January 2012. The TWU and the AIPA disputes ultimately moved into arbitration before separate Full Benches later in 2012.

**FAIR WORK AUSTRALIA'S BUDGETARY PERFORMANCE TARGET IS TO 'IMPROVE OR MAINTAIN THE TIME TAKEN TO LIST APPLICATIONS RELATING TO INDUSTRIAL ACTION: 3 DAYS.' TABLE 9 SETS OUT THE TIME TAKEN BETWEEN LODGMENT AND FIRST HEARING OF PROTECTED ACTION BALLOT APPLICATIONS AND APPLICATIONS TO STOP UNPROTECTED ACTION. IT ALSO SHOWS THE TIME TAKEN TO DETERMINE PROTECTED ACTION BALLOT APPLICATIONS.**

action through less formal means, including mediation or conciliation. This may result in the application not proceeding to a formal hearing.

Employers have the option of reducing the pay of an employee who engages in a partial work ban that is protected action. The employee or the employee's bargaining representative may apply to Fair Work Australia for a variation of the reduction, in which case the tribunal will consider whether the reduction is reasonable and fair in the circumstances of the case.

The number of applications in relation to the various provisions dealing with industrial action and related matters is set out in Table 8.

As is the case with the various applications relating to the agreement-making process, Fair Work Australia will often be able to resolve disputes relating to industrial

**TABLE 8: INDUSTRIAL ACTION—LODGMENTS, 2011–2012**

Type of application	No. of applications
s.418—Application for an order that industrial action by employees or employers stop etc.	138
s.419—Application for an order that industrial action by non-national system employees or employers stop etc.	2
s.423—Application to suspend or terminate protected industrial action—significant economic harm etc.	7
s.424—Application to suspend or terminate protected industrial action—endangering life etc.	16
s.425—Application to suspend protected industrial action—cooling off	4
s.426—Application to suspend protected industrial action—significant harm to third party	0
s.437—Application for a protected action ballot order	1011
s.447—Application for variation of protected action ballot order	17
s.448—Application for revocation of protected action ballot order	57
s.459—Application to extend the 30-day period in which industrial action is authorised by protected action ballot	156
s.472—Application for an order relating to certain partial work bans	9

**TABLE 9: INDUSTRIAL ACTION—ALL APPLICATIONS, TIMELINESS, 2011–12**

Applications 2011–12	KPI	Percentage of matters		
		50% <sup>1</sup>	85% <sup>2</sup>	90%
Applications made under ss.418, 419, 423, 424, 425, 437, 448, 459 and 472	3 days	3 days	6 days	7 days

(1) 50th percentile includes data for applications made under ss.418, 419, 423, 424, 425, 437, 448, 459 and 472.

(2) 85th percentile is broken down by matter type.

## CASE STUDY: YOLLA PLATFORM

<b>APPLICATION:</b>	s.418 application to stop industrial action
<b>ISSUES:</b>	Health and safety, alleged industrial action
<b>OUTCOME:</b>	Matters resolved in private conference within 24 hours of notification



Deep beneath Bass Strait lies the Yolla gas field. Sitting on the water's surface is the Yolla Offshore Platform, which drills into the seabed to extract the gas and pipes it to the mainland. A construction vessel, Jascon 25, provides accommodation, catering and other support services to the platform.

In early April 2012, 38 cases of gastroenteritis were identified on the Jascon 25. Three were confirmed as salmonella. On Saturday 14 April, the company Downer EDI Engineering Power Pty Ltd/Downer EDI Engineering Electrical Pty Ltd told the employees that a helicopter was arriving the following morning to evacuate an ill staff member.

Employee health and safety representatives and union organisers requested the ship sail to Bell Bay that evening, arguing the situation was an emergency. The company refused, saying that there was no immediate risk to the health and safety of the employees. The employees aboard the vessel disagreed, and said they were not prepared to continue working.

The company called Fair Work Australia's after-hours emergency number and told the on-call staff member

that they wanted to lodge an urgent application to seek an order stopping the action.

The staff member contacted Senior Deputy President Watson, the Panel head for the industry. Early on Sunday morning (April 15), Senior Deputy President Watson arranged an urgent hearing at Melbourne's Fair Work Australia premises later that day.

The hearing commenced as a private conference, in which the parties developed a detailed process to resolve the dispute. At the end of the conference, the company advised that it would not pursue its application for an order and withdrew its application on the following day.

Within 24 hours of Fair Work Australia being notified of the dispute, the matter was listed for hearing, a conference was held, and the Senior Deputy President had assisted the parties to resolve their issues. No public hearings were required and there was no need for a formal decision to be issued.

## CASE STUDY: FULHAM CORRECTIONAL CENTRE

<b>APPLICATION:</b>	Order sought to terminate protected industrial action
<b>ISSUES:</b>	Negotiations for a new agreement; industrial action threatening welfare and safety
<b>OUTCOME:</b>	Agreement reached and approved by Fair Work Australia



The GEO Group's Fulham Correctional Centre (Fulham Prison) is near Sale, three hours east of Melbourne. Prison management began negotiating a new enterprise agreement with its correctional officers and catering personnel, and the CPSU, Community and Public Sector Union (CPSU), in July 2011. Nine months later, negotiations had stalled and employees began taking protected industrial action.

On 22 May 2012, Fulham Prison lodged an urgent application with Fair Work Australia seeking to terminate the industrial action. While the industrial action was lawful, the company argued that the rolling stoppages and work bans were having a significant impact on the prison, and that the daily lock-downs were causing unrest amongst prisoners.

The application was lodged at 7.45 pm. The next day, Deputy President Smith scheduled a hearing for 5 pm that day and dealt with the matter in conference until around 9.30 pm. The following morning, he used a variety of alternative dispute resolution methods, shifting from a private conference into a formal hearing and back into a conference, before agreement was reached on a process to resolve the bargaining issues and the parties agreed that the industrial action would end.

The parties agreed that the Deputy President would engage with the parties in intensive conciliation to try and resolve all of the outstanding bargaining matters. If negotiations were still unsuccessful, the parties agreed that he could make a binding recommendation. They also agreed that there would be a clause in the enterprise agreement that would empower him to arbitrate on staffing levels if the parties couldn't come to an agreement.

In early June 2012, Deputy President Smith travelled to Sale and conducted three full days of conciliation between prison management and the union. It was considered appropriate to conduct conciliation closer to the prison so that the employees could become engaged and better appreciate the process. He conducted a site inspection and then used the Sale Court House to conduct the negotiations. The process of conciliating included joint and separate meetings and the Deputy President made recommendations. Agreement was reached on all outstanding issues. The enterprise agreement will be approved in due course by Fair Work Australia on 9 August 2012 and a date has been set for consideration of staffing levels in Sale later in 2012.

**TABLE 10: INDUSTRIAL ACTION APPLICATIONS—PROTECTED ACTION BALLOT ORDERS AND ORDERS TO STOP ACTION, TIMELINESS, 2011–12**

Type of application 2011–12	Percentage of matters		
	50% <sup>1</sup>	85% <sup>2</sup>	90%
s.418—Application for an order that industrial action by employees or employers stop etc.—lodgment to first hearing (days)	1 day	2 days	3 days
s.437—Application for a protected action ballot order—lodgment to first hearing (days)	3 days	6 days	7 days
s.437—Application for a protected action ballot order—lodgment to determination (days)	4 days	6 days	7 days

(1) 50th percentile includes data for applications made under ss418, 419, 423, 424, 425, 437, 448, 459 and 472.

(2) 85th percentile is broken down by matter type.

### 2.2.4 Dispute resolution

In addition to assistance with bargaining disputes under s.240 and informal assistance arising from applications relating to agreements and industrial action, Fair Work Australia has specific dispute resolution roles (s.739) arising from provisions in modern awards, agreements, employment contracts and public service determinations. The bulk of these disputes arise under agreements.

Dispute resolution roles also arise under instruments continued from repealed legislation, the most common being provisions under former workplace agreements.

Most dispute resolution procedures in agreements allow Fair Work Australia to finally determine (or arbitrate) the dispute if it hasn't been resolved using more informal methods. The *Fair Work Regulations 2009* (Fair Work Regulations) contain a model dispute resolution term for agreements which provides for the tribunal to first attempt to resolve a dispute through mediation, conciliation, expressing an opinion or making a recommendation. If the tribunal is unable to resolve the dispute through those measures, the model term provides that it may arbitrate the dispute and make a determination that is binding on the parties.

Fair Work Australia also has a specific role under the Fair Work Act to resolve disputes relating to the standing down of employees that cannot be usefully employed because of industrial action, a breakdown of machinery or equipment or any other stoppage

**TABLE 11: AGREEMENT DISPUTES—LODGED**

Type of applications—2011–12	No. of applications
s.526—Application to deal with a dispute involving stand down	29
s.699 of repealed WR Act—Application to Fair Work Australia to have an alternative dispute resolution process conducted	11
s.709 of repealed WR Act—Application to Fair Work Australia to have a dispute resolution process conducted under a workplace agreement	319
s.739—Application to deal with a dispute	1643
s.739—Application to deal with a dispute in relation to flexible working arrangements	27
<b>Total</b>	<b>2029</b>

**TABLE 12: AGREEMENT DISPUTES—TIMELINESS**

Type of application—2011–12	Percentage of matters		
	50%	85%	90%
s.739—Application to deal with a dispute—lodgment to first conference (days)	15 days	32 days	38 days

of work for which the employer cannot reasonably be held responsible. Table 11 sets out the number of applications made under the various dispute resolution provisions. Table 12 sets out the time taken for a conference to be convened in relation to a s.739 dispute resolution application.

## 2.3

# GENERAL PROTECTIONS AND UNLAWFUL TERMINATIONS

Fair Work Australia has a discrete dispute resolution role in relation to general protections claims and unlawful termination applications. It should be noted that the unlawful termination jurisdiction is separate from Fair Work Australia's unfair dismissal jurisdiction and involves different considerations.

### 2.3.1 General protections

The general protections provisions in Part 3-1 of the Fair Work Act are intended to protect people from adverse treatment because they have workplace rights, are exercising freedom of association rights or are, or are not, engaging in industrial activity. They also provide protection to employees, and prospective employees, from workplace discrimination based on race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin. General protections claims are sometimes called adverse action claims.

If an application is made under this part Fair Work Australia is required to convene a conference.

### 2.3.2 General protections claims involving dismissal

Where a person has a general protections claim involving dismissal, he or she may apply to Fair Work Australia to conduct a conference to deal with the dispute (s.365). Fair Work Australia can attempt to resolve the dispute through mediation or conciliation, or by making a recommendation or expressing an opinion. The conference must be in private.

If Fair Work Australia is unable to resolve the dispute, it must issue a certificate to the effect that all reasonable attempts to resolve it have been, or are likely to be,

unsuccessful. The person may then make a general protections application to the Federal Court or Federal Magistrates Court. The tribunal member dealing with the matter forms the view that a court application would not have a reasonable prospect of success then the member must advise the parties of that view.

### 2.3.3 Unlawful terminations

The unlawful termination provisions in s.772 are intended to give effect to International Labour Organization (ILO) instruments. An employer must not terminate an employee's employment for a range of specified reasons, many of which would also give rise to a general protections claim under Part 3-1 of the Fair Work Act. Section 723 states that a person must not make an unlawful termination application if they are entitled to make a general protections application.

The process for unlawful termination claims is similar to that for general protections claims involving a dismissal. The employee must first apply to Fair Work Australia (s.773) to conduct a conference, which must be in private. If the tribunal cannot resolve the dispute, it must issue a certificate in the same terms as that for a general protections claim, and must also advise the parties that the application is not likely to be successful if the tribunal member dealing with the matter forms that view. The employee can then pursue a claim in the courts.

Table 13 sets out the combined number of applications made under s.365 and s.773 in 2011–12, how many were finalised with a certificate and how many were finalised without issuing a certificate and the total number of claims finalised during the year (which would include claims made in previous years).

**TABLE 13: GENERAL PROTECTIONS APPLICATIONS INVOLVING DISMISSAL—LODGMENTS, 2011–2012**

Matter type	No. of applications	Finalised by issuing a certificate	Finalised without issuing a certificate <sup>1</sup>	Total finalised
ss.365 & 773—Fair Work Act	2303	931	1393	2268

(1) Finalising without issuing a certificate includes the dispute being settled, the application withdrawn or adjourned indefinitely, invalid applications and those lodged out of time.

**TABLE 14: GENERAL PROTECTIONS APPLICATIONS INVOLVING DISMISSAL—TIMELINESS, 2011–2012**

Type of application	Percentage of matters		
	50%	85%	90%
General protections disputes involving dismissal and unlawful terminations ss.365 & 773—lodgment to first conference (days)	26 days	42 days	48 days
General protections disputes involving dismissal and unlawful terminations <sup>1</sup> ss.365 & 773—lodgment to finalisation (days)	35 days	78 days	97 days

(1) This measure is the number of days between lodgment and finalisation of the application whether by settlement at conference or by withdrawal or discontinuance for applications.

**TABLE 15: GENERAL PROTECTIONS OTHER—LODGMENTS, 2011–2012**

Type of application	No of applications
General protections—other contraventions s.372	598

**TABLE 16: GENERAL PROTECTIONS OTHER—TIMELINESS, 2011–2012**

Type of application	Percentage of matters		
	50%	85%	90%
2011–12 General protections—other contraventions s.372—lodgment to first conference	23	43	51

Table 14 provides information on how quickly claims under both provisions came on for their first conference and were finalised.

### 2.3.4 General protections claims not involving dismissal

General protections claims alleging adverse treatment that is not dismissal can be initiated in Fair Work Australia, but this is not a prerequisite for bringing a court application. Fair Work Australia can conduct

a private conference to resolve the dispute, but only if all parties to the dispute agree to participate. Fair Work Australia can advise the parties that a court application is unlikely to succeed in the same terms as for the other applications, but is not required to issue a certificate that the matter cannot be resolved.

Table 15 sets out the number of applications made under this category, and Table 16 shows how quickly the applications came on for a first conference.



## 2.4 UNFAIR DISMISSAL

Part 3-2 of the Fair Work Act aims to establish a framework for dealing with unfair dismissal that is quick, flexible and informal, and balances the needs of employers and employees.

A person may make an application to Fair Work Australia for a remedy if they claim they have been unfairly dismissed. A person is unfairly dismissed within the meaning of the Fair Work Act if the dismissal was harsh, unjust or unreasonable, was not a genuine redundancy and was not consistent with the Small Business Fair Dismissal Code (if the employer is a small business).

The person must make the application within 14 calendar days after the dismissal took effect, although Fair Work Australia may grant an extension to this period in exceptional circumstances. Fair Work Australia granted 40 applications to extend the period in 2011–12 and rejected 82 applications (see Appendix H for further details).

Cases are managed by the termination of employment panel, headed by Commissioner Jones, with the assistance of Fair Work Australia staff.

In 2011–12, Fair Work Australia received 14 027 unfair dismissal applications under Part 3-2. Table 17 contains details of the number of applications lodged in each location.

All applications are initially referred to a voluntary conciliation conference before Fair Work Australia conciliators, unless one or both parties decline to participate. The usual practice is for conciliation to be conducted by telephone. One of the aims of telephone conciliation is to minimise the inconvenience to the

parties involved in attending Fair Work Australia in person. Survey research conducted in the previous financial year revealed strong support for telephone conciliation, and data for 2011–12 revealing a low number of complaints about the service indicate that this support continues.

**TABLE 17: UNFAIR DISMISSAL—LODGMENTS**

Location	2011–12
Adelaide	906
Brisbane	2639
Canberra	250
Darwin	168
Hobart	292
Melbourne	4713
Newcastle	49
Perth	1233
Sydney	3752
Wollongong	25
<b>Total lodgments Australia-wide</b>	<b>14 027</b>

Fair Work Australia finalised 14 063 applications this year, which includes applications lodged prior to the 2011–12 financial year. Of those applications, 11 410 were resolved at or prior to conciliation.

Table 18 shows how many of those applications were settled or withdrawn prior to conciliation, at conciliation, after conciliation but before a conference or hearing with a Fair Work Australia member and after a conference or hearing but before a final decision. It also shows that 551 proceeded to a final decision.

**TABLE 18: UNFAIR DISMISSAL—FINALISATIONS**

Claims settled, withdrawn or determined	
Prior to conciliation	2346
At conciliation	9064
After conciliation and before a conference–hearing before a Fair Work Australia member	2059
After conference/hearing and before decision/order	43
By final decision/order	551
<b>Total</b>	<b>14 063</b>

**TABLE 19: UNFAIR DISMISSAL—SETTLEMENT RATE**

Result type	Year to date total	%
Total settled matters	9064	81
Total NOT settled matters	2124	19
<b>Total resulted conciliations</b>	<b>11 188<sup>1</sup></b>	<b>100</b>

(1) Matters conciliated are not confined to applications lodged in this period.

Fair Work Australia conducted 11 188 conciliations this year, successfully resolving 9064. The settlement rate for 2011–12 was 81 per cent (see Table 19).

Fair Work Australia collected data on settlement outcomes from the 9064 cases resolved at conciliation. Details are contained in Appendix H.

Fair Work Australia's budgetary performance target for unfair dismissal applications is to 'improve or maintain

the time elapsed from lodging to finalising conciliation in unfair dismissal applications', specified as 34 days.

Table 20 shows the median time taken for applications to be conciliated, to be finalised, to commence a hearing, and to result in a judgment.

If a matter is unable to be resolved at conciliation, or one or both parties elects not to participate in conciliation, the matter is referred to a tribunal member to make a determination. It is quite common for matters to be resolved following the conclusion of unsuccessful conciliation and prior to the matter being allocated to a member. In 2011–12, 2059 applications were resolved after conciliation without reaching a final decision stage.

Prior to hearing the merits of the application, Fair Work Australia is required to decide whether the application was filed within the required period, whether the applicant falls within the categories of persons that are protected from unfair dismissal, whether the dismissal was consistent with the Small Business Fair Dismissal Code (if the employer is a small business), and whether the dismissal was a case of genuine redundancy. These are often referred to as jurisdictional or eligibility grounds.

There are additional jurisdictional or eligibility objections that an employer may make, that are not necessarily required to be dealt with before the merits of a case are heard. Often these objections are

**TABLE 20: UNFAIR DISMISSAL—TIMELINESS**

s.394 application	KPI	Percentage of matters			
		50%		90%	
		2011–12	2010–11	2011–12	2010–11
Lodgment to first conciliation <sup>1</sup>	34 days	28 days	29 days	36 days	38 days
Lodgment to finalisation <sup>2</sup>	None	49 days	N/A	108 days	N/A

(1) This measure is the number of days between lodgment and the first conciliation and includes applications under s.394 of the Fair Work Act and s.643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 to the Transitional Provisions Act.

(2) Finalisation relates to a matter that has had a final result recorded and includes conciliations, arbitrations and matters withdrawn and is based on all matters finalised, as defined in the DEEWR report, for the reporting period.

connected with the merits of the case, or require more detailed evidence, and it is therefore sensible for them to be considered in a merits hearing or conference. These objections include that the person was not actually dismissed, that they were not an ‘employee’, that they were an excluded casual employee or that the case has no reasonable prospects of success.

In 2011–12, Fair Work Australia made 329 determinations on jurisdictional or eligibility grounds, upholding 226 objections by employers and dismissing 103. Details of the bases on which jurisdictional grounds were dismissed or upheld are contained in Appendix H.

Once Fair Work Australia is satisfied that there are no jurisdictional hurdles to the application proceeding, it holds a conference or hearing to determine the merits of the application.

As noted above, Fair Work Australia finalised 551 unfair dismissal applications by a decision in 2011–12. Table 21 sets out the outcomes of those 551 cases.

Where Fair Work Australia finds that a person has been unfairly dismissed, it may order that the person

be reinstated. If reinstatement is ordered, Fair Work Australia may also order the employer to pay a sum for lost remuneration. As an alternative to reinstatement, Fair Work Australia may order the employer to pay compensation to the employee. Details of remedies awarded, including remuneration payments and compensation amounts, are set out in Appendix H.

### 2.4.1 Appeals

A person who is aggrieved by an unfair dismissal decision may lodge an appeal. Fair Work Australia must not grant permission to appeal unless the tribunal considers it is in the public interest to do so. An appeal on a question of fact can only be made on the ground that the decision involved a significant error of fact. There were 58 appeals from unfair dismissal decisions in 2011–12, with seven upheld and 51 dismissed. Table 22 shows the basis on which the appeals were determined.

**TABLE 21: SECTION 394 OUTCOMES**

Tribunal decision	No. of decisions
Objection upheld—application dismissed	226
Application dismissed—dismissal was fair	215
Application granted—compensation	85
Application granted—reinstatement	6
Application granted—reinstatement and lost remuneration	11
Application granted—no remedy granted	8
<b>Total results Australia-wide</b>	<b>551</b>

**TABLE 22: UNFAIR DISMISSAL—APPEALS**

Decisions appealed	Upheld	Dismissed	Total
Jurisdiction or merit	5	43	48
Remedy	1	0	1
Practice and procedure	1	8	9
<b>Total</b>	<b>7</b>	<b>51</b>	<b>58</b>

## 2.5 AWARD MODERNISATION

**Modern awards began operating on 1 January 2010, with 122 modern awards replacing approximately 1560 federal and state instruments. Many modern awards contain transitional arrangements that phase in changes in wages, loadings and penalty rates over five years.**

The modern awards, together with 10 legislated minimum National Employment Standards (NES) and the national minimum wage order, make up a safety net of terms and conditions for employees in the national workplace relations system.

The work of the tribunal on award modernisation has continued in 2011–12 and is likely to occupy a significant amount of resources in 2012–13. During the reporting period Fair Work Australia has commenced the two-year review of modern awards required by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Transitional Provisions Act). It has also dealt with applications to vary modern awards outside the review, the termination of instruments process, applications to modernise enterprise instruments and applications for take-home pay orders. In addition, Fair Work Australia updated rates and expense-related allowances in modern awards following the decision in the Annual Wage Review 2011–12.

Relevant documents including applications, directions, submissions, notices of listing, transcripts, decisions, statements and determinations were published on the Fair Work Australia website.

### 2.5.1 Modern Awards Review 2012

Part 2 of Schedule 5 to the Transitional Provisions Act requires Fair Work Australia to conduct a review of all modern awards, other than modern enterprise awards

and state reference public sector modern awards, as soon as practicable after 1 January 2012.

In the review, Fair Work Australia is required to consider whether the awards are achieving the modern awards objective and are operating effectively, without anomalies or technical problems. Each award must be reviewed in its own right, but this does not prevent the tribunal from reviewing two or more awards at the same time.

A statement was issued by Justice Giudice on 17 November 2011 calling for applications to vary modern awards as part of the review. By 30 June 2012, 280 applications had been lodged.

The applications included a number of common issues as well as single industry issues. On 27 April 2012, Justice Ross issued a statement noting that a Full Bench would be constituted to deal with common issues, being:

- penalty rates in the retail, hospitality, fast food, restaurant, hair and beauty, and banking awards
- apprentices, trainees and junior rates
- award flexibility
- annual leave, and
- public holidays.

On 29 June 2012 a five-member Full Bench headed by Justice Ross issued a decision dealing with a number of matters including the applicable legislative provisions, the scope of the review, take-home pay orders and retrospectivity. The decision confirmed that the Full Bench would continue to deal with applications to vary penalty rate provisions and related issues, but also noted that under the Fair Work Act the taking of evidence in relation to those applications could be delegated to individual members of the tribunal.

Given the volume of applications, a number of tribunal members will continue to be engaged in the review, on Full Benches and/or sitting alone. It is anticipated that the review will be completed in the latter part of the 2012–13 financial year.

### 2.5.2 Variation of modern awards outside review

Under Division 5 of Part 2-3 of the Fair Work Act, Fair Work Australia has limited powers to vary modern awards outside the four-yearly, two-year and annual wage reviews. During 2011–12, there were 28 applications made to vary modern awards which were not part of the two-year review. Forty-five applications were determined during 2011–12.

### 2.5.3 Termination of instruments

Item 3 of Schedule 5 to the Transitional Provisions Act requires Fair Work Australia to terminate any remaining modernisable instruments that it considers are completely replaced by a modern award.

Modernisable instruments are defined as:

- award-based transitional instruments—federal awards and Notional Agreements Preserving State Awards (NAPSAs) which came into operation on 27 March 2006, and
- transitional Australian Pay and Classification Scales—wage schedules derived from federal and state awards on 27 March 2006 as adjusted by minimum wage decisions of the Australian Fair Pay Commission from 2006 to 2009.

A number of instruments were exempt from this process, including enterprise instruments and state reference public sector transitional awards.

During 2011–12 1318 modernisable instruments were terminated as part of this process.

A further 15 enterprise instruments were terminated upon application by the parties to Fair Work Australia.

### 2.5.4 Enterprise award modernisation

Under Schedule 6 of the Transitional Provisions Act, a person covered by an enterprise award can apply to Fair Work Australia to terminate it, or make a modern enterprise award to replace it.

In 2011–12, Fair Work Australia considered an application by Telstra Corporation to terminate various enterprise awards covering its employees. Had the application been granted and the enterprise awards terminated, the majority of Telstra's employees would have become subject to existing modern awards. The application was opposed by five unions who were parties to the enterprise awards. The unions also lodged a counter application seeking a modern enterprise award to replace the various enterprise awards.

On 27 June 2012, a Full Bench (Vice President Lawler, Senior Deputy President Hamberger and Deputy President Smith) refused Telstra's application and granted the unions' applications on the basis that it considered the Telstra awards had a long history with terms and conditions arising from public sector employment, and that extensive bargaining over the years had resulted in matters of particular interest to Telstra being reflected in the awards. While modern awards existed which could cover the majority of affected employees, the Full Bench was concerned as to whether those awards contained an appropriate safety net. It noted for example that consideration was not given to the terms and conditions applying to two of Australia's biggest telecommunications companies (one being Telstra) in making the *Telecommunications Services Award 2010*.

The parties were directed to confer and report back on terms to be included in a modern enterprise award (see [2012] Fair Work Australia FB 5401).

## 2.6 MINIMUM WAGES

### 2.6.1 Annual Wage Review 2011–12

The Fair Work Act provides for an annual wage review conducted by the Minimum Wage Panel of Fair Work Australia. The Panel comprises the President, three other full-time members and three part-time members. The Panel is required to review minimum wages in modern awards and make a national minimum wage order. Under the Transitional Provisions Act, the Panel also reviews minimum wages in some transitional instruments.

In undertaking the review, the Panel must take into account the minimum wages objective and the modern awards objective of the Fair Work Act. The Panel conducted the Annual Wage Review 2011–12 between March and June 2012. It invited interested parties to make submissions to the review and to participate in consultations in May 2012. During the review, the Panel received written submissions, submissions in reply and post-Budget submissions from a wide range of parties. Several research projects were undertaken and the findings were made available for use in the review.

On 1 June 2012, the Panel handed down its decision, which was to:

- increase all modern award minimum weekly wages and most transitional instrument wages by 2.9 per cent, and

- set the national minimum wage for award/agreement-free employees in the national minimum wage order at \$606.40 per week, or \$15.96 per hour (based on a 38-hour week for a full-time employee). A number of special national minimum wages were also set. The casual loading for employees not covered by an award or agreement was set at 23 per cent.

In accordance with the Fair Work Act, the decision came into operation on 1 July 2012 and took effect from the first full pay period on or after that date. The national minimum wage order and determinations varying modern awards were published before 1 July 2012. All submissions, research, additional information and transcripts were published on the Fair Work Australia website.

### 2.6.2 Research

Fair Work Australia undertakes and commissions research for use in the annual wage review. This is dealt with in more detail in section 3.5.1.

## CASE STUDY: ANNUAL WAGE REVIEW 2011–12

<b>APPLICATION:</b>	Initiated by Fair Work Australia under s.285 of the Fair Work Act
<b>ISSUES:</b>	Maintaining a safety net of fair minimum wages by reviewing minimum wages in modern awards and making a national minimum wage order
<b>OUTCOME:</b>	Minimum award weekly wages and the national minimum wage increased by 2.9 per cent



The Minimum Wage Panel of Fair Work Australia is required by the Fair Work Act to undertake an annual wage review each year with any decision to take effect on 1 July. The decision directly affects employees earning minimum rates of pay specified by modern awards, the national minimum wage order and some transitional minimum wage instruments. This is estimated to be around 15 per cent of employees in the labour force.

Though this year's review was formally undertaken from March to June 2012, the panel commenced preparation for it shortly after concluding the 2010–11 review. This included a process for finalising a research program to inform the panel's deliberations, the release of four research papers and statistical reports, a report on proxy measures of the needs of the low paid published by Senior Deputy President Watson and Professor Richardson and consultation with parties on the timetable for the review.

Initial submissions to the review closed on 16 March 2012. Thirty-two submissions were received. Submissions in reply were provided by 27 April and post-Budget submissions were made up until 11 May

2012. Seventeen submissions were received as part of these processes.

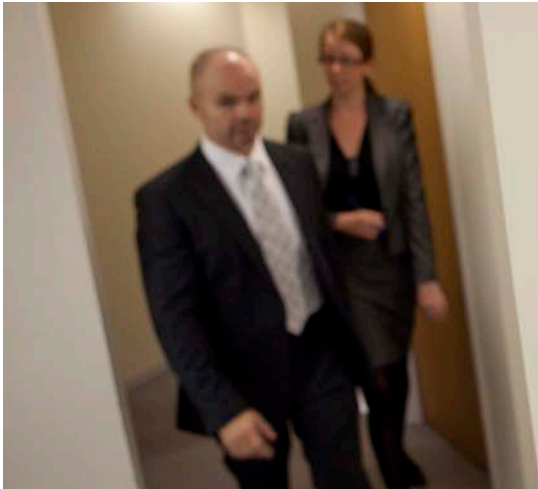
Final consultations with parties were conducted on 14 and 21 May 2012 in Melbourne with video link to Sydney on the request of parties. Some additional material was tendered to the panel by parties where requested.

The Panel released its decision on 1 June 2012 awarding a 2.9 per cent increase in minimum weekly wages in modern awards and the national minimum wage.

The Modern Awards Team then prepared draft determinations varying modern awards for comment by parties. Final determinations were subsequently issued by the panel prior to 1 July 2012.

From the beginning of preparations for the review in 2011 to its conclusion in June 2012, the panel received 66 submissions and nine other documents from parties.

All decisions, statements, submissions, correspondence, materials, research and transcript for the Annual Wage Review 2011–12 are available on the Fair Work Australia website.



## 2.7 ORGANISATIONS

### 2.7.1 Powers and functions

Fair Work Australia has various powers and functions under the Registered Organisations Act. Some of those functions and powers are exercised by tribunal members, namely the President or a Deputy President, or a Full Bench of which the President is a member.

Powers exercisable by tribunal members include registration of new organisations, cancellation of registration in limited circumstances, approval of amalgamation and withdrawal from amalgamation ballots, representation orders in demarcation disputes or for workplace groups, approval of alterations to the name or eligibility rules of organisations, orders for a member of an organisation to inspect the organisation's financial records, and approval of membership agreements between organisations and state registered unions.

Other powers under the Registered Organisations Act are exercised by the General Manager, including certification of rule alterations (other than eligibility rules), arranging elections for offices in organisations, and conducting inquiries and investigations into compliance with accounting and reporting obligations. Activity in this area is dealt with in section 3.

### 2.7.2 Organisations applications

The functions of tribunal members under the Registered Organisations Act are handled by the Organisations Panel. During 2011–12 a number of cases were heard and determined by members of the panel. The following applications were granted:

- applications for registration by the Building Service Contractors' Association of Australia Queensland Division, Industrial Organisation of Employers and by the Traffic Management Association of Australia Inc



- applications for a change of name and alteration of eligibility rules by the Real Estate Employers' Federation of South Australia (now known as Real Estate Employers' Federation of South Australia and Northern Territory)
- an application for a change of name by The Motor Trade Association of South Australia (now known as The Motor Trade Association of South Australia Incorporated)
- applications for alterations to eligibility rules by the CPSU, the Community and Public Sector Union
- a joint application by the Local Government Association of New South Wales and the Shires Association of New South Wales for a community of interest declaration in relation to a proposed amalgamation, and
- applications for cancellation of the registrations of the Private Hospitals Industrial Association of Australia and the Striptease Artists Association Inc.

During the year the following applications were withdrawn:

- applications for registration by the Association of Australian Workers, AOA Australia and the Baking Industry Group Limited
- applications for alteration of eligibility rules by the Australian Municipal, Administrative, Clerical and Services Union and the National Electrical Contractors Association, and
- an application for cancellation of registration by the Metal Industries Association Tasmania.

At the end of the reporting period there were nine matters outstanding—one application for registration, five applications for alteration of eligibility rules, one application for approval for submission of an amalgamation to ballot, one application for cancellation of registration and one application in relation to a membership agreement with a state registered union.

## 2.8 ENGAGING WITH THE WORKPLACE RELATIONS COMMUNITY

Tribunal members engage directly with the workplace relations community through a variety of presentations, projects and appointments, at home and overseas.

### 2.8.1 Member activities

Details of appointments and positions held by members outside of Fair Work Australia, speeches and presentations given by members, and events, conferences and programs members attended and participated in can be found in Appendix G.

### 2.8.2 ILO conference and training course

Fair Work Australia and the International Training Centre of the International Labour Organization (ITC-ILO) held a regional conference and training course in Melbourne in 2012. Employment judges and arbitrators from the Asia and Pacific region attended the two day conference on 17 and 18 June.

The conference was organised and opened by Deputy President Hamilton and Ms Tzehainesh Teklè of the ITC-ILO. Justice Iain Ross hosted the delegates in a tour of Fair Work Australia, where they met a number of members.

Conference delegates came from Australia, Bangladesh, China, Cambodia, India, Indonesia, the Republic of Korea, Malaysia, Nepal, Philippines, Singapore, Sri Lanka, Thailand, Vanuatu, and Vietnam. Fair Work Australia sponsored a number of the international participants.

A four-day training course on International Labour Standards for Judges and Arbitrators in the Asia and Pacific Region followed on from the conference.

## 2.9 EDUCATIONAL ACTIVITIES

Members engage with the wider community through a variety of presentations, projects and appointments as part of the tribunal's educational activities. Fair Work Australia offers a free briefing program and historical archive for those interested in learning more about the role the tribunal has played over the years.

### 2.9.1 Educational briefings

Fair Work Australia members and staff provide briefings on the role and functions of the tribunal to groups from educational institutions and the workplace relations community.

In 2011–12 members ran briefings for high school, TAFE and secondary students, and for several unions in Sydney, Melbourne, Adelaide and Hobart. Commissioner Bissett visited a law firm in Melbourne to speak to the Victorian Women Lawyers Justice Committee and Commissioner Ryan visited a Victorian shipyard to give a briefing to the company's Human Resources representatives.

The tribunal also provides briefings to overseas visitors with an interest in Australian workplace relations. In 2011–12 briefings were presented to several delegations and study groups from China, Singapore, Cambodia, Indonesia and Korea. The tribunal was also visited by individuals from the Department of Labor in New Zealand, Northern Ireland's Labour Relations Agency, and Hokusei Gakuen University, Japan.

### 2.9.2 Law Week 2012

In May 2012, Fair Work Australia participated in Law Week. The tribunal hosted open days in its Sydney premises on 15 May and its Melbourne premises on 19 May. The open days involved behind-the-scenes tours hosted by tribunal members.

### 2.9.3 *Waltzing Matilda and the Sunshine Harvester Factory*

Deputy President Hamilton, author of the Fair Work Australia publication *Waltzing Matilda and the Sunshine Harvester Factory*, attended conferences of history teachers in New South Wales, Victoria and South Australia in 2011. The book is about the early history of the Arbitration Court, the Australian minimum wage, working hours and paid leave. It was written for schools and for the general public.

The Fair Work Australia homepage has a link that provides free public access to dedicated educational resources for teachers and students.

### 2.9.4 Sir Richard Kirby Archives

In 2002 the tribunal established the Sir Richard Kirby Archives as a way of preserving historical materials and as a resource to educate the public on the role and contribution of the tribunal over the years. The archive is based in the Melbourne premises and is overseen by a committee chaired by Senior Deputy President Watson and comprised of Fair Work Australia members and staff.

The committee maintains and develops the archive collection and oversees an exhibition program and an oral history project. The Fair Work Australia homepage has a link that provides free public access to the dedicated Sir Richard Kirby Archives website.



# 3.

## ADMINISTRATIVE ARM

### 3.1 OVERVIEW

The administrative arm of Fair Work Australia supports the tribunal in carrying out its work. Staff are organised into branches based on function as follows:

- award modernisation and contact centre
- corporate services
- minimum wages and research
- organisations, research and advice
- tribunal services & agreements, and
- unfair dismissals.

There is also a Communications Team that reports directly to the General Manager.

Fair Work Australia is part of the Education, Employment and Workplace Relations portfolio.

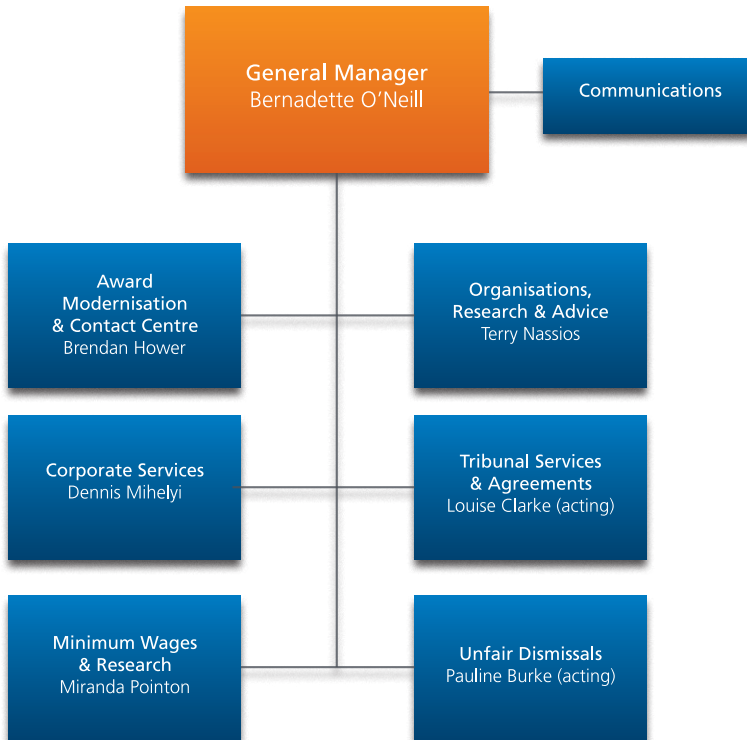
#### 3.1.1 The General Manager

The General Manager is the statutory agency head of Fair Work Australia. She assists the President to ensure that the tribunal performs its functions and exercises its powers.

The General Manager must perform any function conferred by Commonwealth law or by a Fair Work instrument. These functions and powers are broadly defined in ss.653, 653A, 657 and 658 of the Fair Work Act.

Bernadette O'Neill was appointed to the position of General Manager on 24 February 2012. She was appointed Acting General Manager on 8 September 2011, when Tim Lee resigned the position to take up his new role as a commissioner of the tribunal.

**CHART 3: FAIR WORK AUSTRALIA'S ORGANISATIONAL STRUCTURE—ADMINISTRATIVE ARM**



### 3.1.2 The Executive

The General Manager is assisted in her duties by an Executive made up of the six branch directors.

More information can be found in section 4.1.1.

### 3.1.3 The strategic plan

Fair Work Australia's activities are guided by a strategic plan. The purpose of the plan is to ensure that Fair Work Australia delivers highly regarded, independent, efficient, client-focused workplace relations services to the Australian public.

The plan underpins the staff performance management framework and is reviewed annually and updated or replaced as necessary.

In 2011–12, the plan contained three key objectives:

- that Fair Work Australia perform its functions and exercise its powers under the Fair Work legislation
- that Fair Work Australia is a values-driven organisation with best practice human resources (HR) initiatives that assist it to work collaboratively, and

- that Fair Work Australia services are modern and accessible, with an emphasis on client service.

In December 2011 the plan was reviewed and in February 2012 the Executive launched Fair Work Australia's 2012–13 strategic plan. The objectives of the 2012–13 plan are outlined in section 4.2.1.

### 3.1.4 Information services

#### **Workplace relations and law library**

Fair Work Australia has a dedicated workplace relations and law library based in Melbourne. Established around 1900 the library is open to members of the public and is regularly used by academics, employee and employer associations, the legal profession and journalists.

Information about the library can be found on Fair Work Australia's website.

#### **Fact sheets and guides**

A range of fact sheets and guides designed to assist clients understand the tribunal and its processes are available on the Fair Work Australia website.

#### **Fair Work Australia Help Line**

Fair Work Australia provides a national information service during business hours, Monday to Friday. More information on the service can be found in section 3.3.2.

#### **Subscription services**

Fair Work Australia offers free electronic subscriptions to many of its documents, as well as to information and materials associated with significant cases before the tribunal. The services notify subscribers by email as updates to their nominated publications become

available. Each email contains links to documents on the Fair Work Australia website. The range of subscription services available provides subscribers with flexibility, allowing them to receive the appropriate amount of material relevant to their needs.

At 30 June 2012 the electronic subscription services had around 28 400 subscribers, an increase of 25 per cent when compared to 30 June 2011 (22 800 subscribers). Increases were experienced across almost all subscription services over the reporting period, with the most significant increases in the modern award matters service (an increase of 167 per cent) and various specialised case services, such as the termination of instruments process (34 per cent increase), the equal remuneration case (31 per cent increase) and the annual wage review (22 per cent increase).

The services most subscribed to were the award updates and modern award matters services. These services are particularly important as there are no parties to awards and the service is the method used to notify employees and employers covered by modern awards of updates and associated proceedings.

In 2011–12, two new subscription services were added to provide updates about the General Manager's reporting requirements pursuant to s.653 of the Fair Work Act and item 20A of Part 4, Schedule 18 of the Transitional Act.

Details of available services and how to subscribe appear in Appendix I.

From: FWA Subscription  
 Sent: Tuesday, 19 June 2012 5:29 PM  
 Subject: New document affecting award(s)

A document has been issued in relation to MA00027 - Health Professionals and Support Services Award 2010

The document recently signed is PR523010 - <http://www.fwa.gov.au/alldocuments/PR523010.htm>.

See [http://www.fwa.gov.au/documents/modern\\_awards/history/MA00027.htm](http://www.fwa.gov.au/documents/modern_awards/history/MA00027.htm) for an updated list of documents that make up the current version of this award

You will be notified by email when the consolidated version of this award has been updated to incorporate the recent changes.

From: FWA Subscription  
 Sent: Thursday, 21 June 2012 5:21 PM  
 Subject: FWA Award Subscriptions

MA00020 - MA00027 - Health Professionals and Support Services Award 2010 - has been amended.

[http://www.fwa.gov.au/documents/modern\\_awards/award/ma00027/default.htm](http://www.fwa.gov.au/documents/modern_awards/award/ma00027/default.htm)

The document affecting this change is: PR523010 - <http://www.fwa.gov.au/alldocuments/PR523010.htm>

For subscription inquiries email [FWASubscriptions@fwa.gov.au](mailto:FWASubscriptions@fwa.gov.au) or UNSUBSCRIBE go to [http://www.fwa.gov.au/apps/subscription\\_services/sub-services.cfm](http://www.fwa.gov.au/apps/subscription_services/sub-services.cfm), login and update your details.

FWA website: [www.fwa.gov.au](http://www.fwa.gov.au)

## SUBSCRIPTION SERVICES EXAMPLE 1 SMALL PRIVATE MEDICAL PRACTICE

A small-enterprise employer, such as a private medical practice, may use the service to help them meet their legal obligations relating to wages and conditions of employment.

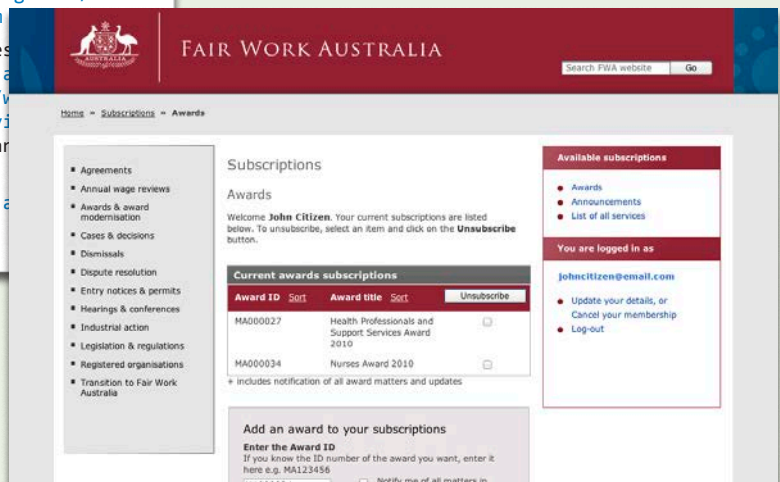
The employer can specify the particular awards that cover their employees.

The screen shot below indicates that the employer has chosen to receive updates relating to the following awards:

- MA000027—Health Professionals Support Services Award 2010
- MA000034—Nurses Award 2010

The employer in this example has also opted to receive the award modernisation general announcements.

This employer will be notified of these updates by email (examples of these are on the left).



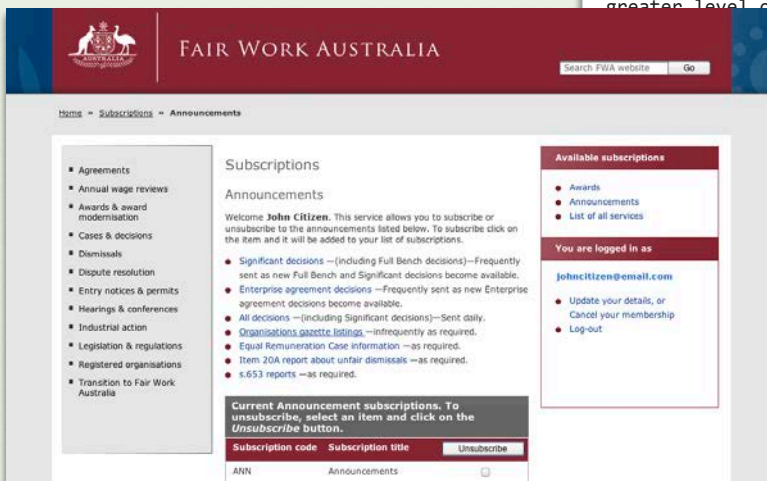
## SUBSCRIPTION SERVICES EXAMPLE 2 REGISTERED EMPLOYEE/EMPLOYER ORGANISATION

Registered organisations, law firms and larger employers are likely to be interested in a wide range of material provided.

In this example, a registered employee/employer organisation has subscribed to Significant Decisions and the Fair Work Australia Bulletin. By keeping up-to-date on current issues, the organisation can provide more accurate advice to its members.

The registered organisation is also subscribed to award matters. This service will make sure that the organisation is aware of any applications made to vary a modern award and is in a position to participate in relevant proceedings.

The screen shot below shows that the organisation has subscribed to the above services among others. Some example emails that may be received by the organisation (examples of these are on the right).



From: [FwAsubscriptions@fwa.gov.au](mailto:FwAsubscriptions@fwa.gov.au)  
 Sent: Thursday, 5 April 2012 4:44 PM  
 Subject: New FWA Bulletin  
 The latest bulletin has just been posted to the FWA web site.  
 HTML version at: <http://www.fwa.gov.au/airbulletin/fwab050412.htm>  
 PDF version at: <http://www.fwa.gov.au/assets/pdf/fwab050412.pdf>  
 FWA Bulletin home page:  
<http://www.fwa.gov.au/index.cfm?pagename=cdrsummaries>  
 Zipped lists of weekly decisions (in Microsoft Word format) at:  
<http://www.fwa.gov.au/index.cfm?pagename=weeklydecisions>

From: [FwAsubscriptions@fwa.gov.au](mailto:FwAsubscriptions@fwa.gov.au)  
 Sent: Monday, 30 April 2012 10:40 AM  
 Subject: FWA-Panel changes effective from 30 April 2012  
 A new Panel list, which takes effect from today, is now available on the Panel system page of the Fair Work Australia website at: <http://www.fwa.gov.au/index.cfm?pagename=aboutpanels>

In addition to the industry panels, a new Major Resources/Infrastructure Projects panel has been established. At least two members will be assigned to each major project to facilitate a greater level of engagement between Fair Work Australia and the industrial project. This will also ensure that the organisation is dealing with matters of particular project will cover all aspects of the project.

For more information on inquiries email Fair Work Australia at [FwAsubscriptions@fwa.gov.au](mailto:FwAsubscriptions@fwa.gov.au).

For more information go to [http://www.fwa.gov.au/index.cfm?pagename=subscription\\_service/subscription\\_services.cfm](http://www.fwa.gov.au/index.cfm?pagename=subscription_service/subscription_services.cfm), login and register for email alerts.

## 3.2 GENERAL MANAGER'S REPORTING REQUIREMENTS

The General Manager must meet the reporting requirements outlined in the Fair Work legislation.

Three reports are required relating to developments in agreement making, individual flexibility arrangements and provisions under the NES. A one-off report on the unfair dismissal system is also required.

The Minimum Wages & Research Branch assists the General Manager to compile these reports. Information on the branch's work can be found in section 3.5.

### 3.2.1 Section 653 reports

The General Manager must produce three reports under s.653 of the Fair Work Act. The Minister must be given a written report of the review and research as soon as practicable, and within six months of 25 May 2012.

#### **Developments in agreement making**

The General Manager is required to report on developments in enterprise agreement making.

Enterprise agreements are collective agreements usually made at the enterprise level between employers and employees. Fair Work Australia approves enterprise agreements if the Fair Work Act's requirements are met, including that the agreement will make employees better off overall compared to the relevant modern award. Once an enterprise agreement has been approved, the employees it applies to are entitled to receive the wages and conditions contained in the agreement.

#### **Individual Flexibility Arrangements**

The General Manager is required to report on the extent to which IFAs made under modern awards and



enterprise agreements are being agreed to, and the content of those arrangements.

Enterprise agreements approved after 1 July 2009 and all modern awards include a flexibility term that allows employers and individual employees to vary specified conditions of their award or agreement by making an Individual Flexibility Arrangement (IFA).

#### **Provisions in the National Employment Standards**

The General Manager is required to conduct research into the operation of these provisions of the NES for flexible working arrangements and extensions of unpaid parental leave.

The NES are 10 minimum standards that apply to all employees in the national workplace relations system. Under the NES, parents entitled to 12 months' parental leave are also entitled to request an extension of



their parental leave entitlement up to a period of an additional 12 months. Employees who are parents of, or who have responsibility for, a child under school age or a child under the age of 18 with disability, may request a change in working arrangements to assist in the care of the child.

### 3.2.2 Unfair dismissal—three-year report

The General Manager is required to prepare a written report about the first three years of operation of the unfair dismissal system. She must give the Minister the report as soon as practicable, and within six months of the end of the reporting period. 30 June 2012 marked the end of the reporting period for the unfair dismissal report.

The introduction of the Fair Work Act brought with it changes to the unfair dismissal laws.

This requirement comes from item 20A, Part 4, Schedule 18 of the Transitional Provisions Act.

## 3.3 AWARD MODERNISATION & CONTACT CENTRE

The Award Modernisation & Contact Centre Branch has two main responsibilities:

- to provide research and administrative support to tribunal members as they undertake their award modernisation responsibilities, and
- to provide procedural advice to employees and employers through the Fair Work Australia Help Line.

### 3.3.1 Modern Awards Team

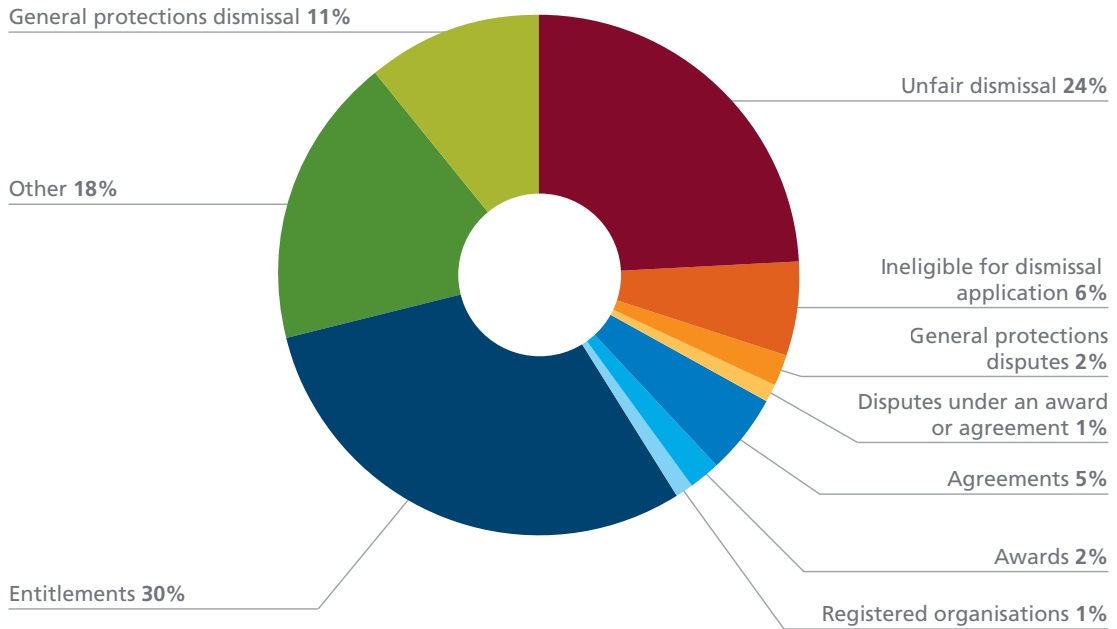
Based in Melbourne, the Modern Awards Team had eight staff at 30 June 2012. The team was originally responsible for conducting research and assisting in the finalisation of modern awards. Their work supported the tribunal to replace around 1560 federal and state instruments with 122 modern awards. The modern awards began operating on 1 January 2010.

As described in section 2, the award modernisation process is ongoing, and the team continues to assist the tribunal to meet its deadlines. In 2011–12, the team supported the tribunal:

- with the enterprise award modernisation process
- vary modern awards
- terminate pre-reform awards, NAPSAs and Division 2B State awards
- deal with take-home pay applications, and
- review all modern awards as required by the Transitional Act.

In addition, the team updated rates and expense-related allowances in all modern awards for the tribunal to approve following the decision of the Annual Wage Review 2011–12.

**CHART 4: REASONS FOR CONTACTING THE HELP LINE**



The team also:

- maintained awards-related web pages on the Fair Work Australia website
- responded to queries in relation to modern awards by phone and through a dedicated email service, and
- provided electronic updates on changes to modern awards through free subscription services.

### 3.3.2 Fair Work Australia Help Line

Fair Work Australia provides a national information service during business hours, Monday to Friday. The Help Line has a 1300 phone service, an email inquiries service and a web-based Live Chat service. The team had an average of 15 staff during 2011–12.

The Help Line provides information on processes and procedures. To maintain the independence and impartiality of the tribunal, Help Line staff do not provide advice on whether a person should make an application or help them prepare their case.



Of those who contacted the Help Line in 2011–12, 67 per cent were employees or making inquiries on behalf of employees. Seventeen per cent were employers or making inquiries on behalf of employers. The remaining 16 per cent were other types of callers (such as students), or did not identify themselves.

### The inquiries

The following table provides a summary of the number of inquiries dealt with in 2011–12:

Phone inquiries	142 700
Online inquiries	
Email	15 454
Live chat service <sup>1</sup>	14 305
Total	172 459

(1) The Live chat service was discontinued in March 2012.

Chart 4 shows the reasons clients had for contacting the Help Line.

## 3.4 CORPORATE SERVICES

Based primarily in Melbourne, Fair Work Australia's Corporate Services Branch provides a range of services to the organisation. The branch oversees all human resources issues, financial, resources and travel services and a range of information services from records management to information technology and document and web services.

The branch is also responsible for the implementation of Fair Work Australia's new electronic document and records management system, TRIM 7.1. TRIM is designed to improve business efficiency and records management compliance. A first-phase trial implementation of TRIM began in June 2011. By June 2012:

- 296 762 electronic documents and records had been registered into TRIM, and
- 300 boxes of records had been archived to the National Archives Australia.

### 3.4.1 Finance and resources

#### Financial management

The Finance & Resources Team manages Fair Work Australia's financial activities including the preparation of budgets and financial reports, procurement, risk management, contracts, auditing and policy development.

#### Resources management

The Corporate Services Branch is responsible for building management issues such as security, access and emergency planning and a range of resources activities including fleet management and procurement.

Throughout 2011–12, the Finance and Resources Team worked extensively on Fair Work Australia's

accommodation. Work was substantively completed in 2012 on a remodelling of the Adelaide and Brisbane offices. Architectural and project management services were tendered for the Sydney and Perth offices. At 30 June 2012, plans were being developed to consolidate the two Melbourne offices.

### 3.4.2 Workforce teams

Fair Work Australia has two workforce teams: Workforce Development and Workforce Support. These two teams deliver a range of human resources services to members, managers and staff.

The Workforce Support Team is responsible for day-to-day advice and information on matters such as conditions of service, payroll, workplace health and safety (WHS) and recruitment. The Workforce Development Team is responsible for developing human resources strategies, professional development and performance management.

#### **Improving staff performance**

In 2010–11, the workforce teams developed a comprehensive three-year strategy that aims to encourage a high-performance culture by actively supporting staff and developing their skills. In the second year of the strategy the workforce teams have driven progress towards achieving:

- a strengthened, visible leadership
- a more capable workforce
- a more efficient and effective human resources function, and
- a unified culture.

More information on how Fair Work Australia is building organisational capability can be found in section 4.

### 3.4.3 Information management

The Information Management (IM) Team is responsible for a broad range of activities including specialist information technology services, managing the library and records (including archives), document publication and web services.

Activities are guided by an IM and Information and Communications Technology (ICT) strategic plan which is reviewed annually.

In 2011–12, the IM Team worked on a range of initiatives, including:

- the design and creation of a website for the newly established Road Safety Remuneration Tribunal
- the development of a Fair Work Australia smart phone application, known as TravelMate, to give tribunal members and senior staff immediate and up-to-date access to contact and travel information, and
- the continued development of a system to replace the current electronic filing (eFiling) system that will give clients greater access to case information.

## 3.5 MINIMUM WAGES & RESEARCH

The Minimum Wages & Research (MWR) Branch is based in Melbourne and had 19 staff across three teams at 30 June 2012. The branch has two primary areas of responsibility. Each year it supports the Minimum Wage Panel as it undertakes an annual wage review. The branch also assists the General Manager to fulfil her legislative reporting requirements as outlined in section 3.2.

### 3.5.1 Supporting the Minimum Wage Panel

As noted in section 2 Fair Work Australia is responsible for setting minimum wages for employees in the national workplace relations system. Each year Fair Work Australia's Minimum Wage Panel conducts an annual wage review and issues a decision on award minimum wages and national minimum wages for employees not covered by an award or agreement.

#### Reports

The MWR Branch supports the Minimum Wage Panel as it conducts its review. The branch conducts economic, social and workplace relations-related research. For the 2011–12 review, it published four substantial reports:

- 1/2012—Award-reliant small businesses
- 2/2012—Analysing modern award coverage using the Australian and New Zealand Standard Industrial Classification 2006: Phase 1 report
- 3/2012—Award reliance and differences in earnings by gender, and

- 4/2012—Higher classification/professional employee award reliance qualitative research: Interim report.

These reports are available on the Fair Work Australia website.

The branch also continued to manage a number of commissioned research projects to inform future annual wage reviews. Details of these research projects are available on the Fair Work Australia website.

#### Administration

Staff in the branch manage the administration of the review including consulting with key stakeholders on research options and receiving submissions and inquiries from interested parties. The branch also ensures that all important information is published on the website and keeps parties informed through its free electronic subscription service.

### 3.5.2 Supporting the General Manager

During the 2011–12 reporting period, the branch collated data for each of the General Manager's reports (on agreement making, IFAs, requests under the NES and the unfair dismissal system).

The branch assisted the General Manager in the release of the issues papers related to requests made under the NES and IFAs made under modern awards and agreements. The branch then managed the administration of the subsequent submissions process.



### 3.5.3 Research partnerships

Two research partnerships between Fair Work Australia and other researchers were in progress and being managed by the Branch during 2011–12. Both partnerships will go to informing the General Manager’s future s.653 reports.

The first project, between Fair Work Australia and Associate Professor Anthony Forsyth of RMIT University, and Professor Peter Gahan and Associate Professor John Howe of University of Melbourne will address the

topic of Fair Work Australia’s influence in the enterprise bargaining process.

The second project, between Fair Work Australia and the Centre for Work + Life, will involve a qualitative study of requests for flexibility.

Information on both projects is available on the Fair Work Australia website.

## 3.6 ORGANISATIONS, RESEARCH & ADVICE

The Organisations, Research & Advice (ORA) Branch is located in Melbourne and Sydney. The branch has three primary responsibilities under the Registered Organisations Act:

- overseeing the compliance of registered organisations
- processing right of entry permit applications, and
- conducting research and providing advice for tribunal members and the General Manager on matters arising from Fair Work and related legislation.

The ORA Branch provides information about organisations' rights and obligations, and works to ensure that organisations are accountable to their members, are managed efficiently and operate effectively.

The number of organisations-related applications lodged during 2011–12 was 2686, compared to 2298 in 2010–11. This represented an increase of almost 17 per cent across the tribunal and administrative arm.

### 3.6.1 Registered organisations

#### Registration and accountability

The ORA Branch administers those provisions of the Registered Organisations Act that deal with the registration and accountability of unions and employer associations. These unions and employer associations are known as 'registered organisations'.

Registered organisations have elected officials and are financially accountable. The Registered Organisations Act requires them to develop their own set of rules. For example, they must have rules about how meetings

will be called, how officials can be elected or removed from office, what members need to do to resign from the organisation, and how funds are to be spent.

The ORA Branch oversees compliance by registered organisations with their record-keeping and financial reporting obligations. It provides administrative support to the tribunal concerning changes to existing organisations (to do with changes to names, eligibility rules, amalgamation and cancellation of registration). The branch regulates alterations to the rules of the registered organisations and the conduct of their elections.

As at 30 June 2012, there were 74 employer and 45 employee organisations registered under the Registered Organisations Act. There were also 27 transitionally recognised employer associations and 60 transitionally recognised employee associations. Lists of these organisations and associations are available on the Fair Work Australia website.

#### Right of entry permits

The ORA Branch processes applications by unions for right of entry permits under the Fair Work Act. A right of entry permit gives union officials the right to enter workplaces to meet employees and to investigate suspected breaches of the Fair Work Act, awards and agreements, and occupational health and safety laws. In 2011–12, 1583 permit applications were processed. Ninety three per cent of applications were processed within 28 days.

#### Work Health and Safety entry permits

Since 1 January 2012 Fair Work Australia has been the authorising agency for issuing right of entry

permits under the *Work Health and Safety Act 2011* (WHS Act). Work health and safety entry permits give union officials the right to enter workplaces to inquire into suspected contraventions of the WHS Act, to inspect documents directly relevant to a suspected contravention and to consult and advise workers.

### 3.6.2 Inquiries and investigations

#### Investigations

The ORA Branch conducts inquiries and investigations relating to compliance by registered organisations with:

- their accounting and auditing obligations
- their rules regarding finances and financial administration, and
- the civil penalty provisions of the Registered Organisations Act.

2011–12 saw the finalisation of the first two investigations under the Registered Organisations Act into:

- the National Office of the Health Services Union (HSU), and
- the Victoria No. 1 Branch of the HSU.

The General Manager's delegate found that there had been 25 contraventions of the Registered Organisations Act and/or HSU rules by the Victoria No.1 Branch. The General Manager's delegate found 181 contraventions in the National Office investigation.

At the conclusion of the investigation into the Victoria No.1 Branch, the General Manager commenced civil proceedings in the Federal Court of Australia against

the HSU and three former officers of the Victoria No.1 Branch. Those proceedings are continuing.

At the conclusion of the National Office investigation, the General Manager issued a rectification notice to the National Office reporting unit. The General Manager has instructed solicitors to initiate proceedings in the Federal Court in respect of the investigation's findings. Notices of contravention have been issued to individuals and the HSU.

The General Manager also referred the report to the Commonwealth Director of Public Prosecutions.

#### Future direction

The General Manager commissioned an independent review of the conduct of the two investigations. This review was conducted by KPMG, and the report is available on the Fair Work Australia website.

The review identified a number of improvements to be made as to the conduct of inquiries and investigations under the Registered Organisations Act. New policies and processes have been developed and additional resources provided. These changes, together with additional and improved powers available under recent amendments to the Registered Organisations Act, will enable Fair Work Australia to undertake its regulatory functions under the Registered Organisations Act, including the conduct of inquiries and investigations, more effectively in the future.

Further information including copies of the policies are available on the Fair Work Australia website.



## 3.7 TRIBUNAL SERVICES & AGREEMENTS

Fair Work Australia's Tribunal Services & Agreements Branch is the largest branch in the organisation and the most geographically diverse. The branch provides administrative services in Fair Work Australia's state and territory offices. It also provides associate support for members and assistance with agreement processing.

### 3.7.1 Administrative services

Fair Work Australia has offices in each state and territory capital city.

Each office has a service team that performs administrative services for the tribunal. As at 30 June 2012, the service team consisted of:

- 13 staff in Melbourne
- 17 staff in Sydney
- 5 staff in Brisbane
- 3 staff in Perth
- 3 staff in Adelaide
- 2 staff in Canberra
- 2 staff in Hobart, and
- 2 staff in Darwin.

The service teams are often the first point of contact for members of the general public wanting to lodge an application.

The teams are responsible for all applications lodged with Fair Work Australia, whether by fax, email, phone, in person over the public counters in each office, or through the online eFiling system. They receive and process the applications and prepare files for each case for the members.

### 3.7.2 Associates

Associates work directly for a tribunal member and look after the day to day running of the member's office (known as 'chambers'). Associates come from diverse professional backgrounds and operate flexibly to meet the tribunal's needs.

Associates prepare and maintain files, manage the member's diary and arrange travel, and assist during hearings by swearing in witnesses and handling exhibits. Some associates have legal qualifications and provide research and assistance in the drafting of the member's decisions. Once an application has been lodged with Fair Work Australia and the matter has been allocated to a particular member, the associate is the point of contact for the parties.

A team of relief associates is also on hand to fill in when a member's regular associate is on leave, or whenever extra assistance is required.

At 30 June 2012 there were 46 associates and 14 relief associates across Australia.

### 3.7.3 Agreements

The Agreements Team assists members and associates by undertaking research in relation to the 'better off overall test'. The team performs other research relating to agreements at the request of members, and works with the associates to fulfil the members' requests.

As can be seen from the statistics on agreement lodgments in section 2, the team deals with a high volume of applications. There were six employees in the Agreements Team at 30 June 2012.

More information about the 'better off overall test' (or BOOT) can be found in section 2.

## 3.8 UNFAIR DISMISSALS BRANCH

The Unfair Dismissal Branch handled the 14 027 unfair dismissal applications lodged with Fair Work Australia in 2011–12. The branch is made up of three teams, and the work is dealt with by administrative staff and conciliators in Melbourne, Sydney, Brisbane, Adelaide, Perth and Hobart.

Fair Work Australia tries to help parties resolve unfair dismissal applications by agreement. The Branch provides administrative support for the processing of unfair dismissal applications, and facilitates a voluntary conciliation process that helps the parties:

- identify what outcomes they are looking for, and
- find a solution that satisfies both sides.

There were 48 staff members in the branch as at 30 June 2012, including 26 conciliators across the nation.

### 3.8.1 Conciliation administration

After an unfair dismissal application is lodged with Fair Work Australia the file comes to the Conciliation Administration Team. This team provides the applicant (normally an employee, or a union, family member or friend who is representing them) and the respondent (normally the employer, or an association or lawyer representing the business) with information on the first steps in the process and what Fair Work Australia requires them to do.

The team follows up on any information missing from the application, keeps the file up to date when details change or additional documentation is provided, and answers questions from the parties on the process. The team then lists the matter for conciliation.

### 3.8.2 Conciliators

In order to meet the Fair Work Act requirement for an unfair dismissal system that is quick, flexible, informal

and addresses the needs of employers and employees, Fair Work Australia established a team of conciliators in 2009.

The conciliators are independent and do not take sides. Similar to a mediator, they try to help the parties agree among themselves on a solution. The conciliations usually take place by phone. They are informal, private and generally confidential.

An unfair dismissal application that can be settled at this stage alleviates the need for the parties to proceed to a formal, public hearing, where a tribunal member would look at the evidence and make a binding decision.

Of the 11 188 conciliations that took place in 2011–12, 9064 were successfully resolved by the parties agreeing on terms to resolve the application. This equates to a settlement rate of 81 per cent.

#### Relief conciliators

Over the 2010–11 Christmas and Easter peak periods the Conciliator Team was concerned about the length of time passing between the lodgment of some applications and the date of the conciliation.

In 2011–12, a relief conciliator pilot project was conducted. Senior Fair Work Australia staff members were invited to submit an application to participate, and 16 successful applicants were trained in conducting conciliation conferences. Ten of these went on to undertake conferences. These relief conciliators were required to balance their existing workload with scheduled conferences.

In the period January to March 2012, 124 conciliations were conducted by relief conciliators with an average settlement rate of 77 per cent. An evaluation of the pilot found that the integrity of the conciliation process was maintained. A decision regarding the continuation



of the program will be made early in the next financial year.

### 3.8.3 Arbitration administration

If a matter can't be resolved by conciliation, or if either of the parties chooses not to participate, the matter is referred to a tribunal member. The member will then make a determination on the merits of the application (or, if an objection has been lodged, a determination on the objection to the application).

In 2011–12, 2124 applications were unable to be resolved by conciliation. These matters were managed until they were either withdrawn or allocated to a tribunal member. In the same period, 2059 matters were withdrawn after conciliation but before a formal proceeding and 551 matters were finalised by a decision.

The case management of applications from New South Wales, Victoria, Tasmania and metropolitan South Australia and Queensland was conducted centrally by the Termination of Employment panel head, with

the help of Fair Work Australia staff in Melbourne. In other states, the case management of unfair dismissal applications after conciliation was conducted by the Fair Work Australia member to whom the application was allocated.

The work of the Arbitration Administration Team includes assisting the Termination of Employment panel head in:

- determining the date for any jurisdictional proceeding or merits arbitration of an application, and considering requests for a variation to the date
- issuing directions for the filing of material with Fair Work Australia, and conducting proceedings where there has been non-compliance with the directions
- dealing with orders for the production of documents for persons to attend the proceeding or arbitration, and
- communicating extensively with parties, particularly unrepresented parties, to ensure they understand the process and what is required of them.

## 3.9 COMMUNICATIONS TEAM

Fair Work Australia's Communications Team is responsible for internal and external communications. It also has a role in informing regular users and the wider public about the work of Fair Work Australia.

### 3.9.1 External communications

#### Media

The Communications Team is responsible for handling all media inquiries. This requires them to be on hand during urgent disputes, such as in the case of the Qantas dispute on Saturday 29 October 2011 (more information on the Qantas dispute can be found in the case study on page 20). The team also writes and circulates media releases as required. More broadly the team briefs journalists on Fair Work Australia processes and its role in the wider workplace relations landscape.

In 2011–12, the team dealt with a significantly increased number of media inquiries as a result of the investigations into the National Office and Victoria No. 1 Branch of the Health Services Union.

#### Publications

The team has responsibility for a range of fact sheets that are designed to provide information on Fair Work Australia processes, and for the final form and appearance of a range of publications including the Service charter and Complaints procedure. In 2011–12 the team was responsible for the proofreading and production of Fair Work Australia's research reports, and for the production of the 2010–11 Annual Report.

### 3.9.2 Internal communications

The Communications Team is responsible for the weekly internal newsletter, developing and maintaining the intranet, and providing training for staff who are responsible for maintaining intranet pages. The team also provides assistance and guides to staff on visual and written style and design matters.

# 4.

## MANAGEMENT AND ACCOUNTABILITY

### 4.1 CORPORATE GOVERNANCE

In 2011–12, Fair Work Australia was able to achieve high standards of accountability and a clearly-defined performance management framework through a range of corporate governance strategies.

These practices were overseen by the Executive with the support of two senior management committees. These committees provide support in the areas of procurement and auditing and ensure that there are clear lines of accountability and best practice governance.

Fair Work Australia also has a Staff Consultative Committee (FWASCC) that acts as a forum for management and employees to discuss matters affecting the workplace.

#### 4.1.1 The Executive

The Executive is comprised of the most senior managers in Fair Work Australia's administration. It is

chaired by the General Manager and meets weekly to discuss Fair Work Australia's strategic direction and operational issues.

The Executive is made up of:

- General Manager—Bernadette O'Neill
- Director, Award Modernisation & Contact Centre—Brendan Hower
- Director, Corporate Services—Dennis Mihelyi
- Director, Minimum Wages & Research—Miranda Pointon
- Director, Organisations, Research & Advice—Terry Nassios
- Acting Director, Tribunal Services & Agreements—Louise Clarke, and
- Acting Director, Unfair Dismissals—Pauline Burke.

## 4.1.2 Fair Work Australia committees

### Procurement Committee

The Procurement Committee is made up of the Director, Corporate Services and four senior managers. It has a pivotal role in procurement management and associated processes. The committee is responsible for assisting the Executive implement best practice contract management and procurement. All contracts and procurement actions over \$50 000 are referred to the Procurement Committee. See section 4.7.3 for further details.

### Audit Committee

The Audit Committee consists of three senior managers appointed by the General Manager and is chaired by an external independent committee member. The objective of the committee is to provide independent assurance and assistance to the General Manager on Fair Work Australia's risk, control and compliance framework and its external accountability responsibilities. The Audit Committee meets at least four times a year.

### Staff Consultative Committee

The FWASCC is the consultative and communication forum for management and employees on matters affecting the workplace. The committee was

established under the *Fair Work Australia Enterprise Agreement 2010–11* and continues under the current agreement. The FWASCC is made up of:

- the General Manager and three other management representatives, and
- three employee representatives and a CPSU official.

In 2011–12, the FWASCC consulted on a range of matters, including:

- the *Fair Work Australia Enterprise Agreement 2011–14*
- the Performance and Development Framework, and
- the 2012 budget review.

The committee meets at least three times a year.

### Review of committees

In 2011–12 the General Manager requested a review of the Procurement Committee and Audit Committee. The review recommended increased representation for both committees across the organisation. The Executive adopted this recommendation and new members were appointed.

## 4.2 PLANNING AND DEVELOPMENT

### 4.2.1 Strategic planning

In December 2011, the Executive and broader management engaged in a consultative process to reconsider Fair Work Australia's organisational priorities. In February 2012 the 2012–13 Strategic Plan was launched with a clear purpose of meeting Fair Work Australia's statutory functions in an effective way through independent, respected, efficient workplace relations services.

The strategic plan comprises four key goals:

1. to provide effective service delivery and support to tribunal members
2. to provide effective service delivery and assistance to Fair Work Australia clients
3. to provide effective support to the General Manager so that she can perform her functions under the Fair Work and Registered Organisations legislation, and
4. to be an effective, high performing and accountable APS agency.

Each branch developed a plan to implement the strategic goals which were supported in turn by individual performance and development plans.

### 4.2.2 Performance and Development Framework

A new Performance and Development Framework was launched in July 2011. The framework is designed to provide stronger links between individual performance and development and the organisation's goals.

The framework is designed to encourage productivity by defining work and behavioural goals, and aims to:

- encourage productive performance and development conversations between managers and staff
- identify professional development opportunities aligned with Fair Work Australia's core skills
- recognise staff contributions beyond their immediate work area
- enable the development of goals common to a group of employees
- ensure that employee behaviour is consistent with the Fair Work Australia values
- enable individual performance and development plans to be completed and monitored electronically, and
- apply performance ratings consistently.

At 30 June 2012 94 per cent of staff had an approved individual performance and development plan.

#### Learning and development

The learning and development component of the Performance and Development Framework is aimed at creating a more capable workforce, and is supported by a range of initiatives. In 2011–12, Fair Work Australia offered:

- a national learning calendar—68 per cent of staff across all states and territories undertook learning activities. Over 52 per cent of the learning activities related to defined critical skills sets,
- a coaching program for senior staff—nine senior staff members participated in the program between September and June,
- a national online induction program—60 per cent of new starters completed the program,

- a mentoring program pilot aimed at encouraging knowledge sharing, collaboration and retention of valued staff—12 staff participated in the pilot,
- peer learning sessions for senior staff to learn about and discuss topics of interest—three sessions were run in 2011–12: Talking performance, Mental health & wellbeing and Managers' WHS responsibilities,
- the Learning Hour series—around 80 staff and members attended these sessions, aimed at providing staff with an opportunity to learn about workplace relations issues, and
- a staff mobility program—implemented in 2011–12, the program encourages staff to move into different roles within the organisation to expand their knowledge and skills.

### Reward and recognition

Reward and recognition is an important component of the Fair Work Australia values (see section 4.3.1). Members and staff can nominate people within the organisation who demonstrate the Fair Work Australia values. In 2011–12, staff voted on 'respect' as the value they would focus on for the year. The reward and recognition program is intended to contribute to an improved culture within the organisation. Thirteen staff members were recognised through this program during the reporting period.

## 4.2.3 Business continuity

### Business continuity planning

In 2011–12, the Executive placed an increased emphasis on business continuity planning. While there was an existing plan in place, the agency wanted to ensure that the tribunal would be in a stronger position should a crisis arise.

Throughout the year, a sub-group of the Executive led a process to develop a framework that will:

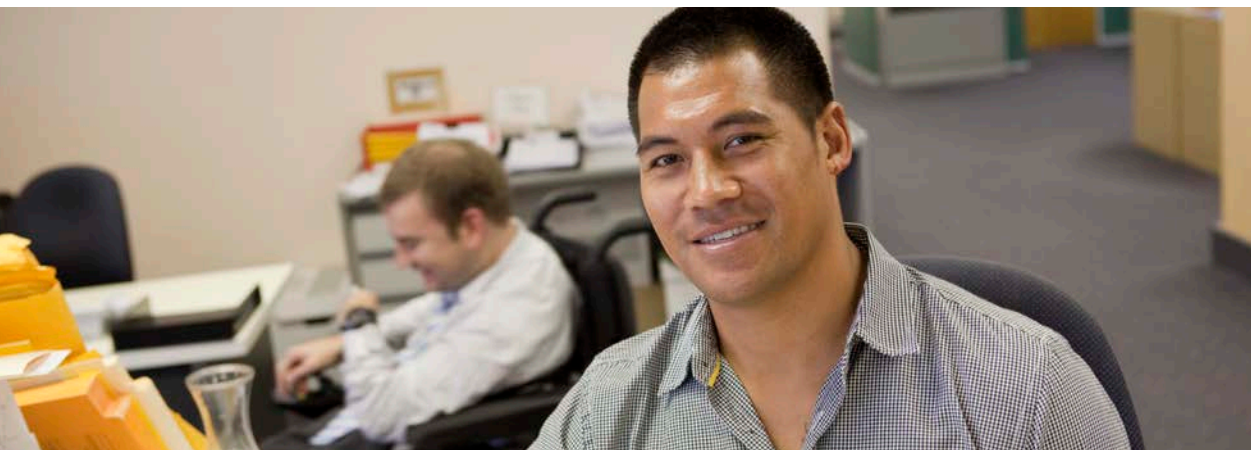
- identify the critical service delivery functions
- develop sub-plans for the continuity of each function, and
- clarify the staff and roles responsible for ensuring the continued operation of the tribunal.

### Business continuity response—IT

In November 2011, the Fair Work Australia data storage platform experienced a significant issue that required the enactment of business continuity measures nationwide. These measures enabled Fair Work Australia to successfully operate during the busy pre-Christmas period with minimal disruption to clients while the issue was rectified.

Fair Work Australia has subsequently installed a dual data storage platform to improve reliability. In addition, alternative disaster recovery sites are being investigated and business continuity management processes for IT are being actively refined.





## 4.3 ETHICAL STANDARDS

Fair Work Australia's ethical standards are governed by a broad legislative framework including the:

- *Public Service Act 1999*
- *Public Service Regulations 1999*
- *Public Service Commissioner's Directions 1999*, and
- *Financial Management and Accountability Act 1997*.

The ethics of the organisation are also governed by:

- the performance, reputation and organisational qualities enshrined in the strategic plan, and
- internal policies and procedures, including procedures for determining breaches of the APS Code of Conduct, and policies on use of email and internet systems and on receiving gifts and other benefits.

Each branch plan and each individual performance and development plan must address:

- workplace diversity
- ethical standards, and
- personal and professional conduct.

Information on ecologically sustainable development and environmental performance can be found in Appendix M. Information on freedom of information and the Information Publication Scheme can also be found in Appendix M.

### 4.3.1 Fair Work Australia values

In 2010–11, following a consultative process, Fair Work Australia adopted a set of values to operate alongside the Australian Public Service Values. The values aim to guide staff in their daily work and in their interactions with colleagues and the public. The values are also embedded in the recruitment process, the reward and recognition program, and the performance management process.

## 4.4 ACCOUNTABILITY

A range of audit activities are undertaken by internal and external auditors to provide assurance to the General Manager, the Audit Committee and Fair Work Australia management on risk-related activities.

### 4.4.1 External scrutiny

External audits of personnel and payroll management arrangements showed that Fair Work Australia met APS-related legislative and other requirements.

### 4.4.2 Internal audit arrangements

In 2011–12, PKF Chartered Accountants undertook internal audit activities for Fair Work Australia and reports were presented to the Executive and the Audit Committee. Reviews were undertaken of travel management, human resources and payroll management, contact centre operations, fringe benefits tax and compliance certification.

#### Travel management audit

The travel management audit examined travel policies, procedures and practices. It made recommendations in relation to policies, approval processes and reconciliation of travel provider payments. The audit also identified opportunities for streamlining travel management processes. These were considered in the 2012 budget review process and are intended to lead to significantly reduced processing times of payment of travel allowances to members.

#### Contact centre operations audit

The contact centre operations audit examined policies, procedures and practices of the Help

Line. It made a number of recommendations on reviewing and updating policies, how staff accessed software applications, use of the Live Chat service, how performance of the contact centre was being measured, and staff contingency. Plans addressing these issues have been progressively implemented.

#### Human resources and payroll management audit

The human resources and payroll management audit recommended a review of payroll related policies and procedures. These policies have been updated, and changes relating to payroll processing were adopted and implemented by the Workforce Support Team in March 2012.

### 4.4.3 Judicial decisions and administrative review

There were no judicial or administrative decisions or findings that affected Fair Work Australia's operations during 2011–12.

### 4.4.4 Corporate reporting

In 2011–12 Fair Work Australia provided corporate reporting through:

- the prescribed annual report and State of the Service reporting requirements
- other external reports such as the portfolio budget statements, central agency surveys, Australian National Audit Office (ANAO) surveys and performance audits, and
- responses to parliamentary questions.



Corrections to the Annual Report 2010–11 can be found in Appendix M.

#### 4.4.5 Fraud control

In accordance with guideline 2.8 of the *Commonwealth Fraud Control Guidelines 2002*, Fair Work Australia:

- has prepared fraud risk assessments and has in place a fraud control plan which was updated during 2011–12
- has appropriate fraud prevention, detection and investigation, and reporting procedures and processes in place, and
- has collected annual fraud data and reported that these comply with the guidelines.

The guidelines are issued by the Minister for Justice and Customs pursuant to regulation 19 of the *Financial Management and Accountability Regulations 1997*.

## 4.5 OUR WORKFORCE

Fair Work Australia has staff in each capital city as well as Newcastle and Wollongong. A list of addresses and contact details is in Appendix A.

Three hundred and eighteen employees worked for Fair Work Australia on 1 July 2011. On 30 June 2012 there were 313. This is a decrease of 1.6 per cent of the total staff body over the course of the year.

Information on workplace health and safety can be found in Appendix M. Information on disability reporting can also be found in Appendix M.

### 4.5.1 Recruitment

Eighteen new ongoing employees (including six employees on temporary moves from other APS agencies) commenced employment during 2011–12.

Another 38 non-ongoing employees commenced in 2011–12 (30 of these remained at 30 June 2012).

### 4.5.2 Separations

During 2011–12 59 employees left Fair Work Australia—28 ongoing employees and 31 non-ongoing employees. The reasons for separation were:

- resignation—14 ongoing employees (23.7 per cent) and 15 non-ongoing (25.4 per cent)
- age retirement—one ongoing employee (1.7 per cent) and one non-ongoing employee (1.7 per cent)
- ongoing move to another APS agency—four ongoing employees (6.8 per cent)
- return to APS agency following temporary move—two ongoing employees (3.4 per cent)
- promotion to another APS agency—one ongoing employee (1.7 per cent)

- voluntary redundancy—six ongoing employees (10.2 per cent), and
- cessation of non-ongoing engagement—15 non-ongoing employees (25.4 per cent).

### 4.5.3 Flexible working arrangements

Fair Work Australia provides a range of flexible working arrangements to staff.

#### Part-time work

Twenty three ongoing employees were undertaking part-time work (two male and 21 females) as at 30 June 2012 (7.3 per cent of total staff).

#### Home-based work

During 2011–12, five employees had home-based work agreements. The agreements were made consistent with the provisions of the relevant Fair Work Australia policy and procedural advice, and arrangements comply with work health and safety (WHS) and security requirements.

#### Long-term leave

Nineteen ongoing employees who were on long-term leave with or without pay as at 30 June 2012 (6.1 per cent of total employees) were either attending to parental or family responsibilities or were on leave due to temporary incapacity or for personal reasons.

### 4.5.4 Staff demographics

The following tables outline employee status and gender by APS level, employee location and gender by APS level, and geographic deployment of staff.

**TABLE 23: EMPLOYMENT STATUS AND GENDER BY APS LEVEL AS AT 30 JUNE 2012**

Classification	Salary range (as applicable from FWA Agreement) (\$)	Ongoing full-time		Ongoing part-time		Non-ongoing		Total
		Men	Women	Men	Women	Men	Women	
SES Band 1	Individual	1	2 <sup>1</sup>	0	0	0	0	3
Executive Level 2	109,432–128,072	16	22	0	4	3	1 <sup>2</sup>	46
Executive Level 1	94,910–102,457	4	11	0	2	1	1	19
APS Level 6	74,556–85,762	31	59	1	9	0	1	101
APS Level 5	68,839–72,956	9	30	1	1	5	5	51
APS Level 4	61,749–67,010	20	28	0	4	4	5	61
APS Level 3	55,460–59,806	3	8	0	0	4	8	23
APS Level 2	49,284–53,973	2	5	0	1	0	0	8
APS Level 1	44,974–45,169	0	1	0	0	0	0	1
<b>Total</b>		<b>86</b>	<b>166</b>	<b>2</b>	<b>21</b>	<b>17</b>	<b>21</b>	<b>313</b>

(1) One employee is on leave without pay filling the General Manager role (a statutory appointment under the *Fair Work Act 2009*).

(2) Employee works part-time.

**TABLE 24: LOCATION AND GENDER BY APS LEVEL AS AT 30 JUNE 2012**

Classification	Victoria		NSW		Other Locations <sup>1</sup>		Total Employees		
	Men	Women	Men	Women	Men	Women	Men	Women	Total
SES Band 1	1	2 <sup>2</sup>	0	0	0	0	1	2	3
Executive Level 2	12	16	5	5	2	6	19	27	46
Executive Level 1	4	11	1	0	0	3	5	14	19
APS Level 6	28	44	4	14	0	11	32	69	101
APS Level 5	11	24	3	5	1	7	15	36	51
APS Level 4	15	29	6	4	3	4	24	37	61
APS Level 3	6	10	1	3	0	3	7	16	23
APS Level 2	2	5	0	1	0	0	2	6	8
APS Level 1	0	0	0	0	0	1	0	1	1
<b>Total</b>	<b>79</b>	<b>141</b>	<b>20</b>	<b>32</b>	<b>6</b>	<b>35</b>	<b>105</b>	<b>208</b>	<b>313</b>
	(220)		(52)		(41)		(313)		

(1) Includes Queensland, South Australia, Western Australia, Tasmania, Northern Territory and Australian Capital Territory.

(2) One employee is on leave without pay filling the General Manager role (a statutory appointment under the *Fair Work Act 2009*).

**TABLE 25: GEOGRAPHIC DEPLOYMENT OF STAFF**

Location	No. of employees		
	30 June 2012	30 June 2011	
Victoria	220	221	(1) Includes Queensland, South Australia, Western Australia, Tasmania, Northern Territory and Australian Capital Territory.
New South Wales	52	55	(2) Includes two employees from Victoria on higher performance in Queensland—one an APS5 acting as an EL2 and the other an APS4 acting as an APS5.
Other locations <sup>1</sup>	41 <sup>2</sup>	42	(3) Includes the General Manager (a statutory appointment under the <i>Fair Work Act 2009</i> ), 19 employees on long-term leave with or without pay for a period of 3 months or more and three ongoing employees on temporary moves of more than 3 months to FWA from other APS Agencies.
<b>Total</b>	<b>313<sup>3</sup></b>	<b>318<sup>4</sup></b>	(4) Includes the General Manager (a statutory appointment under the <i>Fair Work Act 2009</i> ), 14 employees on long-term leave with or without pay and 8 ongoing employees on temporary moves to other APS Agencies.

#### 4.5.5 Graduate program

In 2012, Fair Work Australia recruited 10 graduates into its graduate program. Seven of these are based in Melbourne and three in Sydney.

The program seeks to encourage closer co-operation between the legal education and training fraternity and the tribunal, and offers positions to law graduates with an interest in labour law and related fields. The law graduates are exposed to different facets of Fair Work Australia, from the processing of applications to assisting with the provision of associate services.

In 2011 the program was expanded to include an economics and an ICT graduate. These graduates are being provided with a range of placements and projects in the Minimum Wages & Research Branch and the Information Technology Team.

Graduates are engaged for a non-ongoing term of up to 12 months.

#### 4.5.6 Indigenous employment strategy

In order to support and increase indigenous employment at Fair Work Australia, the Executive and the Workforce Development Team established and implemented an Indigenous employment strategy in 2011–12. The strategy supports the APS Employment and Capability Strategy for Aboriginal and/or Torres Strait Islander Employees.

During 2011–12, Fair Work Australia participated in the Australian Public Service Pathways program, with the recruitment of one graduate in Melbourne and one trainee in Brisbane.

## 4.6 EMPLOYEE PAY AND ENTITLEMENTS

### 4.6.1 Collective and individual agreements

All non-SES employees are covered by the *Fair Work Australia Enterprise Agreement 2011–14* (FWAEA).

Each SES employee is covered by an individual *Public Service Act 1999* (Public Service Act) s.24(1) determination.

#### **Fair Work Australia Enterprise Agreement 2011–14**

In late 2011 Fair Work Australia staff and management made a new enterprise agreement. The staff vote in favour of the agreement was over 87 per cent. The agreement was approved on 9 December and came into effect on 16 December with a nominal expiry date of 30 June 2014.

The FWAEA supports the overarching strategy, objectives, key actions and tasks identified in the strategic plan regarding the work, organisation and performance of Fair Work Australia. The FWAEA is complemented by the Performance and Development Framework, which further articulates arrangements at branch, team and individual levels.

FWAEA provisions include increases to pay and allowances, enhanced principles relating to employee representatives/workplace delegates, an additional two weeks' maternity leave and leave for non-primary care providers and enhanced study leave arrangements.

#### **Senior executive service remuneration**

Fair Work Australia has three senior executive service (SES) employees.

Conditions related to the employment of the SES employees, including remuneration, are contained in individual determinations made under s.24(1) of the Public Service Act. These determinations are

comprehensive documents covering each employee's terms and conditions.

### 4.6.2 Non-salary benefits

Non-salary benefits are available to employees through the FWAEA, individual arrangements and other Fair Work Australia initiatives. They include:

- time-off-in-lieu of overtime
- access to annual train, tram, bus and ferry tickets—Fair Work Australia pays the up-front cost and the employee then repays the amount fortnightly over a 12-month period, and
- healthy lifestyle initiatives—such as subsidised fitness classes.

### 4.6.3 Performance pay

An employee's paypoint progression through the broadbanded classification arrangements is contingent upon satisfactory performance through a performance assessment process against an agreed individual performance and development plan.

## 4.7 FINANCIAL MANAGEMENT

As part of the overall governance arrangements to meet its obligations under the *Financial Management and Accountability Act 1997*, Fair Work Australia has an established financial management framework, including chief executive instructions, delegations and authorisations, resource management policies, and associated practical guides.

In 2011–12, Fair Work Australia recorded a deficit of \$3.9 million on a comprehensive income basis. Prior approval to operate at a loss had been granted by the Minister for Finance and Deregulation. Fair Work Australia has taken extensive action to improve future operating outcomes. Information on the budget review project can be found in section 4.7.1.

At 30 June 2012, Fair Work Australia had net assets of \$52 449 million, as reflected in the audited financial statements in Appendix J. This amount includes assets and liabilities assumed from the Australian Industrial Registry and the Australian Fair Pay Commission Secretariat in 2009–10.

An agency resource statement table providing information about funding sources drawn upon by the agency is in Appendix K of this report.

A summary table of resources for outcome, including total administered expenses, revenue from Government (appropriations) for outputs and the total price of outputs can be found in Appendix L.

Information on advertising and market research can be found in Appendix M. Information on legal services expenditure and information on grant programs can also be found in Appendix M.

### 4.7.1 Budget review

Fair Work Australia initiated a budget review project in January 2012 to assist it to meet future budgetary requirements.

In early 2012 a wide-ranging review of expenditure, organisational structure and processes was undertaken to identify ways to improve efficiency and reduce costs.

Significant changes have been, and are being implemented, including an organisational restructure with fewer branches, fewer managers and a reduction in total staffing. A voluntary redundancy program was initiated in May 2012. The new organisational structure comprises four branches: Corporate Services, Client Services, Tribunal Services and Regulatory Compliance.

### 4.7.2 Assets

Fair Work Australia's main asset types are leasehold improvements and computer equipment. Asset management is not considered to be a significant aspect of core business, and so an assessment of the effectiveness of asset management is not reported.

### 4.7.3 Purchasing

Fair Work Australia purchasing policies are outlined in the *Chief Executive Instructions*, the *Resource Management Policies* and *Procurement and the Contract management practical guide* which reflect the principles of the *Commonwealth Procurement Guidelines* (CPGs).

The following criteria are applied to all Fair Work Australia procurement activities:

- value for money
- efficiency and effectiveness
- contestability and competitive neutrality



- accountability and transparent reporting, and
- ethics.

All open approaches are advertised on both the Fair Work Australia website and the AusTender website ([www.austender.com.au](http://www.austender.com.au)).

Outcomes of all major procurements are referred to the Procurement Committee for approval. Details are recorded in the financial management information system and the Contracts Register. All purchases with a value of \$10 000 or more are reported in the Commonwealth Gazette Publishing System.

Information on the Procurement Committee can be found in section 4.1.2.

### Procurement plan

Fair Work Australia published an annual procurement plan outlining expected procurement activities during 2011–12. The plan is available on the AusTender website.

## 4.7.4 Contracts

### List of contracts

The Fair Work Australia website lists all contracts valued at \$100 000 and over that have not been fully performed or which have been entered into during the previous 12 months. Information on expenditure on contracts and consultancies is also available on the AusTender website.

Significant contracts approved by the Procurement Committee during 2011–12 included:

- conduct of surveys of employers and employees by the General Manager (to meet statutory reporting requirements)
- management of a program of works for the replacement of the tribunal's network and video conferencing facilities
- implementation of a data warehouse environment and reporting
- architect and project management services for the refurbishment of the Perth and Sydney offices, and
- fit-out construction works in the Adelaide, Brisbane and Melbourne offices.

### Consultants

The service of consultants is engaged where the necessary specialised or professional skills were unavailable within Fair Work Australia or where there was a need for independent research or assessment.

Fair Work Australia's policy on the selection and engagement of consultants is in accordance with the Commonwealth Procurement Guidelines and is based on the core principle of value for money.

During 2011–12, Fair Work Australia entered into two new consultancy contracts with total actual expenditure of \$424 733. In addition, one on-going consultancy contract was active during the 2011–12 year, involving total actual expenditure of \$62 243.

### Competitive tendering and contracting

At 30 June 2012 there were no active contracts relating to the outsourcing of government activities under the Commonwealth's competitive tendering and contracting policy.

### Australian National Audit Office clauses

Fair Work Australia had no contracts let during the year that did not provide for the Auditor-General to have access to the contractor's premises.

### Exempt contracts

Fair Work Australia had no contracts valued in excess of \$10 000 that were exempt from reporting on AusTender.

**TABLE 26: NEW CONSULTANCY CONTRACTS IN 2011–12**

Name	Description/purpose	Value of consultancy (\$) <sup>1</sup>	Selection process <sup>2</sup>	Justification <sup>3</sup>
KPMG	Review of investigation	178 038	Panel	B, C
Consultel	UCC Road map and implementation plan.  Preparation of Video Conferencing business requirements and management of expression of interest approach to market.  Preparation of design and specification of Enterprise Network Refresh project.	246 695	Panel	B
<b>Total</b>		<b>424 733</b>		

(1) GST inclusive. Value of consultancy is in line with expenditure recognised in the 2011–12 financial statements at Appendix J.

(2) Explanation of selection process terms drawn from the Commonwealth Procurement Guidelines (December 2008):

**Open Tender:** A procurement procedure in which a request for tender is published inviting all businesses that satisfy the conditions for participation to submit tenders. Public tenders are generally sought from the Australian Government AusTender internet site.

**Select Tender:** A procurement procedure in which the procuring agency selects which potential suppliers are invited to submit tenders (this includes tenders submitted through Multi-Use Lists). This procurement process may only be used under certain defined circumstances.

**Direct Sourcing:** A form of restricted tendering, available only under certain defined circumstances, with a single potential supplier or suppliers being invited to bid because of their unique expertise and/or their special ability to supply the goods and/or services sought.

**Panel:** An arrangement under which a number of suppliers, initially selected through an open tender process, may each supply property or services to an agency as specified in the panel arrangements. Quotes are sought from suppliers that have pre-qualified on the agency panels to supply to the government. This category includes standing offers and supplier panels where the supply of goods and services may be provided for a pre-determined length of time, usually at a pre-arranged price.

(3) Justification for decision to use consultancy:

A—skills currently unavailable within agency

B—need for specialised or professional skills

C—need for independent research or assessment

**TABLE 27: EXPENDITURE ON CONSULTANCY CONTRACTS**

	2011–12	2010–11
Number of active consultancies	1	1
<b>Total expenditure for all active consultancies<sup>1</sup></b>	<b>\$62 243</b>	<b>\$55 000</b>

(1) GST inclusive.

# 5.

## APPENDICES

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## APPENDIX A

### LIST OF FAIR WORK AUSTRALIA ADDRESSES

#### **Australian Capital Territory**

Level 2, CML Building, 17–21 University Avenue,  
Canberra

GPO Box 539, Canberra City ACT 2601

Tel: (02) 6209 2400

Fax: (02) 6247 9774

Email: canberra@fwa.gov.au

#### **New South Wales**

Sydney: Level 8, Terrace Tower, 80 William Street,  
East Sydney NSW 2011

Tel: (02) 8374 6666

Fax: (02) 9380 6990

Email: sydney@fwa.gov.au

#### **Newcastle:**

Level 3, 237 Wharf Road, Newcastle NSW 2300

#### **Wollongong:**

Level 6, 90 Crown Street, Wollongong NSW 2500

#### **Northern Territory**

Level 10, Northern Territory House, 22 Mitchell Street,  
Darwin

GPO Box 969, Darwin NT 0801

Tel: (08) 8936 2800

Fax: (08) 8936 2820

Email: darwin@fwa.gov.au

#### **Queensland**

Level 14, Central Plaza Two, 66 Eagle Street, Brisbane

PO Box 5713, Central Plaza, Brisbane QLD 4001

Tel: (07) 3000 0399

Fax: (07) 3000 0388

Email: brisbane@fwa.gov.au

#### **South Australia**

Level 6, Riverside Centre, North Terrace, Adelaide

PO Box 8072, Station Arcade, Adelaide SA 5000

Tel: (08) 8308 9863

Fax: (08) 8308 9864

Email: adelaide@fwa.gov.au

#### **Tasmania**

Level 1, Commonwealth Law Courts Building,  
39–41 Davey Street, Hobart

GPO Box 1232M, Hobart TAS 7001

Tel: (03) 6214 0200

Fax: (03) 6214 0202

Email: hobart@fwa.gov.au

#### **Victoria**

Level 4, 11 Exhibition Street, Melbourne

Level 1, 1 Collins Street, Melbourne

GPO Box 1994, Melbourne VIC 3001

Tel: (03) 8661 7777

Fax: (03) 9655 0401

Email: melbourne@fwa.gov.au

#### **Western Australia**

Level 12, 111 St Georges Terrace, Perth

GPO Box X2206, Perth WA 6001

Tel: (08) 9464 5172

Fax: (08) 9464 5171

Email: perth@fwa.gov.au

## APPENDIX B

### DOCUMENTS RELATING TO THE WORK OF THE TRIBUNAL

Major documents contributing to an understanding of the work of Fair Work Australia are:

- *Fair Work Act 2009*
- *Fair Work (Registered Organisations) Act 2009*
- *Fair Work Regulations 2009*
- *Fair Work (Registered Organisations) Regulations 2009*
- *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*
- *Fair Work (State Referral and Consequential and Other Amendments) Act 2009*
- *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009*
- *Fair Work (State Referral and Consequential and Other Amendments) Regulations 2009*
- *Fair Work Australia Rules 2009* (as amended)
- Fair Work Australia service charter
- Fair Work Australia Annual Report 2010–11
- Small Business Fair Dismissal Code
- *Fair Work (State Declarations—employers not to be national system employers) Endorsement 2009*
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2010* (No. 1)
- *Fair Work (State Declarations—employer not to be national system employer) Endorsement 2010* (No. 2)
- Education, Employment and Workplace Relations Portfolio Budget Statements 2011–12
- Fair Work Australia fact sheets and guides
- *Financial Management and Accountability Act 1997*
- *Financial Management and Accountability Regulations 1997*
- Finance Minister's Orders
- *Freedom of Information Act 1982*
- *Privacy Act 1988*
- *Work Health and Safety Act 2011*
- *Workplace Relations Act 1996* (as amended)
- *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008*
- *Workplace Relations Regulations 2006* (as amended)
- *Independent Contractors Act 2006*
- *Workplace Relations (Registration and Accountability of Organisations) Amendment Regulations 2009* (No. 1)
- *Public Service Act 1999*
- *Public Service Regulations 1999*
- *Public Service Commissioner's Directions 1999*

## APPENDIX C

### KEY PERFORMANCE INDICATORS

**TABLE C1: KEY PERFORMANCE INDICATORS—BUDGET TARGET AND ACTUAL RESULTS**

Key performance indicators	2011–12 budget target	Actual 2011–12 results	Number
Improve or maintain the time elapsed from lodging applications to finalising conciliations in unfair dismissal applications	Median time of 34 days	Median time taken was 28 days	10 073 finalised conciliations
Improve or maintain average <sup>1</sup> time taken to list applications relating to industrial action	Median time of 3 days	Median time taken was 3 days	889 applications listed
Improve or maintain the average <sup>1</sup> agreement approval time	Median time of 32 days <sup>2</sup>	Median time taken was 17 days	8 149 agreements approved
Completion of annual wage review	By 30 June 2012	3 June 2012	N/A

(1) Measured as median number of days.

(2) Target specified in 2012–13 Portfolio Budget Statements.

## APPENDIX D

### FAIR WORK AUSTRALIA SERVICE CHARTER

This charter tells you the nature and level of the services you can expect from staff of Fair Work Australia (FWA) and what to do if you are unhappy with the service you receive.

#### Who we are

Fair Work Australia (Fair Work Australia) is an independent, national workplace relations tribunal established under s.575 of the *Fair Work Act 2009* (the Act).

Fair Work Australia undertakes functions relating to the provision of simple, fair and flexible workplace relations for employees and employers through the exercise of powers under the Act. Fair Work Australia also has responsibilities relating to the registration of unions and employer associations and their financial accountability pursuant to the *Fair Work (Registered Organisations) Act 2009* (the Registered Organisations Act).

Fair Work Australia consists of a President, Deputy Presidents, Commissioners and Minimum Wage Panel members. Fair Work Australia has a General Manager, supported by administrative staff, whose function is to assist the President in ensuring that Fair Work Australia performs its functions and exercises its powers under the Act. The staff of Fair Work Australia are engaged under the *Public Service Act 1999*.

#### Our services

Fair Work Australia staff are committed to providing fair, efficient and excellent levels of service to users of the workplace relations system. The work of Fair Work Australia staff includes:

- providing administrative support to the President and members of FWA
- assisting individuals and organisations accessing the jurisdiction of FWA
- providing conciliation services to support the resolution of unfair dismissal applications
- undertaking research in relation to minimum wage matters
- processing forms and documents lodged with FWA
- providing support to organisations in relation to their rights and obligations under the Registered Organisations Act, and
- publishing decisions, orders, agreements and modern awards issued by members of FWA.

#### How we will work with you

Staff of Fair Work Australia demonstrate commitment to the following service delivery principles. This is what you can expect when you access our services:

#### Accessibility

You can access information in the way you choose—via our website at [www.fwa.gov.au](http://www.fwa.gov.au), or by telephone on 1300 799 675, or in person at one of our office locations.

If you need an interpreter or assistance owing to disability or impairment, let us know and support will be provided.

If you need help to communicate with us, you can use the Translating and Interpreter Service on telephone number 131 450. If you have a hearing, sight or speech impairment, you can use the Speech to Speech Relay through the National Relay Service on 133 677.

#### Client focus

We will strive to ensure that our service is:

- informative, accurate and timely
- prompt, courteous and respectful
- professional and helpful.

If you are lodging an application or document with Fair Work Australia and need assistance to complete a form, a Fair Work Australia employee will be available to help you (but cannot provide legal advice or comment on the merits of your matter).

If you visit our offices, you can expect ease of access, clear sign-posting to facilitate movement within the premises and staffed service counters where Fair Work Australia employees will assist with your needs.

If you write to us, we will acknowledge receipt of your correspondence within 7 days, and provide you with an employee name and contact details for any further follow-up.

### **Service excellence**

Fair Work Australia staff will strive to provide high quality service—it will be timely, accurate and consistent.

If you contact us by telephone, email or online, we will respond to your inquiry promptly. If we are unable to respond to your inquiry immediately, we will advise you when you can expect a response. If your inquiry is received outside of our normal office hours, your contact will be logged and attended to the next working day.

### **Seamless service**

Our services will be provided in a way that keeps you informed and up-to-date, regardless of the way you choose to access our services.

We will assist you in contacting other agencies or bodies that can deal with your inquiry including the Fair Work Ombudsman. If we need to transfer your inquiry to the Fair Work Ombudsman, we will ensure that this is clearly explained and that the transfer occurs smoothly.

### **Fairness**

Fair Work Australia staff are committed to providing a service that is ethical, fair and free from discrimination.

Comments, suggestions or complaints about our services can be made through any of the contact methods in the How you can contact us section of this service charter, or through the Feedback form.

### **Value**

Fair Work Australia staff will seek to continuously improve services in response to client needs and expectations. We are accountable for our actions and resource usage.

### **How you can help us**

You can help us to deliver the standard of service we aim for when you:

- provide accurate and complete information
- inform us about any particular needs you may have
- advise us of any changes to your contact details
- respond to our requests for further information in a timely manner
- treat FWA members and staff with respect

### **How you can contact us**

You can contact us between 9.00 am and 5.00 pm on ordinary working days.

If you need help to communicate with us, you can use the Translating and Interpreter Service on telephone number 131 450. If you have a hearing, sight or speech impairment, you can use the Speech to Speech Relay through the National Relay Service on 133 677.

- Email: Inquiries can be emailed to [inquiries@fwa.gov.au](mailto:inquiries@fwa.gov.au)
- Telephone: The national Fair Work Australia Help Line number is 1300 799 675
- Post: You can write to us at: Fair Work Australia, GPO Box 1994, Melbourne VIC 3001
- In person: Visit the Fair Work Australia office in your capital city—details are on the Contact FWA page.



### Tell us what you think

Any comments, suggestions or complaints about the services of Fair Work Australia staff or this service charter can be made through any of the contact methods in the How you can contact us section of this service charter, or through the Feedback form.


A written record will be taken of any oral feedback or complaint that relates to our services. If you require a formal response, it will be issued within an agreed timeframe.

### Alternatively you can contact:

- the Commonwealth Ombudsman, which is independent of Fair Work Australia. Information about the Ombudsman is available at [www.ombudsman.gov.au](http://www.ombudsman.gov.au) or by telephoning 1300 362 072
- the Australian Human Rights Commission (AHRC), especially if you think you have been discriminated against or disadvantaged because of a complaint you have made. Information is available at the AHRC website [www.humanrights.gov.au](http://www.humanrights.gov.au) or by telephoning 1300 656 419, or if you use TTY telephone 1800 620 241.

### Feedback form

[http://www.fwa.gov.au/documents/sc\\_feedback.pdf](http://www.fwa.gov.au/documents/sc_feedback.pdf)



## Service Charter–Feedback form

The following feedback form should be used to provide comments, suggestions or complaints about the services of Fair Work Australia (FWA) staff. Comments can also be made directly through any of the contact methods listed below.

Please refer to the [FWA service charter](#) for details of the services provided by FWA staff.

*Please delete those not applicable (NA)*

Who are you?			
Individual representing myself without any assistance from an employee or employer organisation	Yes	No	
Individual being represented with assistance from an employee or employer organisation	Yes	No	
An employer	Yes	No	
<i>Small business employer (fewer than 15 full-time equivalent employees)</i>		<i>Other employer</i>	
Registered employee organisation	Yes	No	
Registered employer organisation	Yes	No	
Professional practitioner (please specify)	Yes	No	
How did you contact FWA?			
By telephone		By email	
By letter/mail		In person	
Other (please specify)			
Your feedback			
Did we respond to your inquiry quickly enough for your needs?	Yes	No	NA
Did we provide accurate information to your request?	Yes	No	NA
Was our telephone manner courteous and helpful?	Yes	No	NA
When on our premises, was it easy to find where you had to go?	Yes	No	NA
If you needed assistance when you arrived at our premises, was assistance readily available?	Yes	No	NA
Did you have difficulty in understanding and/or completing our forms?	Yes	No	NA
Was our service ethical, fair & free from discrimination?	Yes	No	NA
If your inquiry was one that we could not respond to, did we assist you in contacting the appropriate body?	Yes	No	NA
Any other client service matters you would like to comment on?			
On a scale of 1 (poor), 2 (satisfactory), 3 (good), 4 (excellent) please rate our general service			
1	2	3	4
<b>Thank you</b> for completing this form The form can be dropped at the counter in any Fair Work Australia office, or posted, faxed or emailed to Fair Work Australia.			

## APPENDIX E

### LIST OF MEMBERS

#### LIST OF FAIR WORK AUSTRALIA MEMBERS AS AT 30 JUNE 2012

	Additional appointments
<b>President</b>	
Justice IJK Ross AO (M)	Judge, Federal Court of Australia
<b>Deputy Presidents</b>	
Vice President MJ Lawler (M)	
Vice President GR Watson (S)	
Justice AJ Boulton AO, Senior Deputy President (S)	
Senior Deputy President IR Watson (M)	
Senior Deputy President AM Harrison (S)	Deputy President, SAIRC
Senior Deputy President JM Acton (M)	
Senior Deputy President LEC Drake (S)	
Senior Deputy President MG O'Callaghan (A)	
Senior Deputy President L Kaufman (M)	
Senior Deputy President JM Hamberger (S)	
Senior Deputy President PJ Richards (B)	Senior Deputy President, QIRC
Deputy President RS Hamilton (M)	
Deputy President BP McCarthy (P)	
Deputy President PL Leary (H)	President, TIC
Deputy President PD Hannon (A)	President, SAIRC
Deputy President RW Harrison (N)	Deputy President, IRCNSW
Deputy President PJ Sams AM (S)	Deputy President, IRCNSW
Deputy President DA Swan (B)	Deputy President, QIRC
Deputy President KM Bartel (A)	Deputy President, SAIRC
Deputy President GR Smith AM (M)	
Deputy President A Booth (S)	
<b>Commissioners</b>	
Commissioner JCW Lewin (M)	Commissioner, SAIRC
Commissioner GJ Harrison (S)	Commissioner, QIRC
Commissioner MAG Gay (M)	Commissioner, TIC
Commissioner WD Blair (M)	

## LIST OF FAIR WORK AUSTRALIA MEMBERS AS AT 30 JUNE 2012

	Additional appointments
Commissioner AL Cribb (M)	
Commissioner HM Cargill (S)	
Commissioner B Deegan (C)	Commissioner, TIC
Commissioner FJ Raffaelli (S)	
Commissioner PJ Spencer (B)	Commissioner, QIRC
Commissioner MG Roberts (S)	
Commissioner BD Williams (P)	
Commissioner D Steel (A)	Commissioner, SAIRC
Commissioner DS McKenna (S)	Commissioner, IRCNSW
Commissioner IW Cambridge (S)	
Commissioner AW Macdonald (S)	Commissioner, IRCNSW
Commissioner JD Stanton (N)	Commissioner, IRCNSW
Commissioner IC Asbury (B)	Commissioner, QIRC
Commissioner DJ Cloghan (P)	
Commissioner A Gooley (M)	
Commissioner JF Ryan (M)	
Commissioner PJ Hampton (A)	
Commissioner J Roe (M)	
Commissioner MP Bissett (M)	
Commissioner CF Simpson (B)	
Commissioner T Lee (M)	
Commissioner S Booth (B)	
Commissioner S Jones (M)	
Commissioner B Riordan (S)	
Commissioner G Bull (S)	
Commissioner D Gregory (M)	

**Minimum Wage Panel Members**

Mr J Vines

Professor S Richardson

Mr P Dwyer

Based in: (A) Adelaide, (B) Brisbane, (C) Canberra, (H) Hobart, (M) Melbourne, (N) Newcastle, (P) Perth, (S) Sydney

Additional appointments: (IRCNSW) Industrial Relations Commission of New South Wales, (QIRC) Queensland Industrial Relations Commission, (SAIRC) South Australian Industrial Relations Commission, (TIC) Tasmanian Industrial Commission

## APPENDIX F

### PANEL ASSIGNMENTS

List of panel assignments as at 30 June 2012.

#### President, Justice Ross

The President was responsible for allocating all panel assignments during the reporting period.

Major resources/infrastructure projects panel—Justice Ross

This panel will facilitate engagement between the tribunal and the industrial parties involved in major projects. The panel head is Justice Ross. The other members of the panel are:

Watson SDP	Deegan C
Harrison SDP	Cloghan C
O'Callaghan SDP	Gooley C
Richards SDP	Hampton C
McCarthy DP	Roe C
Sams DP	Bissett C
Harrison C	Simpson C
Gay C	

Panel head, Justice Ross

#### Panel members

McCarthy DP*	Hampton C*
Sams DP	Simpson C*
Harrison C*	Jones C
Gay C*	

#### Industries

- Aged care industry
- Aluminium industry
- Amusement, events and recreation industry
- Fast food industry
- Hospitality industry
- Licensed and registered clubs
- Marine tourism and charter vessels
- Northern Territory
- Restaurants
- Tourism industry

\* Indicates the member is on more than one industry panel

## Panel head, Vice President Lawler

**Panel members**

Drake SDP	Cloghan C*
Smith DP	Roe C
Deegan C	Simpson C
Roberts C	Riordan C
Steel C	

**Industries**

- Banking finance and insurance industry
- Commonwealth employment
- Corrections and detentions
- Educational services
- Federal Police operations
- Fire fighting services
- Local government administration
- Meat industry
- Pharmaceutical industry
- Postal services
- Scientific services
- State and Territory government administration
- Technical services
- Telecommunications services
- Water, sewerage and drainage services

\* Indicates the member is on more than one industry panel

## Panel head, Vice President Watson

**Panel members**

Kaufman SDP	McKenna C
Hamilton DP	Cloghan C*
Swan DP*	Hampton C
Booth DP	Booth C*
Raffaelli C*	Gregory C

**Industries**

- Airline operations
- Airport operations
- Ambulance and patient transport
- Children's services
- Clerical industry
- Commercial sales
- Contract call centre industry
- Dredging industry
- Dry cleaning and laundry services
- Food, beverages and tobacco manufacturing industry
- Grain handling industry
- Health and welfare services
- Maritime industry
- Market and business consultancy services
- Oil and gas industry
- Pet food manufacturing
- Port authorities
- Poultry processing
- Seafood processing
- Social, community, home care and disability services
- Stevedoring industry
- Wine industry

\* Indicates the member is on more than one industry panel

## Panel head, Justice Boulton

### Panel members

O'Callaghan SDP*	Spencer C
Hamberger SDP*	Roberts C*
Gay C*	Williams C*
Cribb C	Riordan C*

\* Indicates the member is on more than one industry panel

## Panel head, Senior Deputy President Watson

### Panel members

Acton SDP	Raffaelli C*
O'Callaghan SDP*	Gooley C
Richards SDP	Ryan C
McCarthy DP*	Booth C*
Swan DP*	Bull C
Blair C	Macdonald C
Cargill C	

### Industries

- Asphalt industry
- Building, metal and civil construction industries
- Cement and concrete products
- Electrical contracting industry
- Manufacturing and associated industries
- Plumbing industry
- Rubber, plastic and cable making industry
- Timber and paper products industry
- Vehicle industry

\* Indicates the member is on more than one industry panel

## Panel head, Senior Deputy President Harrison

### Panel members

Hamberger SDP*	Cambridge C
Bartel DP	Asbury C
Lewin C	Bissett C
Harrison C*	Lee C
Williams C*	

### Industries

- Building services
- Business equipment industry
- Cemetery operations
- Christmas Island
- Cocos (Keeling) Islands
- Diving services
- Electrical power industry
- Funeral directing
- Gardening services
- Hair and beauty
- Indigenous organisations and services
- Mannequins and modelling industry
- Mining industry
- Miscellaneous
- Passenger vehicle transport (non rail) industry
- Quarrying industry
- Racing industry
- Rail industry
- Real estate industry
- Road transport industry
- Salt industry
- Security services
- Sporting organisations



Panel heads (from left): Lawler VP, Watson VP, Boulton J, Watson SDP, Harrison SDP and Jones C

- Uranium mining (including construction)
- Waste management industry

\* Indicates the member is on more than one industry panel

Note: Harrison DP and Stanton C are available to all panels to deal with matters in the Newcastle/Hunter region

### Termination of Employment Panel— Commissioner Jones

Most members of the tribunal deal with termination of employment applications under arrangements administered by the head of the termination of employment panel, Commissioner Jones.

### Organisations Panel—Vice President Watson

This panel has responsibility for matters relating to registered organisations. The panel head is Vice President Watson. The other members of the panel are:

Acton SDP  
Kaufman SDP  
Hamberger SDP  
Richards SDP

### Minimum Wage Panel—President, Justice Ross

The Minimum Wage Panel is constituted by the President and carries out the minimum wage functions in Part 2–6 of the Fair Work Act. Current members of the panel are:

Watson SDP  
Harrison SDP  
Hampton C  
Mr Vines  
Professor Richardson  
Mr Dwyer

## APPENDIX G

### MEMBER ACTIVITIES

#### G.1 External appointments and positions held by members

Justice Ross is Chair of the Council of Australasian Tribunals.

Justice Giudice is the Patron of the Industrial Relations Society of Victoria and is a member of the University of Melbourne Archives Advisory Board.

Vice President Watson is the consultant to Thomson Reuters regarding the publication of the Industrial Reports, which contain tribunal decisions.

Justice Boulton is a member of the Advisory Board to the Centre for Employment and Labour Relations Law at the University of Melbourne.

Senior Deputy President Watson is Chairman of the Pharmaceutical Benefits Remuneration Tribunal.

Senior Deputy President Harrison is the President of the Defence Force Remuneration Tribunal.

Senior Deputy President Acton is a member of the Advisory Board to the Centre for Employment and Labour Relations Law at the University of Melbourne and a member of the editorial committee of the Australian Journal of Labour Law.

Senior Deputy President Drake sits as a member, and sometime Chairperson, of the Conduct and Judiciary Panels of the South Sydney Junior Rugby League Club.

Deputy President Booth is Chair of the Advisory Board for the Work and Organisational Studies Discipline within the Business School at the University of Sydney.

Deputy President Harrison is the Chairman of the Industry Advisory Committee to the University of

Newcastle Employee Relations/Human Resources Management Industry Advisory Committee.

Commissioner Lewin is Chairman of the Deakin University Human Resources Management Advisory Board and Chairman of the RMIT University School of Management Advisory Committee.

Commissioner Cargill is co-convenor of the 'Advocacy in the tribunals' course run by the Workplace Research Centre at the University of Sydney.

Commissioner Gooley is the Chair of the Aged Care Strategic Workforce Advisory Group.

Commissioner Hampton is the National President of the Australian Labour and Employment Relations Association Inc (ALERA) and is a committee member of the Industrial Relations Society of SA Inc. The Commissioner is also a member of the Australian Labour Law Association and an accredited member of the Australian Institute of Arbitrators and Mediators.

Commissioner Bissett is a member of the Advisory Board for the Australian Centre for Research in Employment and Work at Monash University.

#### G.2 Presentations and speeches

Justice Ross spoke at the Australian Industry Group's National Personnel Industrial Relations Conference in April 2012.

Justice Giudice spoke at a number of events during the reporting period. These included addresses to the Australian Labour and Employment Relations Association National Conference in Perth in October 2011, the Australian Industry Group's National Personnel Industrial Relations Conference in Canberra



in November 2011 and at the Pastoral Industry Award Centenary function in Canberra in February 2012.

Vice President Watson addressed conferences including Tonkin's 7th IR Summit in March 2012, the New South Wales Industrial Relations Society Annual Conference and the 5th Annual Fair Work Summit 2012 in May 2012, and the 6th Annual Industrial and Workplace Relations National Conference held by Lexis Nexis, in June 2012.

Senior Deputy President Drake conducted mediations for the settlement of disputes for Life Saving New South Wales and, on request, for the Maroubra Surf Club. She has been a guest lecturer on Advocacy in Fair Work Australia in the Masters Course in Industrial Relations at the University of Sydney.

Senior Deputy President Richards gave an address to the Queensland Hotels Association HR Advisory Group in May 2012 on the subject of unfair dismissal.

Commissioner Lewin delivered a lecture for Project Management students at RMIT and conducted an unfair dismissal workshop and moot for Deakin University Master of Business Administration students.

Commissioner Williams presented a session on Fair Work Australia Practice and Procedure to the Industrial Relations Masterclass programme that is conducted by the Chamber of Commerce and Industry of Western Australia in August 2011 and again in June 2012.

Commissioner Gooley delivered a presentation for the Australian Mines and Metals Association, Victoria on the topic of General Protections in July 2011.

Commissioner Hampton conducted two mock dispute arbitrations for the Australian Council of Trade Unions Industrial Advocates' training in September 2011. In May 2012, he delivered a presentation on General Protections jurisdiction to the Flinders University

law students. In June, the Commissioner spoke at a number of events which included a talk on the role and functions of Fair Work Australia to University of South Australia business students, the ALERA National Council in Brisbane as National President of ALERA and to Shop, Distributive and Allied Employee's Union delegates outlining the role of Fair Work Australia.

### G.3 Attendance and participation in overseas events and programs

Justice Giudice attended a meeting of international dispute resolution agencies in Wales in September 2011.

Justice Boulton has been assisting the Indonesian Industrial Relations Court (IIRC) with the development of a training curriculum for Judges and with the training of the Judges who will be delivering the training. This work has involved contributions and presentations at meetings and training seminars in Jakarta and has been done under a programme of assistance funded by the International Labour Organization (ILO). The work provided a basis for the development of proposals by Fair Work Australia to AusAID for further cooperation activities with the IIRC. Justice Boulton also assisted an ILO Project on Freedom of Association and Collective Bargaining by undertaking a study and evaluation of developments in the call centre and electronics sectors in the Philippines. This involved a series of visits to call centres and electronics factories in and around Manila and the preparation of reports.

In September 2011 Senior Deputy Presidents Harrison and Kaufman attended the annual meeting of European Labour Court Judges and the 10th European Congress of Labour Law and Social Security in Seville, Spain.

Deputy President Smith attended a conference on Modernisation of Labour Legislation and Dispute Resolution in Kuala Lumpur in June 2012.

In September 2011 Commissioner Lewin attended the 10th European Congress of Labour Law and Social Security Seville, Spain.

Commissioner Harrison addressed the American Association of Labour Relations Agencies 60th Annual conference held in New York in July 2011. The Commissioner addressed its Advocates Forum on contemporary workplace relations issues in Australia.

#### G.4 Attendance and participation in events in Australia

Senior Deputy President Drake sat as a member of a three person panel judging the McCallum Medal, which is a public speaking competition conducted by the NSW Young Lawyers Employment and Industrial Law Committee.

Senior Deputy President Richards attended a Workplace Health and Safety Briefing by Queensland Government officials in August 2011, the subject being the new national workplace health and safety system in Queensland.

Commissioner Lewin attended the Annual Labour Law Conference hosted by the University of Sydney's Workplace Research Centre in August 2011 and attended the 'Twenty Years of Enterprise Bargaining in Australia 1991–2011' Conference conducted jointly by Melbourne and Monash Universities in November 2011.

In October 2011 Commissioner Hampton attended the ALERA National Convention (Perth WA) as National Vice President of ALERA. In February 2012 the Commissioner attended the National Public Sector IR Directors Conference in Glenelg. The Commissioner also attended the ALERA ACT Conference and Laffer Lecture (Adelaide) in April 2012 and the New South Wales Industrial Relations Society Annual Conference in his capacity as National President of ALERA.

## APPENDIX H

### LODGMET AND CASELOAD STATISTICS

**TABLE H1: LODGMET OF ALL MATTERS BY LOCATION**

Location	2010–11	2011–12	% annual variation
Adelaide	2378	2477	-4.0%
Brisbane	5894	5122	15.1%
Canberra	819	1472	-44.4%
Darwin	314	264	18.9%
Hobart	614	929	-33.9%
Melbourne	14 826	14 169	4.6%
Newcastle	81	22	268.2%
Perth	3169	3362	-5.7%
Sydney	9323	9431	-1.1%
Wollongong	26	14	85.7%
<b>Total</b>	<b>37 444</b>	<b>37 262</b>	<b>0.5%</b>

**TABLE H2: BREAKDOWN OF MATTERS BY SELECTED CATEGORIES<sup>1</sup> (OTHER THAN REGISTERED ORGANISATION MATTERS) BY LOCATION**

	AG	AM <sup>2</sup>	B	BOR	C	D	DR	EM	RE	TERM <sup>3</sup>	TOTAL
Adelaide	1063	3	79	11	128	0	18	1	7	1068	2378
Brisbane	1954	7	310	42	431	0	82	0	3	3060	5889
Canberra	380	2	53	0	75	0	9	0	0	297	816
Darwin	80	0	14	0	23	0	0	0	0	197	314
Hobart	177	1	21	0	58	0	10	0	0	317	584
Melbourne	4828	329	889	27	1397	15	129	12	20	5504	13 150
Newcastle	6	0	0	0	5	0	0	0	0	70	81
Perth	1418	1	103	6	189	0	16	1	10	1424	3168
Sydney	2732	11	352	5	772	7	66	4	27	4376	8352
Wollongong	0	0	0	0	1	0	0	0	0	25	26
<b>Total</b>	<b>12 638</b>	<b>354</b>	<b>1821</b>	<b>91</b>	<b>3079</b>	<b>22</b>	<b>330</b>	<b>18</b>	<b>67</b>	<b>16 338</b>	<b>34 758</b>

(1) Categories—AG: Agreements, AM: Modern awards, B: Protected action ballots, BOR: Board of Reference, C: General matters including appeals, D: 'D' matters under the *Fair Work (Registered Organisations) Act 2009*, DR: Dispute resolution, EM: Modern enterprise awards, RE: Right of entry, Entry Permits WHS; TERM: Termination of employment (including general protections matters). For more detailed explanations please see the glossary in Appendix M.

(2) Includes applications under Sch. 5, Item 6 Review of all modern awards (other than modern enterprise and State PS awards) after first 2 years—to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

(3) Includes applications under s.643 of the *Workplace Relations Act 1996* and ss.394, 365 and 773 of the *Fair Work Act*.

**TABLE H3: LODGMENT OF REGISTERED ORGANISATION MATTERS<sup>1</sup> BY LOCATION**

	AR	E	FR	R	RE	Total
Adelaide	0	0	0	0	0	0
Brisbane	0	0	0	1	4	5
Canberra	0	0	0	0	3	3
Darwin	0	0	0	0	0	0
Hobart	0	0	0	0	30	30
Melbourne	190	147	293	135	911	1676
Newcastle	0	0	0	0	0	0
Perth	0	0	0	0	1	1
Sydney	33	58	117	102	661	971
Wollongong	0	0	0	0	0	0
<b>Total</b>	<b>223</b>	<b>205</b>	<b>410</b>	<b>238</b>	<b>1610</b>	<b>2686</b>

(1) Matter types AR: Annual returns, E: Elections, FR: Financial returns, R: Rules matters, RE: Right of entry permits.

**TABLE H4: NATURE OF PROCEEDINGS**

Nature of proceedings	No.
<b>Fair Work Act</b>	
s.120—Application to vary redundancy pay for other employment or incapacity to pay	139
s.122—Transfer of employment situations that affect the obligation to pay redundancy pay	25
s.157—FWA may vary etc. modern awards if necessary to achieve modern awards objective	1
s.158—Application to vary or revoke a modern award	9
s.160—Application to vary a modern award to remove ambiguity or uncertainty or correct error	19
s.185—Application for approval of a greenfields agreement	705
s.185—Application for approval of a multi-enterprise agreement	48
s.185—Application for approval of a single-enterprise agreement	7812
s.210—Application for approval of a variation of an enterprise agreement	167
s.217—Application to vary an agreement to remove an ambiguity or uncertainty	62
s.217A—Application to deal with a dispute about variations	1
s.222—Application for approval of a termination of an enterprise agreement	30
s.225—Application for termination of an enterprise agreement after its nominal expiry date	69
s.229—Application for a bargaining order	99
s.236—Application for a majority support determination	62
s.238—Application for a scope order	30
s.240—Application to deal with a bargaining dispute	307
s.242—Application for a low-paid authorisation	1
s.244(1)—Variation of low-paid authorisations—remove employer	5

**TABLE H4: NATURE OF PROCEEDINGS**

s.248—Application for a single interest employer authorisation	31
s.251—Application for a variation of a single interest employer authorisation	3
s.266—Industrial action related workplace determination	6
s.285—Annual wage review	1
s.318—Application for an order relating to instruments covering new employer and transferring employees in agreements	57
s.318—Application for an order relating to instruments covering new employer and transferring employees in awards	5
s.319—Application for an order re instruments covering new employer and non-transferring employees in agreements	20
s.319—Application for an order relating to instruments covering new employer and non-transferring employees in awards	3
s.320—Application to vary a transferable instrument—agreement	6
s.365—Application to deal with contraventions involving dismissal	2162
s.372—Application to deal with other contravention disputes	598
s.394—Application for unfair dismissal remedy	14 027
s.418—Application for an order that industrial action by employees or employers stop etc.	138
s.419—Application for an order that industrial action by non-national system employees or employers stop etc.	2
s.423—Application to suspend or terminate protected industrial action—significant economic harm etc	7
s.424—Application to suspend or terminate protected industrial action—endangering life etc.	16
s.425—Application to suspend protected industrial action, cooling off	4
s.437—Application for a protected action ballot order	1011
s.447—Application for variation of protected action ballot order	17
s.448—Application for revocation of protected action ballot order	57
s.459—Application to extend the 30 day period in which industrial action is authorised by protected action ballot	156
s.472—Application for an order relating to certain partial work bans	9
s.505—Application to deal with a right of entry dispute	48
s.510—Upon referral, revoke or suspend an entry permit	2
s.512—Application for a right of entry permit	1610
s.526—Application to deal with a dispute involving stand down	29
s.531—Application for an order where failure to notify or consult registered employee associations about dismissals	3
s.576(2)(ca)—Proceeding referred to FWA for mediation	9
s.602—Application to correct obvious error(s) etc. in relation to FWA's decision	1
s.604—Appeal of decisions	183
s.739—Application to deal with a dispute	1643
s.739—Application to deal with a dispute in relation to flexible working arrangements	27

**TABLE H4: NATURE OF PROCEEDINGS**

<b>Registered Organisations Act</b>	
Chapt. 11 Pt 4 RO Act—Inquiries and investigations	4
s.13(1)(b) RO Act—Advice and assistance to Organisations	166
s.18(a) RO Act—Application for registration by an association of employers	2
s.18(b) RO Act—Application for registration by an association of employees	1
s.18(c) RO Act—Application for registration by an enterprise union	2
s.30(1)(a) RO Act—Application by organisation for cancellation of registration	3
s.30(1)(c) RO Act—Cancellation of registration on FWA's Own Motion	2
s.43(1) RO Act—Community of interest declaration	1
s.44(1) RO Act—Application for approval for submission of amalgamation to ballot	1
s.137A RO Act—Orders about representation rights of organisations of employees	4
s.151(1) RO Act—Membership Agreement with State Registered Union	1
s.158(1)(a) RO Act—Application for change of name of organisation	2
s.158(1)(b) RO Act—Application for alteration of eligibility rules	6
s.159(1) RO Act—Notification of alterations of other rules	67
s.180 RO Act—Conscientious Objection to Membership of Organisations	2
s.189(1) —Notification of elections for office	205
s.233(1) RO Act—Annual obligation to lodge information	223
s.235(1) RO Act—Authority to access certain records	2
s.268—Financial return	406
s.273(1) RO Act—Application for order for inspection of financial records	1
Sch. 2, Cl. 1 RO Act—Application for recognition of state registered association	1
<b>Transitional Provisions Act</b>	
Sch. 3, Item 10—Application to vary transitional instrument to remove ambiguity—agreement	20
Sch. 3, Item 10—Application to vary transitional instrument to remove ambiguity—award	1
Sch. 3, Item 12—Application to vary pre-reform or transitional award	46
Sch. 3, Item 15—Application by agreement to terminate collective agreement-based transitional instrument	36
Sch. 3, Item 16—Application to terminate collective agreement-based transitional instrument	116
Sch. 3, Item 17—Application by agreement to terminate individual agreement-based transitional instrument	2519
Sch. 3, Item 18—Application for conditional termination of individual agreement based transitional instrument	1
Sch. 3, Item 19—Declaration for unilateral termination with FWA approval to terminate individual agreement	966
Sch. 3, Item 26—Application to resolve an issue between a transitional instrument and the National Employment Standard	4
Sch. 5, Item 3—Variation & term. certain transitional instruments etc. to take account of Part10A award modern process	2
Sch. 5, Item 6—Review of all modern awards (other than modern enterprise and State PS awards) after first 2 years	322

**TABLE H4: NATURE OF PROCEEDINGS**

Sch. 5, Item 7—Application to review transitional arrangements	1
Sch. 5, Item 9—Application for an order remedying reduction in take-home pay resulting from a modern award	15
Sch. 5, Item 13B—Orders remedying reductions in take-home pay	3
Sch. 6, Item 4—Application to make a modern award to replace an enterprise instrument.	1
Sch. 6, Item 5—Application to terminate an enterprise instrument—award	17
<b>Workplace Relations Act</b>	
s.111(1)(d)—Particular powers of the Commission—power to revoke order	1
s.120—Appeal to Full Bench	1
s.170LW—pre-reform Act—Application for settlement of dispute (certified agreement)	204
s.643(1)(a)—Application for relief re (Harsh, Unjust or Unreasonable) termination of employment	1
s.643(1)(b)—Application for relief re (Unlawful) termination of employment	1
s.643(1)(c)—Application for relief re (Unlawful and Harsh, Unjust or Unreasonable) termination of employment	3
s.699—Application to FWA to have a dispute resolution process conducted (Div 3)	11
s.709—Application to FWA to have a dispute resolution process conducted (Div 5)	319
<b>Administrative</b>	
Request for a Board of Reference	91
<b>Work Health and Safety Act</b>	
s.131 WHS Act—Application for a WHS entry permit	17
<b>Total</b>	<b>37 444</b>

Table H5 contains time-based caseload measures for selected applications. Each measure indicates the time taken to complete 90 per cent of the applications of that type. It is not an average. For example, the first line of the table shows that 90 per cent of enterprise agreements were finalised within 54 days of lodgment in 2011–12. Prior to 2011–12, each measure indicated the time taken to complete 85 percent of the applications of that type.

**TABLE H5: CASEFLOW MEASURES**

Nature of proceeding	Event	No. of cases %	Days from lodgment				
			2011–12	2010–11	2009–10	2008–09	2007–08
Enterprise agreement <sup>1</sup>	Finalisation	90	54	80	86	-	-
General disputes other contraventions <sup>2</sup> —s.372	First hearing (conciliation)	90	51	41	39	-	-
Dispute resolution functions within instruments <sup>3</sup> —s.739	First hearing (conciliation)	90	38	-	-	-	-
Dispute resolution <sup>4</sup> —ss.372, 739, 699 & 709	First hearing (conciliation)	90	41	36	31	23	22
Order in relation to industrial action <sup>5</sup>	First hearing	90	3	2	2	2	2

**TABLE H5: CASEFLOW MEASURES**

Nature of proceeding	Event	No. of cases %	Days from lodgment				
			2011–12	2010–11	2009–10	2008–09	2007–08
Order for protected action ballot <sup>6</sup>	First hearing	90	7	5	5	5	4
Order for protected action ballot <sup>7</sup>	Determination	90	7	6	7	13	10
General protections disputes involving dismissal and unlawful terminations <sup>8</sup> —ss.365 & 773	First conciliation	90	48	45	44	-	-
Unfair dismissal remedy <sup>9</sup> —ss.394 & 643	First conciliation	90	38	36	40	54	47
Termination of employment <sup>10</sup> —ss.365, 773, 394 & 643	First conciliation	85	40	37	40	54	47
General protections disputes involving dismissal and unlawful terminations <sup>11</sup> —ss.365 & 773	Finalisation	90	97	-	-	-	-
Unfair dismissal remedy <sup>12</sup> —ss.394, 643 & 170CE	Finalisation	90	108	-	-	-	-
Termination of employment <sup>13</sup> —ss.365, 773, 394, 643 & 170CE	Finalisation	90	106	80	87	106	94
Enterprise agreement <sup>14</sup>	Finalisation	85	42	80	86	-	-
General disputes other contraventions <sup>15</sup> —s.372	First hearing (conciliation)	85	43	41	39	-	-
Dispute resolution functions within instruments <sup>16</sup> —s.739	First hearing (conciliation)	85	32	-	-	-	-
Dispute resolution <sup>17</sup> —ss.372, 739, 699 & 709	First hearing (conciliation)	85	35	36	31	23	22
Order in relation to industrial action <sup>18</sup>	First hearing	85	2	2	2	2	2
Order for protected action ballot <sup>19</sup>	First hearing	85	6	5	5	5	4
Order for protected action ballot <sup>20</sup>	Determination	85	6	6	7	13	10
General protections disputes involving dismissal and unlawful terminations <sup>21</sup> —ss.365 & 773	First conciliation	85	42	45	44	-	-
Unfair dismissal remedy <sup>22</sup> —ss.394 & 643	First conciliation	85	35	36	40	54	47-
Termination of employment <sup>23</sup> —ss.365, 773, 394 & 643	First conciliation	85	36	37	40	54	47
General protections disputes involving dismissal and unlawful terminations <sup>24</sup> —ss.365 & 773	Finalisation	85	78	-	-	-	-
Unfair dismissal remedy <sup>25</sup> —ss.394, 643 & 170CE	Finalisation	85	77	79	91	106	94
Termination of employment <sup>26</sup> —ss.365, 773, 394, 643 & 170CE	Finalisation	85	77	80	87	106	94



**TABLE H5: CASEFLOW MEASURES (FOOTNOTES)**

- (1) This measure is the number of days between lodgment and finalisation of applications under s.185 (applications for approval of greenfields, multi-enterprise or single-enterprise agreements), whether by the approval of the agreement or by refusal, withdrawal, or discontinuance of the application.
- (2) This measure is the number of days between lodgment of the matter and the first hearing and includes applications under s.372 of the Fair Work Act.
- (3) This measure is the number of days from lodgment of the matter and the first hearing and refers to applications under s.739 of the Fair Work Act to deal with a dispute if a modern award, enterprise agreement or contract of employment includes terms that provide for FWA to deal with a dispute.
- (4) This measure is the number of days between lodgment and the first hearing and includes applications under ss.372 and 739 of the Fair Work Act and applications under ss.699 and 709 of the Workplace Relations Act by virtue of Schedule 19 to the Transitional Act.
- (5) This measure is the number of days between lodgment and the first hearing and includes applications under s.418 of the Fair Work Act.
- (6) This measure is the number of days between lodgment and the first hearing and includes applications lodged under s.437 of the Fair Work Act.
- (7) This measure is the number of days between lodgment and the determination of the application and includes applications lodged under s.437 of the Fair Work Act.
- (8) This measure is the number of days between lodgment and the first conciliation and includes applications under ss.365 and 773 of the Fair Work Act.
- (9) This measure is the number of days between lodgment and the first conciliation and includes applications under s.394 of the Fair Work Act and s.643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 to the Transitional Act.
- (10) This measure is the number of days between lodgment and the first conciliation for applications under ss.365, 394 and 773 of the Fair Work Act and s.643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 to the Transitional Act.
- (11) This measure is the number of days between lodgment and finalisation of the application whether by conciliation or by withdrawal or discontinuance for applications under ss.365 and 773 of the Fair Work Act. (Fair Work Australia's role is limited to conciliation).
- (12) This measure is the number of days between lodgment and finalisation of the application whether by conciliation or by an arbitrated order for applications under s.394 of the Fair Work Act and ss.170CE and 643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 or item 11, Schedule 18 to the Transitional Act.
- (13) This measure is the number of days between lodgment and finalisation of the application, whether by conciliation or a decision of Fair Work Australia for applications under ss 365, 394 and 773 of the Fair Work Act and ss.170CE and 643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 or item 11, Schedule 18 to the Transitional Act.
- (14) This measure is the number of days between lodgment and finalisation of applications under s.185 (applications for approval of greenfields, multi-enterprise or single-enterprise agreements), whether by the approval of the agreement or by refusal, withdrawal, or discontinuance of the application.
- (15) This measure is the number of days between lodgment and the first hearing and includes applications under s.372 of the Fair Work Act.
- (16) This measure is the number of days from lodgment and the first hearing and refers to applications under s.739 of the Fair Work Act to deal with a dispute if a modern award, enterprise agreement or contract of employment includes terms that provide for FWA to deal with a dispute.
- (17) This measure is the number of days between lodgment and the first hearing and refers to applications under ss.372 and 739 of the Fair Work Act and applications under ss.699 and 709 of the Workplace Relations Act by virtue of Schedule 19 to the Transitional Act.
- (18) This measure is the number of days between lodgment and the first hearing and includes applications under s.418 of the Fair Work Act.
- (19) This measure is the number of days between lodgment and the first hearing and includes applications lodged under s.437 of the Fair Work Act.
- (20) This measure is the number of days between lodgment and the determination of the application and includes applications lodged under s.437 of the Fair Work Act.
- (21) This measure is the number of days between lodgment and the first conciliation and includes applications under ss.365 and 773 of the Fair Work Act.
- (22) This measure is the number of days between lodgment and the first conciliation and includes applications under s.394 of the Fair Work Act and s.643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 to the Transitional Act.
- (23) This measure is the number of days between lodgment and the first conciliation for applications under ss.365, 394 and 773 of the Fair Work Act and s.643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 to the Transitional Act.
- (24) This measure is the number of days between lodgment and finalisation of the application whether by conciliation or by withdrawal or discontinuance for applications under ss.365 and 773 of the Fair Work Act. (Fair Work Australia's role is limited to conciliation).
- (25) This measure is the number of days between lodgment and finalisation of the application whether by conciliation or by an arbitrated order for applications under s.394 of the Fair Work Act and ss.170CE and 643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 or item 11, Schedule 18 to the Transitional Act.
- (26) This measure is the number of days between lodgment and finalisation of the application, whether by conciliation or a decision of Fair Work Australia for applications under ss 365, 394 and 773 of the Fair Work Act and ss 170CE and 643 of the Workplace Relations Act by virtue of items 11 and 12, Schedule 2 or item 11, Schedule 18 to the Transitional Act.

**TABLE H6: REGISTERED ORGANISATION MATTERS FINALISED**

Matter	Number finalised				% finalised within 28 days			
	2011–12	2010–11	2009–10	2008–09	2011–12	2010–11	2009–10	2008–09
Certification of alterations to rules other than eligibility rules	68	82	76	74	51	59	59	71
Arrangements for the conduct of an election by the Australian Electoral Commission	197	209	211	162	94	88	92	93
Lodgment of annual returns	224	224	300	175	87	80	62	59
Certificate exempting reporting unit from financial reporting requirements	69	65	29	33	100	98	100	100
Lodgment of financial documents	338	345	400	379	63	54	43	55
Right of entry permits	1583	1241	1765	1463	93	91	82	86
Certificate as to membership of an organisation	2	4	2	5	100	100	100	100
Application for transitional recognition	3	4	1	18	33	50	0	40

**TABLE H7: UNFAIR DISMISSAL, CONCILIATION—RESULTS**

Result type	Year to date total	Year to date %
Settled	9064	81.0%
Settled: Monetary	1847	16.5%
Settled: Non-monetary	2310	20.6%
Settled: Monetary + non-monetary	4757	42.5%
Settled: Reinstatement	74	0.7%
Settled: Reinstatement + monetary	42	0.4%
Settled: Reinstatement + non-monetary	26	0.2%
Settled: Reinstatement, monetary + non-monetary	8	0.1%
Not Settled	2124	19.0%
Not Settled at Conciliation	2044	18.3%
Not Settled: Settlement collapsed	80	0.7%
Total Settled matters Australia-wide	9064	81.0%
Total NOT Settled matters Australia-wide	2124	19.0%
Total resulted conciliations Australia-wide	11 188	100.0%
<b>Settlement rate (%)</b>	<b>NA</b>	<b>81.0%</b>

**TABLE H8: UNFAIR DISMISSAL ARBITRATION—HEARING/CONFERENCE RESULTS—JURISDICTION**

<b>Objection upheld</b>	<b>226</b>
Applicant not dismissed	34
Frivolous, vexatious	2
Genuine redundancy	17
Irregular and/or casual employee	3
Minimum period of employment not served	46
Multiple applications	4
Employer not national system employer	1
No award, agreement or high income employee	11
No employment relationship	9
No extension of time	82
Up to and including 7 days late	20
More than 7 days late	62
No reasonable prospect of success	20
Termination consistent with SB FDC	4
Unknown	5
<b>Objection dismissed</b>	<b>103</b>
Applicant dismissed	11
Award, agreement and/or not high income employee	4
National system employer	1
Employment relationship	11
Extension of time	40
Up to and including 7 days	21
More than 7 days	19
Minimum period of employment served	12
No genuine redundancy	15
No multiple applications	3
Not frivolous, vexatious	3
Not irregular casual employee	0
Reasonable prospect of success	8
Termination inconsistent with SB FDC	0
Unknown	3
<b>Total objection results Australia-wide</b>	<b>329</b>

**TABLE H9: UNFAIR DISMISSAL ARBITRATION—HEARING/CONFERENCE RESULTS—OUTCOMES**

Application dismissed: Dismissal was fair	215
Application granted: Compensation	85
\$0—\$999	4
\$1000—\$1999	11
\$2000—\$3999	14
\$4000—\$5999	12
\$6000—\$7999	9
\$8000—\$9999	5
\$10000—\$14999	6
\$15000—\$19999	7
\$20000—\$29999	5
\$30000—\$39999	4
\$40000—maximum amount	4
No loss of wages	1
Unknown	3
Application granted: Reinstatement	6
Application granted: Reinstatement and lost remuneration	11
\$0—\$999	1
\$1000—\$1999	0
\$2000—\$3999	0
\$4000—\$5999	1
\$6000—\$7999	0
\$8000—\$9999	0
\$10000—\$14999	1
\$15000—\$19999	1
\$20000—\$29999	2
\$30000—\$39999	1
\$40000—maximum amount	2
No loss of wages	1
Unknown	0
Application granted: No remedy granted	8
<b>Total Arbitration results Australia-wide</b>	<b>325</b>

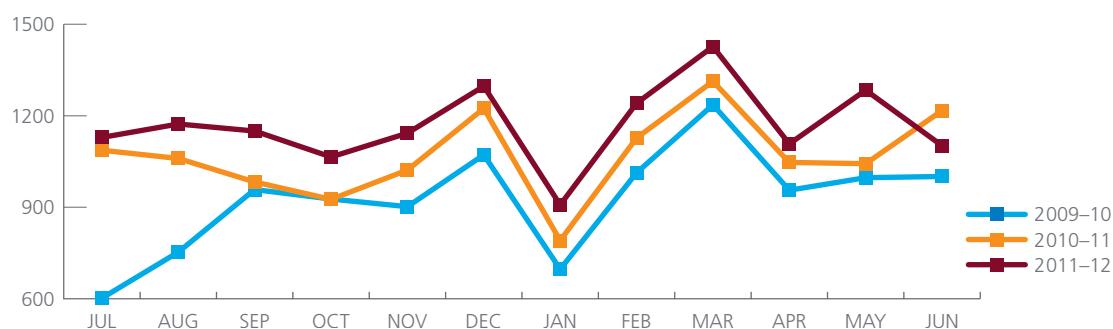
**TABLE H10: UNFAIR DISMISSAL—FINALISED AFTER CONCILIATION**

STAGE OF PROCEEDING	Year to date
Matters finalised after conciliation and before a formal proceedings before a Fair Work Australia member	2059
Matters withdrawn after conference/hearing and before decision/order <sup>1</sup>	43
Matters finalised at jurisdiction	226
Matters finalised at arbitration	325
Total matters finalised after conciliation	2653
<b>Total finalised matters Australia-wide</b>	<b>14 063</b>

(1) Includes "withdrawn after jurisdiction conference/hearing and before decision/order", "withdrawn after arbitration conference and before decision/order", "withdrawn after jur/arb conference/hearing and before decision/order".

**TABLE H11: UNFAIR DISMISSAL, CONCILIATION—SIZE OF EMPLOYER**

	Year to date	% of conciliations
1—14	2314	20.7%
15—99	3374	30.2%
>100	4599	41.1%
Unknown	41	0.4%
<b>Total Australia-wide</b>	<b>860</b>	<b>7.7%</b>
<b>Number of employees in dispute</b>	<b>11 188</b>	<b>100.0%</b>

**CHART H1: UNFAIR DISMISSAL, NO OF APPLICATIONS LODGED—MONTHLY COMPARISON**

## APPENDIX I

### SUBSCRIPTION SERVICES

Fair Work Australia offers electronic subscriptions to many of its documents, as well as to information and materials associated with significant cases before the tribunal. The service notifies subscribers by email as updates to nominated publications become available. Each email contains links to documents downloadable from the Fair Work Australia website.

#### **Awards—updates only**

This covers documents affecting nominated awards (including orders, determinations and decisions) and consolidated versions of awards. Subscribers are notified by email within 48 hours of the document being posted on the website. Awards can be added or removed at any time and there is no limit to the number of subscriptions.

#### **Award matters**

This notifies subscribers by email when an application to vary a modern award has been lodged and when any associated material is issued or received, including information about proceedings, submissions, hearing details and decisions. Emails are sent as changes are posted to the 'Modern award variation applications' web page. Modern awards can be added or removed at any time and there is no limit to the number of subscriptions.

#### **Award modernisation general announcements**

An email containing brief details of changes or updates to award modernisation information and links to amended and new pages is sent when changes are posted to the Fair Work Australia website.

#### **Fair Work Australia Bulletin**

This provides summaries of Fair Work Australia decisions and industrial judgments of the High Court of Australia, the Federal Court of Australia and federal

and state jurisdictions, as well as information about tribunal services. A weekly email links to the latest and previous editions of the Fair Work Australia Bulletin (in PDF and HTML formats).

#### **All decisions**

An email containing brief details of all recently issued Fair Work Australia decisions, with links to the complete decisions and to the 'All decisions' page on the website, is sent up to twice daily.

#### **Significant decisions**

An email giving brief details of recently issued Full Bench decisions, and other significant decisions, with links to the complete decisions and the 'Full Bench' and 'All decisions' pages on the Fair Work Australia website, is sent when decisions are posted to the website.

#### **Enterprise agreement decisions**

An email giving brief details of recently issued enterprise agreement approval, termination and variation decisions, with links to the complete decisions and to the 'Enterprise agreement decisions' page on the Fair Work Australia website, is sent up to twice daily.

#### **Annual wage review**

This provides information about the review process and how to participate in it. As changes are posted to the 'Annual wage review' website, an email is sent containing links to relevant materials, including statements and decisions, the timetable, research, submissions, the procedure for lodging submissions, and any additional material.

#### **Equal Remuneration Case**

This provides information about the case and how to participate in it. As changes are posted to the

'Equal Remuneration Case' website, an email is sent containing links to relevant materials, including statements and decisions, the timetable, submissions, correspondence, transcripts, the procedure for lodging submissions and any additional material.

### **Termination of instruments**

This provides information about the process to be undertaken pursuant to Item 3 of Schedule 5 of the Transitional Act. As changes are posted to the website, an email is sent containing links to information about proceedings, including to submissions, statements and decisions, and any additional material.

### **s.653 General Manager Reports**

Provides access to information about the General Manager's reporting requirements pursuant to s.653 of the Fair Work Act.

Emails will contain links to information regarding the processes for the General Manager's reporting in relation to agreement making, individual flexibility arrangements under awards and agreements, and/or the operation of the National Employment Standards relating to employee requests. Emails are dispatched as changes are posted to the FWA website.

### **Gazette notices**

This provides details of applications by registered organisations that are published in the Commonwealth of Australia Gazette. When the notice and the application have been posted to the Fair Work Australia website, an email is sent containing the name of the organisation or association lodging the application, the type of application lodged, and a link to the 'Gazette notices' page.

### **Announcements**

This low-volume service includes details of administrative and general announcements about changes to Fair Work Australia practices and procedures, changes to rules and forms, and information about subscriptions.

### **Subscribing**

To subscribe to any of the services, sign up on the 'Subscribe to updates' page on the Fair Work Australia website, then log in and select any services required. There is no cost and publications can be added or removed at any time.

## APPENDIX J

### FINANCIAL STATEMENTS

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## INDEPENDENT AUDITOR'S REPORT

### To the Minister for Employment and Workplace Relations

I have audited the accompanying financial statements of Fair Work Australia for the year ended 30 June 2012, which comprise: a Statement by the General Manager and Chief Financial Officer; Statement of Comprehensive Income; Balance Sheet; Statement of Changes in Equity; Cash Flow Statement; Schedule of Commitments; Administered Schedule of Comprehensive Income; Administered Schedule of Assets and Liabilities; Administered Reconciliation Schedule; Administered Cash Flow Statement and Notes comprising a Summary of Significant Accounting Policies and other explanatory information.

#### *General Manager's Responsibility for the Financial Statements*

The General Manager of Fair Work Australia is responsible for the preparation of financial statements that give a true and fair view in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards, and for such internal control as is necessary to enable the preparation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

#### *Auditor's Responsibility*

My responsibility is to express an opinion on the financial statements based on my audit. I have conducted my audit in accordance with the Australian National Audit Office Auditing Standards, which incorporate the Australian Auditing Standards. These auditing standards require that I comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to Fair Work Australia's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Fair Work Australia's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the General Manager of Fair Work Australia, as well as evaluating the overall presentation of the financial statements.

GPO Box 707 CANBERRA ACT 2601  
19 National Circuit BARTON ACT  
Phone (02) 6203 7300 Fax (02) 6203 7777

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

***Independence***


In conducting my audit, I have followed the independence requirements of the Australian National Audit Office, which incorporate the requirements of the Australian accounting profession.

***Opinion***

In my opinion, the financial statements of Fair Work Australia:

- (a) have been prepared in accordance with the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, including the Australian Accounting Standards; and
- (b) give a true and fair view of the matters required by the Finance Minister's Orders including Fair Work Australia's financial position as at 30 June 2012 and of its financial performance and cash flows for the year then ended.

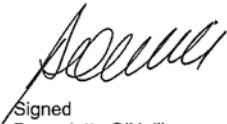
Australian National Audit Office



John Jones  
Executive Director  
Delegate of the Auditor-General  
Canberra  
24 September 2012

**STATEMENT BY THE GENERAL MANAGER AND THE CHIEF FINANCIAL OFFICER**

In our opinion, the attached financial statements for the year ended 30 June 2012 are based on properly maintained financial records and give a true and fair view of the matters required by the Finance Minister's Orders made under the *Financial Management and Accountability Act 1997*, as amended.



Signed  
Bernadette O'Neill  
General Manager Fair Work Australia

2 | September 2012



Signed  
Jack Lambalk  
Chief Financial Officer

2 | September 2012

**Fair Work Australia**  
**STATEMENT OF COMPREHENSIVE INCOME**  
*for the period ended 30 June 2012*

	Notes	2012 \$'000	2011 \$'000
<b>EXPENSES</b>			
Employee benefits	3A	49,606	43,694
Supplier	3B	28,934	28,276
Depreciation and amortisation	3C	1,685	2,097
Finance costs	3D	78	175
Write-down and impairment of assets	3E	52	107
Losses from asset sales	3F	1	-
<b>Total expenses</b>		<b>80,356</b>	<b>74,349</b>
<b>LESS:</b>			
<b>OWN-SOURCE INCOME</b>			
<b>Own-source revenue</b>			
Sale of goods and rendering of services	4A	1,493	412
Rental income	4B	1,597	1,165
Other	4C	18	19
<b>Total own-source revenue</b>		<b>3,108</b>	<b>1,596</b>
<b>Gains</b>			
Other	4D	380	58
<b>Total gains</b>		<b>380</b>	<b>58</b>
<b>Total own-source income</b>		<b>3,488</b>	<b>1,654</b>
<b>Net cost of services</b>		<b>76,868</b>	<b>72,695</b>
Revenue from Government	4E	72,947	71,462
<b>Surplus (Deficit)</b>		<b>(3,921)</b>	<b>(1,233)</b>
<b>Other comprehensive income</b>		<b>-</b>	<b>-</b>
<b>Total comprehensive income (loss)</b>		<b>(3,921)</b>	<b>(1,233)</b>

The above statement should be read in conjunction with the accompanying notes.

**Fair Work Australia**  
**BALANCE SHEET**  
*as at 30 June 2012*

	Notes	2012 \$'000	2011 \$'000
<b>ASSETS</b>			
<b>Financial Assets</b>			
Cash and cash equivalents	5A	486	452
Trade and other receivables	5B	70,790	70,563
<b>Total financial assets</b>		<b>71,276</b>	<b>71,015</b>
<b>Non-Financial Assets</b>			
Leasehold improvements	6A	7,059	3,402
Property, plant and equipment	6B	2,753	1,759
Intangibles	6E	934	1,093
Other non-financial assets	6H	1,382	1,858
<b>Total non-financial assets</b>		<b>12,128</b>	<b>8,112</b>
<b>Total assets</b>		<b>83,404</b>	<b>79,127</b>
<b>LIABILITIES</b>			
<b>Payables</b>			
Suppliers	7A	2,958	1,309
Other payables	7B	7,010	6,482
<b>Total payables</b>		<b>9,968</b>	<b>7,791</b>
<b>Provisions</b>			
Employee provisions	8A	18,356	14,332
Other provisions	8B	2,631	2,848
<b>Total provisions</b>		<b>20,987</b>	<b>17,180</b>
<b>Total liabilities</b>		<b>30,955</b>	<b>24,971</b>
<b>Net assets</b>		<b>52,449</b>	<b>54,156</b>
<b>EQUITY</b>			
Contributed equity		46,670	44,456
Retained surplus		5,779	9,700
<b>Total equity</b>		<b>52,449</b>	<b>54,156</b>

The above statement should be read in conjunction with the accompanying notes.

**Fair Work Australia**  
**STATEMENT OF CHANGES IN EQUITY**  
*for the period ended 30 June 2012*

	Retained earnings		Contributed equity		Total equity	
	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000
<b>Opening balance</b>						
Balance carried forward from previous period	9,700	10,933	44,456	39,288	54,156	50,221
<b>Opening balance</b>	<b>9,700</b>	<b>10,933</b>	<b>44,456</b>	<b>39,288</b>	<b>54,156</b>	<b>50,221</b>
<b>Comprehensive income</b>						
Surplus/(Deficit) for the period	(3,921)	(1,233)	-	-	(3,921)	(1,233)
<b>Total comprehensive income</b>	<b>5,779</b>	<b>9,700</b>	<b>44,456</b>	<b>39,288</b>	<b>50,235</b>	<b>48,988</b>
<b>Transactions with owners</b>						
<b>Contributions by owners</b>						
Equity injection	-	-	-	1,000	-	1,000
Departments capital budget	-	-	2,214	4,168	2,214	4,168
<b>Sub-total transactions with owners</b>	<b>-</b>	<b>-</b>	<b>2,214</b>	<b>5,168</b>	<b>2,214</b>	<b>5,168</b>
<b>Closing balance as at 30 June</b>	<b>5,779</b>	<b>9,700</b>	<b>46,670</b>	<b>44,456</b>	<b>52,449</b>	<b>54,156</b>

The above statement should be read in conjunction with the accompanying notes.

**Fair Work Australia**  
**CASH FLOW STATEMENT**  
*for the period ended 30 June 2012*

	Notes	2012 \$'000	2011 \$'000
<b>OPERATING ACTIVITIES</b>			
<b>Cash received</b>			
Appropriations		71,982	68,637
Goods and services (inclusive of GST)		3,427	1,789
Net GST received		3,216	3,058
<b>Total cash received</b>		<b>78,625</b>	<b>73,484</b>
<b>Cash used</b>			
Employees		(45,290)	(42,102)
Suppliers (inclusive of GST)		(32,736)	(31,250)
<b>Total cash used</b>		<b>(78,026)</b>	<b>(73,352)</b>
<b>Net cash flows from operating activities</b>	9	<b>599</b>	<b>132</b>
<b>INVESTING ACTIVITIES</b>			
<b>Cash used</b>			
Purchase of property, plant and equipment		(5,335)	(996)
Purchase of intangibles		(220)	(134)
<b>Total cash used</b>		<b>(5,555)</b>	<b>(1,130)</b>
<b>Net cash (used by) investing activities</b>		<b>(5,555)</b>	<b>(1,130)</b>
<b>FINANCING ACTIVITIES</b>			
<b>Cash received</b>			
Equity injection		-	289
Departmental capital budget		4,990	431
<b>Total cash received</b>		<b>4,990</b>	<b>720</b>
<b>Net cash flows from financing activities</b>		<b>4,990</b>	<b>720</b>
<b>Net increase (decrease) in cash held</b>		<b>34</b>	<b>(278)</b>
Cash and cash equivalents at the beginning of the reporting period		452	730
<b>Cash and cash equivalents at the end of the reporting period</b>	5A	<b>486</b>	<b>452</b>

The above statement should be read in conjunction with the accompanying notes.

**Fair Work Australia**  
**SCHEDULE OF COMMITMENTS**  
*as at 30 June 2012*

	2012	2011
	\$'000	\$'000
<b>BY TYPE</b>		
<b>Commitments receivable</b>		
Sublease rental income	(1,045)	(1,387)
Net GST recoverable on commitments	(6,646)	(8,332)
<b>Total commitments receivable</b>	<u>(7,691)</u>	<u>(9,719)</u>
<b>Commitments payable</b>		
Operating leases	68,797	90,052
Other	5,359	3,271
<b>Total commitments payable</b>	<u>74,156</u>	<u>93,323</u>
<b>Net commitments by type</b>	<u>66,465</u>	<u>83,604</u>
<b>BY MATURITY</b>		
<b>Commitments receivable</b>		
Operating lease income		
One year or less	(846)	(836)
From one to five years	(199)	(551)
<b>Total operating lease income</b>	<u>(1,045)</u>	<u>(1,387)</u>
Other commitments receivable		
One year or less	(1,742)	(1,546)
From one to five years	(4,442)	(5,050)
Over five years	(462)	(1,736)
<b>Total other commitments receivable</b>	<u>(6,646)</u>	<u>(8,332)</u>
<b>Total commitments receivable</b>	<u>(7,691)</u>	<u>(9,719)</u>
<b>Commitments payable</b>		
Operating lease commitments		
One year or less	15,239	16,017
From one to five years	48,571	54,938
Over five years	4,987	19,097
<b>Total operating lease commitments</b>	<u>68,797</u>	<u>90,052</u>
<b>Other commitments</b>		
One year or less	4,857	1,910
From one to five years	502	1,361
<b>Total other commitments</b>	<u>5,359</u>	<u>3,271</u>
<b>Total commitments payable</b>	<u>74,156</u>	<u>93,323</u>
<b>Net commitments by maturity</b>	<u>66,465</u>	<u>83,604</u>

NB: All commitments are GST inclusive where relevant.

The above schedule should be read in conjunction with the accompanying notes.



**Fair Work Australia**  
**SCHEDULE OF COMMITMENTS (continued)**  
*for the period ended 30 June 2012*

Nature of lease	General description of leasing arrangement
Leases for office accommodation	<p>Lease payments are subject to either increase in accordance with fixed amounts in the lease agreement or market rental reviews.</p> <p>Fair Work Australia may exercise option clauses in accordance with the terms of the leases.</p>
Sub-lease of office accommodation	<p>Fair Work Australia has agreed to sub-let part of the Melbourne premises (11 Exhibition Street) to Calliden Group Ltd for a five year period with an option for a further term of four years and eight months. The sub-lease has nine months remaining.</p> <p>Fair Work Australia has agreed to sub-let part of the Sydney premises (80 William Street) to the Federal Magistrates Court for a period of two years. The sub-lease has one year and 5 months remaining.</p>
Agreements for the provision of motor vehicles to senior executive officers and members of Fair Work Australia	Leases are part of an operating lease and there are no purchase options available to Fair Work Australia.

The above schedule should be read in conjunction with the accompanying notes.

**Fair Work Australia**  
**SCHEDULE OF ADMINISTERED ITEMS**  
*for the period ending 30 June 2012*

	2012	2011
	\$	\$
<b>Administered Schedule of Comprehensive Income</b>		
<i>for the period ended 30 June 2012</i>		
<b>Own source revenue</b>		
<b>Non-taxation revenue</b>		
Termination of employment application fees	875,699	788,253
Less refunds of termination of employment application fees	(405,279)	(368,421)
<b>Total non-taxation revenue</b>	<b>470,420</b>	<b>419,832</b>
<b>Total own source revenues administered on behalf of Government</b>	<b>470,420</b>	<b>419,832</b>
<b>Net Cost of Services</b>	<b>470,420</b>	<b>419,832</b>
<b>Administered Schedule of Assets and Liabilities</b>		
<i>as at 30 June 2012</i>		
<b>LIABILITIES</b>		
<b>Payables</b>		
Other payables - refund of termination of employment application fees	(11,357)	-
<b>Total payables</b>	<b>(11,357)</b>	<b>-</b>
<b>Total liabilities administered on behalf of Government</b>	<b>(11,357)</b>	<b>-</b>
No expenses or assets were administered on behalf of the Government for 2010-11 and 2011-12		
<b>Administered Reconciliation Schedule</b>		
<b>Opening administered assets less administered liabilities</b>	-	-
Surplus (deficit) items:		
Plus: Administered income	470,420	419,832
Administered transfers to/from Australian Government		
Appropriation transfers from OPA	393,922	368,421
Transfers to OPA	(875,699)	(788,253)
<b>Closing administered assets less administered liabilities</b>	<b>(11,357)</b>	<b>-</b>

The above schedule should be read in conjunction with the accompanying notes.

**Fair Work Australia**  
**SCHEDULE OF ADMINISTERED ITEMS (continued)**  
*for the period ending 30 June 2012*

<b>Administered Cash Flow Statement</b>		
<i>for the period ended 30 June 2012</i>		
<b>OPERATING ACTIVITIES</b>		
<b>Cash received</b>		
Other taxes, fees & fines	<b>875,699</b>	788,253
<b>Total cash received</b>	<b>875,699</b>	788,253
<b>Cash used</b>		
Other refunds	<b>(393,922)</b>	(368,421)
<b>Total cash used</b>	<b>(393,922)</b>	(368,421)
<b>Net cash flows from operating activities</b>	<b>481,777</b>	419,832
<b>Net Increase in Cash Held</b>	<b>481,777</b>	419,832
Cash and cash equivalents at the beginning of the reporting period	-	-
Cash from Official Public Account for:		
Special Appropriations	<b>393,922</b>	368,421
Cash to Official Public Account for:		
Other	<b>(875,699)</b>	(788,523)
	<b>(481,777)</b>	(419,832)
<b>Cash and cash equivalents at the end of the reporting period</b>	<b>-</b>	-

The administered activity that Fair Work Australia performs on behalf of the Australian Government is the collection of fees for termination of employment applications.

The above schedule should be read in conjunction with the accompanying notes.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
for the period ended 30 June 2012

**Index to the Notes of the Financial Statements**

Note 1	Summary of Significant Accounting Policies
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Note 5	Financial Assets
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**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies**

**1.1 Objectives of Fair Work Australia**

Fair Work Australia was established by the *Fair Work Act 2009* and commenced operations on 1 July 2009. Fair Work Australia was one of two institutions established to administer the provisions of the *Fair Work Act 2009* and to provide a balanced framework for cooperative and productive workplace relations that promote economic prosperity and social inclusion. Fair Work Australia is an Australian Government controlled entity.

Fair Work Australia is responsible for a single outcome. Outcome 1 "Simple, fair and flexible workplace relations for employees and employers through the exercise of powers to set and vary minimum wages and modern awards, facilitate collective bargaining, approve agreements and deal with disputes".

The continued existence of the entity in its present form and with its present programs is dependent on Government policy and on continuing funding by Parliament for the entity's administration and programs.

Fair Work Australia activities contributing toward the outcome are classified as either departmental or administered. Departmental activities involve the use of assets, liabilities, income and expenses controlled or incurred by Fair Work Australia in its own right. Administered activities involve the management or oversight by Fair Work Australia, on behalf of the Government, of items controlled or incurred by the Government.

Departmental activities are identified under one program.

- Program 1 Dispute resolution, minimum wages, orders and approval of agreements.

Fair Work Australia conducts the following administered activities:

- the collection of fees for the lodgement of termination of employment applications; and
- payment of pensions to former presidential members of Fair Work Australia and its preceding bodies or their spouses under the *Judges Pension Act 1968* drawn down from the Department of Finance and Deregulation.

Fair Work Australia consists of a President, Deputy Presidents, Commissioners and Minimum Wage Panel members. Fair Work Australia also has a General Manager and administrative staff who exercise powers and functions under the *Fair Work Act 2009*.

Fair Work Australia has the power to vary awards, make minimum wage orders, approve agreements, resolve workplace and other disputes, determine unfair dismissal claims and make orders in relation to such things as good faith bargaining and industrial action.

**1.2 Basis of Preparation of the Financial Statements**

The Financial Statements are general purpose financial statements and are required by section 49 of the *Financial Management and Accountability Act 1997*.

The Financial Statements have been prepared in accordance with:

- Finance Minister's Orders (or FMO's) for reporting periods ending on or after 1 July 2011; and
- Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board (AASB) that apply for the reporting period.

The Financial Statements have been prepared on an accrual basis and in accordance with the historical cost convention, except for certain assets and liabilities at fair value. Except where stated, no allowance is made for the effect of changing prices on the results or the financial position.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

The Financial Statements are presented in Australian dollars and values are rounded to the nearest thousand dollars unless otherwise specified.

Unless an alternative treatment is specifically required by an accounting standard or the FMOs, assets and liabilities are recognised in the balance sheet when and only when it is probable that future economic benefits will flow to the entity or a future sacrifice of economic benefits will be required and the amounts of the assets or liabilities can be reliably measured. However, assets and liabilities arising under executory contracts are not recognised unless required by an accounting standard. Liabilities and assets that are unrecognised are reported in the schedule of commitments or the schedule of contingencies.

Unless alternative treatment is specifically required by an Accounting Standard, income and expenses are recognised in the Statement of Comprehensive Income when and only when the flow, consumption or loss of economic benefits has occurred and can be reliably measured.

Administered revenues, expenses, assets and liabilities and cash flows reported in the Schedule of Administered Items and related notes are accounted for on the same basis and using the same policies as for departmental items, except where otherwise stated at Note 1.19.

**1.3 Significant Accounting Judgements and Estimates**

In the process of applying the accounting policies listed in this note, Fair Work Australia has made the following judgement that has the most significant impact on the amounts recorded in the financial statements:

- the fair value of leasehold improvements has been taken to be the fair value of similar leasehold improvements as determined by an independent valuer.

No accounting assumptions or estimates have been identified that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next reporting period.

**1.4 New Australian Accounting Standards**

**Adoption of New Australian Accounting Standard Requirements**

No accounting standard has been adopted earlier than the application date stated in the standard.

New standards, amendments to standards or interpretations that were issued prior to the sign-off date and are applicable to the current reporting period did not have a financial impact, and are not expected to have a future financial impact on Fair Work Australia.

**Future Australian Accounting Standards Requirements**

New standards, amendments to standards or interpretations that were issued prior to the sign-off date and are applicable to the future reporting period are not expected to have a future financial impact on Fair Work Australia.

**1.5 Revenue**

Revenue from the sale of goods is recognised when:

- a. the risks and rewards of ownership have been transferred to the buyer;
- b. the entity retains no managerial involvement or effective control over the goods;
- c. the revenue and transaction costs incurred can be reliably measured; and
- d. it is probable that the economic benefits associated with the transaction will flow to the entity.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

Interest revenue is recognised using the effective interest method as set out in AASB 139 *Financial Instruments: Recognition and Measurement*.

***Revenue from Government***

Amounts appropriated for departmental appropriations for the year (adjusted for any formal additions and reductions) are recognised as Revenue from Government when Fair Work Australia gains control of the appropriation, except for certain amounts that relate to activities that are reciprocal in nature, in which case revenue is recognised only when it has been earned. Appropriations receivable are recognised at their nominal amounts.

***Other Types of Revenue***

Fair Work Australia received rental income from the sub-leasing of space within the Sydney office and two of the Melbourne offices during the 2011-12 Financial Year. Revenue from rendering of services is recognised by reference to the stage of completion of contracts at the reporting date. The revenue is recognised when the amount of revenue, stage of completion and transaction costs incurred can be reliably measured, and when probable economic benefits associated with the transaction will flow to Fair Work Australia.

The stage of completion of contracts at the reporting date is determined by reference to the proportion that costs incurred to date bear to the estimated total costs of the transaction.

Receivables for goods and services, which have 30 day terms, are recognised at the nominal amounts due less any impairment allowance account. Collectability of debts is reviewed at the end of the reporting period. Allowances are made when collectability of the debt is no longer probable.

**1.6 Gains**

***Resources Received Free of Charge***

Resources received free of charge are recognised as gains when, and only when, a fair value can be reliably determined and the services would have been purchased if they had not been donated. Use of those resources is recognised as an expense.

Resources received free of charge are recorded as either revenue or gains depending on their nature.

Contributions of assets at no cost of acquisition or for nominal consideration are recognised at their fair value when the asset qualifies for recognition, unless received from another Government entity as a consequence of a restructuring of administrative arrangements.

***Sale of Assets***

Gains from disposal of assets are recognised when control of the asset has passed to the buyer.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

**1.7 Transactions with the Government as Owner**

**Equity injections**

Amounts appropriated which are designated as 'equity injections' for a year (less any formal reductions) and Departmental Capital Budget (DCBs) are recognised directly in contributed equity in that year.

**1.8 Employee Benefits**

Liabilities for 'short-term employee benefits' (as defined in AASB 119 *Employee Benefits*) and termination benefits due within twelve months of the end of reporting period are measured at their nominal amounts.

The nominal amount is calculated with regard to the rates expected to be paid on settlement of the liability.

Other long-term employee benefits are measured as net total of the present value of the defined benefit obligation at the end of the reporting period minus the fair value at the end of the reporting period of plan assets (if any) out of which the obligations are to be settled directly.

**Leave**

The liability for employee benefits includes provision for annual leave and long service leave. No provision has been made for sick leave as all sick leave is non-vesting and the average sick leave taken in future years by employees of Fair Work Australia is estimated to be less than the annual entitlement for sick leave.

Presidential Members accrue 6 months long leave after 5 years of service as a presidential member. In recognition of the nature of Presidential Members' tenure, a provision is accrued from the first year of service.

The leave liabilities are calculated on the basis of employees' remuneration at the estimated salary rates that applied at the time the leave is taken, including Fair Work Australia employer superannuation contribution rates to the extent that the leave is likely to be taken during service rather than paid out on termination.

The liability for long service leave has been determined by use of the Australian Government Actuary's shorthand method using the Standard Commonwealth sector probability profile. The estimate of the present value of the liability takes into account attrition rates and pay increases through promotion and inflation.

**Separation and Redundancies**

Provision is made for separation and redundancy benefit payments. Fair Work Australia recognises a provision for termination when it has developed a detailed formal plan for the terminations and has informed those employees affected that it will carry out the terminations.



**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

***Superannuation***

The majority of staff and Commissioners of Fair Work Australia are members of the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS) or the PSS Accumulation Plan (PSSap).

The CSS and PSS are defined benefit schemes for the Australian Government. The PSSap is a defined contribution scheme.

The liability for defined benefits is recognised in the financial statements of the Australian Government and is settled by the Australian Government in due course. The liability is reported by the Department of Finance and Deregulation as an administered item.

Fair Work Australia makes employer contributions to the employee's superannuation scheme at rates determined by an actuary to be sufficient to meet the current cost to the Government. Fair Work Australia accounts for the contributions as if they were contributions to defined contribution plans.

The liability for superannuation recognised as at 30 June 2012 represents the outstanding contributions for the final fortnight of the year.

***Judges' Pension***

Presidential Members of Fair Work Australia are members of the Judges' Pension Scheme under the *Judges' Pensions Act 1968*. The fund, as at the 30 June 2012, was carrying liabilities for member's benefits which exceeded the scheme's assets. The liability and payments are recorded as part of the Department of Finance and Deregulation financial statements. The Department of Finance and Deregulation has given Fair Work Australia drawing rights for this financial year in relation to the special appropriation made under the *Judges' Pensions Act 1968*. Fair Work Australia makes pension payments directly to former Presidential Members of Fair Work Australia and its preceding bodies (refer to Note 19 Table E).

**1.9 Leases**

A distinction is made between finance leases and operating leases. Finance leases effectively transfer from the lessor to the lessee substantially all the risks and rewards incidental to ownership of leased assets. An operating lease is a lease that is not a finance lease. In operating leases, the lessor effectively retains substantially all such risks and benefits.

Where an asset is acquired by means of a finance lease, the asset is capitalised at either the fair value of the lease property or, if lower, the present value of minimum lease payments at the inception of the contract and a liability is recognised at the same time and for the same amount.

The discount rate used is the interest rate implicit in the lease. Leased assets are amortised over the period of the lease. Lease payments are allocated between the principal component and the interest expense.

Operating lease payments are expensed on a straight-line basis which is representative of the pattern of benefits derived from the leased assets.

**1.10 Borrowing Costs**

All borrowing costs are expensed as incurred.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

**1.11 Cash**

Cash is recognised at its nominal amount. Cash and cash equivalents includes:

- a. cash on hand;
- b. demand deposits in bank accounts with an original maturity of 3 months or less that are readily convertible to known amounts of cash and subject to insignificant risk of changes in value;
- c. cash held by outsiders; and
- d. cash in special accounts.

**1.12 Financial Assets**

Fair Work Australia classifies its financial assets in the following categories:

- financial assets at fair value through profit or loss;
- held-to-maturity investments;
- available-for-sale financial assets; and
- loans and receivables.

The classification depends on the nature and purpose of the financial assets and is determined at the time of initial recognition. Financial assets are recognised and derecognised upon 'trade date'. Fair Work Australia currently only holds financial assets classified as loans and receivables.

**Effective interest method**

The effective interest method is a method of calculating the amortised cost of a financial asset and of allocating interest income over the relevant period. The effective interest rate is the rate that exactly discounts estimated future cash receipts through the expected life of the financial asset, or, when appropriate, a shorter period.

Income is recognised on an effective interest rate basis except for financial assets that are recognised at fair value through profit or loss.

**Loan and receivables**

Trade receivables, loans and other receivables that have fixed or determinable payments that are not quoted in an active market are classified as 'loans and receivables'. They are included in current assets. Loans and receivables are measured at amortised cost using the effective interest method less impairment. Interest is recognised by applying the effective interest rate.

**Impairment of financial assets**

Financial assets are assessed for impairment at the end of each reporting period.

- *Financial assets held at amortised cost* - If there is objective evidence that an impairment loss has been incurred for loans and receivables held at amortised cost, the amount of the loss is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount is reduced by way of an allowance account. The loss is recognised in the Statement of Comprehensive Income.

**1.13 Financial Liabilities**

Financial liabilities are classified as either financial liabilities 'at fair value through profit or loss' or other financial liabilities. Financial liabilities are recognised and derecognised upon 'trade date'.

Fair Work Australia currently only holds financial assets classified as other financial liabilities in the form of suppliers and other payables.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

**Suppliers and other payables**

Suppliers and other payables are recognised at amortised cost. Liabilities are recognised to the extent that the goods or services have been received (and irrespective of having been invoiced).

**1.14 Contingent Liabilities and Contingent Assets**

Contingent liabilities and contingent assets are not recognised in the Balance Sheet but are reported in the relevant schedules and notes. They may arise from uncertainty as to the existence of a liability or asset or represent an existing liability or asset in respect of which the amount cannot be reliably measured. Contingent assets are disclosed when settlement is probable but not virtually certain, and contingent liabilities are disclosed when settlement is greater than remote (refer to Note 10 and Note 18).

**1.15 Acquisition of Assets**

Assets are recorded at cost on acquisition except as stated below. The cost of acquisition includes the fair value of assets transferred in exchange and liabilities undertaken. Financial assets are initially measured at their fair value plus transaction costs where appropriate.

Assets acquired at no cost, or for nominal consideration, are initially recognised as assets and income at their fair value at the date of acquisition, unless acquired as a consequence of restructuring of administrative arrangements. In the latter case, assets are initially recognised as contributions by owners at the amounts at which they were recognised in the transferor accounts immediately prior to the restructuring.

**1.16 Property, Plant and Equipment**

***Asset Recognition Threshold***

Purchases of property, plant and equipment are recognised initially at cost in the Balance Sheet, except for purchases costing less than \$2,000, which are expensed in the year of acquisition (other than where they form part of a group of similar items which are significant in total).

The initial cost of an asset includes an estimate of the cost of dismantling and removing the item and restoring the site on which it is located. This is particularly relevant to 'make-good' provisions in property leases taken up by Fair Work Australia where there exists an obligation to restore the property to its original condition. These costs are included in the value of Fair Work Australia's leasehold improvements with a corresponding provision for the 'make-good' recognised.

***Revaluations***

Fair value for each class of asset are determined as shown below:

<b><i>Asset Class</i></b>	<b><i>Fair value measurement</i></b>
Leasehold improvement	Depreciated replacement cost
Property, plant and equipment	Market selling price

Following initial recognition at cost, property, plant and equipment are carried at fair value less subsequent accumulated depreciation and accumulated impairment losses. Valuations were conducted with sufficient frequency to ensure that the carrying amount of assets do not differ materially from the assets' fair values as at the reporting date. The regularity of independent valuations depended upon the volatility of movements in market values for the relevant assets.

Revaluation adjustments were made on a class basis. Any revaluation increment was credited to equity under the heading of asset revaluation reserve except to the extent that it reversed a previous revaluation decrement of the same asset class that was previously recognised in the surplus/deficit.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

Revaluation decrements for a class of assets were recognised directly in the surplus/deficit except to the extent that they reversed a previous revaluation increment for that class.

Any accumulated depreciation as at the revaluation date was eliminated against the gross carrying amount of the asset and the asset was restated to the revalued amount.

**Depreciation**

Depreciable property, plant and equipment assets are written-off to their estimated residual values over their estimated useful life to Fair Work Australia using, in all cases, the straight line method of depreciation.

Depreciation rates (useful lives), residual values and methods are reviewed at each reporting date and necessary adjustments are recognised in the current, or current and future reporting periods, as appropriate.

Depreciation rates applying to each class of depreciable asset are based on the following useful lives:

	2012	2011
Leasehold improvements	<b>Lease term</b>	Lease term
Property, plant and equipment	<b>3 to 10 years</b>	3 to 10 years

**Impairment**

All assets were assessed for impairment at 30 June 2012. Where indications of impairment exist, the asset's recoverable amount is estimated and an impairment adjustment made if the asset's recoverable amount is less than its carrying amount.

The recoverable amount of an asset is the higher of its fair value less costs to sell and its value in use. Value in use is the present value of the future cash flows expected to be derived from the asset. Where the future economic benefit of an asset is not primarily dependent on the asset's ability to generate future cash flows, and the asset would be replaced if Fair Work Australia were deprived of the asset, its value in use is taken to be its depreciated replacement cost.

**Derecognition**

An item of property, plant and equipment is derecognised upon disposal or when no further future economic benefits are expected from its use or disposal.

**1.17 Intangibles**

Fair Work Australia's intangibles comprise internally developed and externally purchased computer software for internal use. These assets are carried at cost less accumulated amortisation and accumulated impairment losses.

Software is amortised on a straight-line basis over its anticipated useful life. The useful lives of Fair Work Australia's software are:

	2012	2011
Intangibles — computer software	<b>3 to 10 years</b>	3 to 10 years

All software assets were assessed for indications of impairment as at 30 June 2012.

**1.18 Taxation**

Fair Work Australia is exempt from all forms of taxation except Fringe Benefits Tax (FBT) and the Goods and Services Tax (GST).

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
 for the period ended 30 June 2012

**Note 1 Summary of Significant Accounting Policies (continued)**

Revenues, expenses and assets are recognised net of GST except:

- where the amount of GST incurred is not recoverable from the Australian Taxation Office; and
- for receivables and payables.

**1.19 Reporting of Administered Activities**

Administered revenues, expenses, assets, liabilities and cash flows are disclosed in the Schedule of Administered Items and related notes.

Except where otherwise stated below, administered items are accounted for on the same basis and using the same policies as for departmental items, including the application of Australian Accounting Standards.

Fair Work Australia has been granted authority and drawing rights by the Department of Finance and Deregulation to make payments to former Presidential Members of Fair Work Australia and its preceding bodies under the *Judges' Pensions Act 1968* (refer Note 19 Table E).

**(a) Administered Cash Transfers to and from Official Public Account**

Revenue collected by Fair Work Australia for use by the Government rather than Fair Work Australia is administered revenue. Collections are transferred to the Official Public Account (OPA) maintained by the Department of Finance and Deregulation. Conversely, cash is drawn from the OPA to make payments under Parliamentary appropriation on behalf of Government. These transfers to and from the OPA are adjustments to the administered cash held by Fair Work Australia on behalf of the Government and reported as such in the Schedule of Administered Cash Flows and in the Administered Reconciliation Schedule.

**(b) Revenue**

All administered revenues are revenues relating to course of ordinary activities performed by Fair Work Australia on behalf of the Australian Government. As such, administered appropriations are not revenues of individual entity that oversees distribution or expenditure of funds as directed.

Fair Work Australia receives revenue from fees charged for lodgement of unfair dismissals applications. Administered revenue is recognised when the application fee is processed.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
for the period ended 30 June 2012

**Note 2 Events after the Reporting Period**

There were no events that occurred after 30 June 2012, or prior to the signing of the financial statements, that would affect the ongoing structure and financial activities of Fair Work Australia.

**Note 3 Expenses**

	<b>2012</b>	2011
	<b>\$'000</b>	\$'000
<b>Note 3A: Employee benefits</b>		
Wages and salaries	<b>37,974</b>	34,545
Superannuation		
Defined benefit plans	<b>2,770</b>	1,677
Defined contribution plans	<b>2,156</b>	2,515
Leave and other entitlements	<b>3,692</b>	4,283
Separation and redundancies	<b>2,478</b>	-
Other employee expenses	<b>536</b>	674
<b>Total employee benefits</b>	<b>49,606</b>	43,694

**Note 3B: Suppliers**

<b>Goods and services</b>		
Court/member services	<b>5,181</b>	5,077
Information Communications Technology	<b>2,671</b>	2,548
Property expenses	<b>2,636</b>	2,592
Office expense	<b>1,630</b>	1,879
Contractors	<b>4,489</b>	2,771
Other	<b>362</b>	488
<b>Total goods and services</b>	<b>16,969</b>	15,355

Goods and services are made up of:

Provision of goods – external parties	<b>1,470</b>	1,466
Rendering of services – related entities	<b>1,794</b>	1,846
Rendering of services – external parties	<b>13,705</b>	12,043
<b>Total goods and services</b>	<b>16,969</b>	15,355

**Other supplier expenses**

Operating lease rentals – external parties:		
Minimum lease payments	<b>11,797</b>	12,825
Workers compensation premium	<b>168</b>	96
<b>Total other supplier expenses</b>	<b>11,965</b>	12,921

<b>Total supplier expenses</b>	<b>28,934</b>	28,276
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**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
for the period ended 30 June 2012

**Note 3 Expenses (continued)**

	2012	2011
	\$'000	\$'000

**Note 3C: Depreciation and amortisation**

Depreciation		
Leasehold improvements	697	1,105
Plant and equipment	609	640
<b>Total depreciation</b>	<u>1,306</u>	<u>1,745</u>
Amortisation		
Intangibles:		
Computer software	379	352
<b>Total amortisation</b>	<u>379</u>	<u>352</u>
<b>Total depreciation and amortisation</b>	<u>1,685</u>	<u>2,097</u>

**Note 3D: Finance costs**

Unwinding of discount	78	175
<b>Total finance costs</b>	<u>78</u>	<u>175</u>

**Note 3E: Write-down and impairment of assets**

Asset write-downs and impairments from:		
Write-down of plant and equipment	-	77
Write-down of intangibles	-	30
Revaluation decrement of:		
Plant and equipment	52	-
<b>Total write-down and impairment of assets</b>	<u>52</u>	<u>107</u>

**Note 3F: Losses from asset sales**

Plant and equipment		
Carrying value of asset sold	1	-
Proceeds from sale	-	-
<b>Total losses from asset sales</b>	<u>1</u>	<u>-</u>

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**Note 4 Income**

	2012	2011
	\$'000	\$'000

**Own source revenue**

**Note 4A: Sale of goods and rendering of services**

Rendering of services - external parties	560	412
Rendering of services - related entities	933	-
<b>Total sale of goods and rendering of services</b>	<b>1,493</b>	<b>412</b>

**Note 4B: Rental income**

Operating lease:		
Sub-lease of property	1,597	1,165
<b>Total rental income</b>	<b>1,597</b>	<b>1,165</b>

**Note 4C: Other revenues**

Other	18	19
<b>Total other revenue</b>	<b>18</b>	<b>19</b>

**Gains**

**Note 4D: Other gains**

Resources received free of charge	58	58
Write-back of make-good	322	-
<b>Total other gains</b>	<b>380</b>	<b>58</b>

**Revenue from Government**

**Note 4E: Revenue from Government**

Appropriations:		
Departmental appropriations	72,947	71,462
<b>Total revenue from Government</b>	<b>72,947</b>	<b>71,462</b>



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**Note 5 Financial Assets**

	2012	2011
	\$'000	\$'000

**Note 5A: Cash and Cash Equivalents**

Cash on hand or on deposit	486	452
<b><i>Total cash and cash equivalents</i></b>	<b><u>486</u></b>	<b><u>452</u></b>

**Note 5B: Trade and Other Receivables**

**Goods and Services:**

Goods and services – external parties	1,991	6
Goods and services - related entities	6	17
<b><i>Total receivables for goods and services</i></b>	<b><u>1,997</u></b>	<b><u>23</u></b>

**Appropriations receivable:**

for existing outputs	68,360	70,171
<b><i>Total appropriations receivable</i></b>	<b><u>68,360</u></b>	<b><u>70,171</u></b>

**Other receivables:**

GST receivable from the Australian Taxation Office	433	369
<b><i>Total other receivables</i></b>	<b><u>433</u></b>	<b><u>369</u></b>
<b>Total trade and other receivables</b>	<b><u>70,790</u></b>	<b><u>70,563</u></b>

Receivables are expected to be recovered in:

No more than 12 months	70,790	70,563
More than 12 months	-	-
<b><i>Total trade and other receivables</i></b>	<b><u>70,790</u></b>	<b><u>70,563</u></b>

Receivables are aged as follows:

Not overdue	70,790	70,563
<b><i>Total receivables</i></b>	<b><u>70,790</u></b>	<b><u>70,563</u></b>

No indicators of impairment were noted for receivables.

Credit terms for goods and services is usually within 30 days.

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**Note 6 Non-financial Assets**

	<b>2012</b>	2011
	<b>\$'000</b>	\$'000
<b>Note 6A: Leasehold improvements</b>		
Leasehold improvements		
- fair value	<b>18,542</b>	16,526
- accumulated depreciation	<b>(11,483)</b>	(13,124)
<b>Total leasehold improvements</b>	<b>7,059</b>	3,402

The fair value of leasehold improvements were assessed, and independent valuations undertaken for leaseholds in Melbourne (11 Exhibition Street), Sydney and Canberra. The independent valuations were conducted by the Australian Valuation Office. No adjustments were made as the carrying value did not substantially vary from the assets' fair value at reporting date.

No indicators of impairment were found for leasehold improvements.

No leasehold improvements with a carrying value are expected to be sold or disposed of within the next 12 months.

**Note 6B: Property, plant and equipment**

Property, plant and equipment:		
- fair value	<b>2,819</b>	3,201
- accumulated depreciation	<b>(65)</b>	(1,442)
<b>Total property, plant and equipment</b>	<b>2,754</b>	1,759

No indicators of impairment were found for property, plant and equipment.

No property, plant and equipment is expected to be sold or disposed of within the next 12 months.

Plant and equipment was subject to revaluation.

**Revaluation of non-financial assets**

All revaluations were conducted in accordance with the revaluation policy stated at Note 1. On 30 June 2012 independent valuers conducted the revaluations.

A revaluation decrement of \$52,241.31 for plant and equipment (2011: \$0) was debited to the revaluation decrement expenses. The revaluation was conducted by independent valuers: RHAS and Australian Valuation Office.

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**Note 6C: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2011-12)**

	Leasehold Improvements	Property, Plant and Equipment	Total
	\$'000	\$'000	\$'000
<b>As at 1 July 2011</b>			
Gross book value	16,526	3,201	19,727
Accumulated depreciation and impairment	(13,124)	(1,442)	(14,566)
<b>Net book value 1 July 2011</b>	<b>3,402</b>	<b>1,759</b>	<b>5,161</b>
Additions:			
by purchase - department capital budget	4,327	1,679	6,006
Revaluations recognised in the operating result:			
Asset cost	-	(3,205)	(3,205)
Accumulated depreciation	-	1,951	1,951
Fair value as at 30 June 2012	-	1,202	1,202
Depreciation expense	(697)	(609)	(1,306)
Other movement - makegood	27	-	27
Disposals/writedowns			
Asset cost	(2,338)	(57)	(2,395)
Accumulated depreciation	2,338	34	2,372
<b>Net book value 30 June 2012</b>	<b>7,059</b>	<b>2,754</b>	<b>9,812</b>
Gross book value	18,542	2,819	21,361
Accumulated depreciation and impairment	(11,483)	(66)	(11,549)
	7,059	2,753	9,812

**Note 6D: Reconciliation of the Opening and Closing Balances of Property, Plant and Equipment (2010-11)**

	Leasehold Improvements	Property, Plant and Equipment	Total
	\$'000	\$'000	\$'000
<b>As at 1 July 2010</b>			
Gross book value	15,774	3,261	19,035
Accumulated depreciation and impairment	(12,082)	(1,372)	(13,454)
<b>Net book value 1 July 2010</b>	<b>3,692</b>	<b>1,889</b>	<b>5,581</b>
Additions:			
by purchase - Department capital budget	409	-	409
by purchase - Ordinary operating cost	-	298	298
by purchase - Equity injections	-	289	289
Depreciation expense	(1,105)	(640)	(1,745)
Other movement - makegood	406	-	406
Disposals/writedowns	-	(77)	(77)
<b>Net book value 30 June 2011</b>	<b>3,402</b>	<b>1,759</b>	<b>5,161</b>
<b>Net book value as of 30 June 2011 represented by:</b>			
Gross book value	16,526	3,201	19,727
Accumulated depreciation and impairment	(13,124)	(1,442)	(14,566)
	3,402	1,759	5,161

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	2012 \$'000	2011 \$'000
<b>Note 6E: Intangibles</b>		
Computer software at cost:		
Internally developed - in use	950	950
Purchased	1,227	1,007
Accumulated amortisation	(1,243)	(864)
<b>Total intangibles</b>	<b>934</b>	<b>1,093</b>

No indicators of impairments were found for intangible assets.

No intangibles are expected to be sold or disposed of within the next 12 months.

**Note 6F: Reconciliation of the Opening and Closing Balances of Intangibles (2011-12)**

	Intangibles \$'000	Total \$'000
<b>As at 1 July 2011</b>		
Gross book value	1,957	1,957
Accumulated amortisation and impairment	(864)	(864)
<b>Net book value 1 July 2011</b>	<b>1,093</b>	<b>1,093</b>
Additions:		
by purchase - Ordinary operating costs	220	220
Amortisation	(379)	(379)
Disposals/writedowns	-	-
<b>Net book value 30 June 2012</b>	<b>934</b>	<b>934</b>
<b>Net book value as of 30 June 2012 represented by:</b>		
Gross book value	2,177	2,177
Accumulated amortisation and impairment	(1,243)	(1,243)
	934	934

**Note 6G Reconciliation of the opening and closing balances of intangibles (2010-11)**

	Intangibles \$'000	Total \$'000
<b>As at 1 July 2010</b>		
Gross book value	2,103	2,103
Accumulated amortisation and impairment	(762)	(762)
<b>Net book value 1 July 2010</b>	<b>1,341</b>	<b>1,341</b>
Additions:		
by purchase - Ordinary operating costs	134	134
Amortisation	(352)	(352)
Disposals/writedowns	(30)	(30)
<b>Net book value 30 June 2011</b>	<b>1,093</b>	<b>1,093</b>
<b>Net book value as of 30 June 2011 represented by:</b>		
Gross book value	1,957	1,957
Accumulated amortisation and impairment	(864)	(864)
	1,093	1,093

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	2012 \$'000	2011 \$'000
<b>Note 6H: Other Non-Financial Assets</b>		
Prepayments	1,341	1,538
Lease incentive	41	320
<b>Total other non-financial assets</b>	<b>1,382</b>	<b>1,858</b>

Total other non-financial assets are expected to be recovered in:		
No more than 12 months	1,382	1,633
More than 12 months	-	225
<b>Total other non-financial assets</b>	<b>1,382</b>	<b>1,858</b>

No indicators of impairment were found for other non-financial assets.

**Note 7 Payables**

	2012 \$'000	2011 \$'000
<b>Note 7A: Suppliers</b>		
Trade creditors and accruals	2,958	1,309
<b>Total supplier payables</b>	<b>2,958</b>	<b>1,309</b>

Supplier payables expected to be settled within 12 months:		
Related entities	247	869
External parties	2,711	440
<b>Total supplier payables</b>	<b>2,958</b>	<b>1,309</b>

Settlement is usually made within 30 days.

**Note 7B: Other payables**

Salaries and Wages	978	728
Superannuation	128	97
Lease payable	3,101	3,256
Lease incentives	2,653	2,401
Unearned revenue	150	-
<b>Total other payables</b>	<b>7,010</b>	<b>6,482</b>

Total other payables are expected to be settled in:		
No more than 12 months	3,829	1,460
More than 12 months	4,181	5,022
<b>Total other payables</b>	<b>7,010</b>	<b>6,482</b>

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**Note 8 Provisions**

	2012 \$'000	2011 \$'000
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**Note 8A: Employee Provisions**

Leave	16,070	14,332
Separations and redundancies	2,286	-
<b>Total employee provisions</b>	<b>18,356</b>	<b>14,332</b>

Employee provisions are expected to be settled in:

No more than 12 months	7,479	3,623
More than 12 months	10,877	10,709
<b>Total employee provisions</b>	<b>18,356</b>	<b>14,332</b>

**Note 8B: Other Provisions**

Provision for restoration obligations	2,631	2,848
<b>Total other provisions</b>	<b>2,631</b>	<b>2,848</b>

Other provisions are expected to be settled in:

More than 12 months	2,631	2,848
<b>Total other provisions</b>	<b>2,631</b>	<b>2,848</b>

	Leasehold make-good \$'000	Total \$'000
<b>Carrying amount 1 July 2011</b>	<b>2,848</b>	<b>2,848</b>
Additional provisions made	104	104
Amounts used	0	0
Unwinding of discount or change in discount rate	(321)	(321)
<b>Closing balance 30 June 2012</b>	<b>2,631</b>	<b>2,631</b>

Fair Work Australia currently has two agreements for the leasing of premises which have provisions requiring Fair Work Australia to restore the premises to their original condition at the conclusion of the lease. Fair Work Australia has made a provision to reflect the present value of this obligation.

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**Note 9 Cash Flow Reconciliation**

	2012 \$'000	2011 \$'000
<b>Reconciliation of cash and cash equivalents as per Balance Sheet to Cash Flow Statement:</b>		
<b>Cash and cash equivalents as per:</b>		
Cash flow statement	486	452
Balance sheet	486	452
<b>Difference</b>	<u>-</u>	<u>-</u>
<b>Reconciliation of net cost of services to net cash from operating activities:</b>		
Net cost of services	(76,868)	(72,695)
Add Revenue from Government	72,947	71,462
<b>Adjustments for non-cash items</b>		
Depreciation/amortisation	1,684	2,097
Net write-down of non-financial assets	(348)	(299)
Write-back of make-good	322	-
Revaluation decrement	52	-
<b>Changes in assets/liabilities</b>		
(Increase) in net receivables	(3,002)	(2,652)
(Increase) in other non-financial assets	279	(168)
Decrease/(increase) in prepayments	197	58
Increase in supplier payables	1,001	661
Increase in other payables	378	344
Increase in employee provisions	4,024	769
Increase in other provisions	(217)	555
Increase in unearned revenue	150	-
<b>Net cash from operating activities</b>	<u>599</u>	<u>132</u>

**Note 10 Contingent Liabilities and Assets**

Quantifiable Contingencies

There were no quantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2012 (2011: \$0).

Unquantifiable Contingencies

There were no unquantifiable contingent liabilities or assets requiring disclosure for the period ended 30 June 2012 (2011: \$0).

Significant Remote Contingencies

There were no significant remote contingent liabilities or assets requiring disclosure for the period ended 30 June 2012 (2011: \$0).

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**Note 11 Senior Executive Remuneration**

**Note 11A Senior Executive Remuneration Expenses for the Reporting Period**

	2012	2011
	\$	\$
<b>Short-term employee benefits</b>		
Salary (including annual leave taken)	599,618	785,128
Annual leave accrued	50,734	65,261
Performance bonus <sup>3</sup>	-	-
Other <sup>2</sup>	-	-
<b>Total short-term employee benefits</b>	<u>650,352</u>	<u>850,359</u>
<b>Post-employment benefits:</b>		
Superannuation	95,487	126,543
<b>Total post-employment benefits</b>	<u>95,487</u>	<u>126,543</u>
<b>Other long-term benefits:</b>		
Long-service leave	42,221	61,919
<b>Total other long-term benefits</b>	<u>42,221</u>	<u>61,919</u>
<b>Termination benefits</b>	-	-
<b>Total</b>	<u>788,060</u>	<u>1,038,581</u>

Notes

1. This note includes remuneration of the General Manager and substantive employees in the Senior Executive Service. Prior year comparatives have been restated for comparative purposes as non substantive SES were included in the prior year.
2. "Other" includes motor vehicle allowances and other allowances.
3. Note 11a was prepared on an accrual basis (therefore the performance bonus expenses disclosed above differ from the cash "Bonus paid" in Note 11b.)
4. Note 11a excludes acting arrangements and part-year service where remuneration expensed for a senior executive was less than \$150,000.



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**Note 11B Average Annual Reportable Remuneration Paid to Substantive Senior Executives During the Reporting Period**

2012						
Average annual reportable remuneration <sup>1</sup>	Senior Executives	Reportable Salary	Contributed Superannuation	Reportable allowances	Bonus paid <sup>2</sup>	Total
	No.	\$	\$	\$	\$	\$
Total remuneration (including part-time arrangements):						
less than \$150,000	-	-	-	-	-	-
\$150,000 to \$179,999	-	-	-	-	-	-
\$180,000 to \$209,999	1	172,952	34,308	-	-	207,260
\$210,000 to \$239,999	1	197,689	20,362	-	-	218,051
\$270,000 to \$299,999	1	259,044	29,627	-	-	288,671
<b>Total</b>	<b>3</b>					

2011						
Average annual reportable remuneration <sup>1</sup>	Senior Executives	Reportable Salary	Contributed Superannuation	Reportable allowances	Bonus paid <sup>2</sup>	Total
	No.	\$	\$	\$	\$	\$
Total remuneration (including part-time arrangements):						
less than \$150,000	-	-	-	-	-	-
\$150,000 to \$179,999	-	-	-	-	-	-
\$180,000 to \$209,999	1	184,161	25,256	-	-	209,417
\$210,000 to \$239,999	2	189,407	27,296	-	-	216,703
\$240,000 to \$269,999	-	-	-	-	-	-
\$300,000 to \$329,999	1	270,681	36,616	-	-	307,297
<b>Total</b>	<b>4</b>					

Notes:

1. This table reports on the General Manager and substantive senior executives who are employed by Fair Work Australia who received remuneration during the reporting period. Each row represents an average annualised figure (based on headcount) for the individuals in the band (i.e the "Total" column).

2. Reportable salary includes the following:

- gross payment (less any bonuses paid which are separated out and disclosed in the 'bonus paid' column),
- reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- exempt foreign employment income.

3. The 'contributed superannuation' amount is the average actual superannuation contributions paid in respect of senior executives in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per the individuals' payslips.

4. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

5. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.

6. Various salary sacrifice arrangements were available to senior executives including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

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**Note 11C Other Highly Paid Staff and Members**

**Staff 2012**

Average annual reportable remuneration <sup>1</sup>	Senior Executives	Reportable Salary	Contributed Superannuation allowances	Reportable allowances	Bonus paid <sup>2</sup>	Total
	No.	\$	\$	\$	\$	\$
Total remuneration (including part-time arrangements):						
less than \$150,000	-	-	-	-	-	-
\$150,000 to \$179,999	4	144,651	24,082	141	-	168,874
\$180,000 to \$209,999	-	-	-	-	-	-
\$210,000 to \$239,999	1	190,947	21,430	-	-	212,377
<b>Total</b>	<b>5</b>					

**Fair Work Australia Members 2012**

Average annual reportable remuneration <sup>1</sup>	Members No.	Reportable Salary	Contributed Superannuation allowances	Reportable allowances	Bonus paid <sup>2</sup>	Total
	No.	\$	\$	\$	\$	\$
Total remuneration (including part-time arrangements):						
less than \$150,000	-	-	-	-	-	-
\$150,000 to \$179,999	-	-	-	-	-	-
\$180,000 to \$209,999	1	170,048	26,811	-	-	196,859
\$210,000 to \$239,999	1	196,048	26,811	-	-	222,859
\$240,000 to \$269,999	1	227,533	31,336	-	-	258,869
\$270,000 to \$299,999	2	249,018	41,573	-	-	290,591
\$300,000 to \$329,999	17	275,579	39,009	78	-	314,666
\$330,000 to \$359,999	1	309,558	31,660	338	-	341,556
\$360,000 to \$389,999	2	386,216	-	-	-	386,216
\$390,000 to \$419,999	8	412,184	-	-	-	412,184
\$420,000 to \$449,999	3	427,856	-	-	-	427,856
\$600,000 to \$629,999	1	609,046	-	-	-	609,046
\$720,000 to \$749,999	1	738,360	-	-	-	738,360
<b>Total</b>	<b>38</b>					

**Staff 2011**

Average annual reportable remuneration <sup>1</sup>	Senior Executives	Reportable Salary	Contributed Superannuation allowances	Reportable allowances	Bonus paid <sup>2</sup>	Total
	No.	\$	\$	\$	\$	\$
Total remuneration (including part-time arrangements):						
less than \$150,000	-	-	-	-	-	-
\$150,000 to \$179,999	4	144,096	25,823	41	-	169,960
\$180,000 to \$209,999	1	185,789	20,552	-	-	206,341
<b>Total</b>	<b>5</b>					

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**Fair Work Australia Members 2011**

Average annual reportable remuneration <sup>1</sup>	Members No.	Reportable Salary \$	Contributed Superannuation \$	Reportable allowances \$	Bonus paid <sup>2</sup> \$	Total \$
Total remuneration (including part-time arrangements):						
less than \$150,000	-	-	-	-	-	-
\$150,000 to \$179,999	-	-	-	-	-	-
\$180,000 to \$209,999	-	-	-	-	-	-
\$210,000 to \$239,999	-	-	-	-	-	-
\$270,000 to \$299,999	13	260,306	31,371	-	-	291,677
\$300,000 to \$329,999	8	258,712	45,219	200	-	304,130
\$360,000 to \$389,999	8	382,705	-	-	-	382,705
\$390,000 to \$429,999	6	396,053	-	-	-	396,053
\$450,000 to \$479,999	1	454,456	-	-	-	454,456
\$570,000 to \$599,999 <sup>7</sup>	1	574,467	-	-	-	574,467
<b>Total</b>	<b>37</b>					

Notes:

1. This table reports non senior executive staff who were employed by Fair Work Australia during the reporting period and whose reportable remuneration was \$150,000 or more for the financial period and were not required to be disclosed in Tables A or B. Each row is an averaged figure based on headcount for individuals in the band.

2. 'Reportable salary' includes the following:

- gross payments (less any bonuses paid, which are separated out and disclosed in the 'bonus paid' column);
- reportable fringe benefits (at the net amount prior to 'grossing up' to account for tax benefits); and
- exempt foreign employment income.

3. The 'contributed superannuation' amount is the average actual superannuation contributions paid in respect of the employees in that reportable remuneration band during the reporting period, including any salary sacrificed amounts, as per the individuals' payslips.

4. 'Reportable allowances' are the average actual allowances paid as per the 'total allowances' line on individuals' payment summaries.

5. 'Bonus paid' represents average actual bonuses paid during the reporting period in that reportable remuneration band. The 'bonus paid' within a particular band may vary between financial years due to various factors such as individuals commencing with or leaving the entity during the financial year.

6. Various salary sacrifice arrangements were available to other highly paid staff including superannuation, motor vehicle and expense payment fringe benefits. Salary sacrifice benefits are reported in the 'reportable salary' column, excluding salary sacrificed superannuation, which is reported in the 'contributed superannuation' column.

7. Upon resignation / retirement from office, Presidential members covered by the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* may be paid up to one year remuneration in accordance with provisions contained within the *JUDGES (LONG LEAVE PAYMENTS) ACT 1979*. The application of these payments in some cases has resulted in higher reportable remuneration than that prescribed by the applicable Remuneration Tribunal determination.

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**Note 12 Remuneration of Auditors**

	2012 \$'000	2011 \$'000
Financial statement audit services were provided free of charge to Fair Work Australia by the Australian National Audit Office (ANAO)		
The fair value of the services provided was:		
Financial Statement Audit services	58	58
	<u>58</u>	<u>58</u>
No other services were provided by the auditors of the financial statements.		

**Note 13 Financial Instruments**

	2012 \$'000	2011 \$'000
<b><u>Note 13A Categories of Financial Instruments</u></b>		
<b>Financial Assets</b>		
Loans and receivables:		
Cash and cash equivalents	486	452
Trade receivables	1,997	23
<b>Total</b>	<u>2,483</u>	<u>475</u>
<b>Carrying amount of financial assets</b>	<u>2,483</u>	<u>475</u>
<b>Financial Liabilities</b>		
At amortised cost		
Payables - suppliers	2,958	1,309
<b>Total</b>	<u>2,958</u>	<u>1,309</u>
<b>Carrying amount of financial liabilities</b>	<u>2,958</u>	<u>1,309</u>

**Note 13B Net income and Expense from Financial Assets**

There is no income or expense from financial assets – loans and receivables in the period ending 30 June 2012 (2011: \$0).

**Note 13C Net Income and Expense from Financial Liabilities**

There is no income or expense from financial liabilities – payables in the period ending 30 June 2012 (2011: \$0).

**Note 13D Fair Value of Financial Instruments**

There are no financial instruments held at 30 June 2011 or 30 June 2012 where the carrying amount is not a reasonable approximation of fair value.

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
for the period ended 30 June 2012

**Note 13E Credit Risk**

Fair Work Australia is exposed to minimal credit risk as loans and receivables are trade receivables. The maximum exposure to credit risk is the risk that arises from potential default of a debtor. This is equal to the total of trade receivables (2012: \$1,997,220; 2011: \$23,773). Fair Work Australia's debtors are generally limited to other Commonwealth Government agencies and Fair Work Australia employees. Fair Work Australia has policies and procedures that guide the recovery of employee debts.

Fair Work Australia has no significant exposure to any concentrations of credit risk.

All figures for credit risk referred to do not take into account the value of any collateral or other security.

**Credit quality of financial instruments not past due or individually determined as impaired.**

	<b>Not Past Due Nor Impaired 2012 \$'000</b>	<b>Not Past Due Nor Impaired 2011 \$'000</b>	<b>Past Due or Impaired 2012 \$'000</b>	<b>Past Due or Impaired 2011 \$'000</b>
<b>Loans and receivables</b>				
Trade receivables	1,997	23	-	-
<b>Total</b>	<b>1,997</b>	<b>23</b>	<b>-</b>	<b>-</b>

**Note 13F Liquidity Risk**

Fair Work Australia's financial liabilities are payables. The exposure to liquidity risk is based on the notion that Fair Work Australia will encounter difficulty in meeting its obligations associated with financial liabilities. This is highly unlikely due to appropriation funding and mechanisms available to Fair Work Australia (e.g. Advance to the Finance Minister) and internal policies and procedures put in place to ensure there are appropriate resources to meet its financial obligations.

Fair Work Australia is appropriated funding from the Australian Government. Fair Work Australia manages its budgeted funds to ensure it has adequate funds to meet payments as they fall due. In addition, Fair Work Australia has policies in place to ensure timely payments are made when due and has no past experience of default.

The following tables illustrate the maturities for non-derivative financial liabilities.

	<b>On demand 2011-2012 \$'000</b>	<b>within 1 year 2011-2012 \$'000</b>	<b>1 to 5 years 2011-2012 \$'000</b>	<b>&gt; 5 years 2011-2012 \$'000</b>	<b>Total 2011-2012 \$'000</b>
<b>Other liabilities</b>					
Payables - Suppliers	-	2,958	-	-	2,958
<b>Total</b>	<b>-</b>	<b>2,958</b>	<b>-</b>	<b>-</b>	<b>2,958</b>

	<b>On demand 2010-2011 \$'000</b>	<b>within 1 year 2010-2011 \$'000</b>	<b>1 to 5 years 2010-2011 \$'000</b>	<b>&gt; 5 years 2010-2011 \$'000</b>	<b>Total 2010-2011 \$'000</b>
<b>Other liabilities</b>					
Payables - Suppliers	-	1,309	-	-	1,309
<b>Total</b>	<b>-</b>	<b>1,309</b>	<b>-</b>	<b>-</b>	<b>1,309</b>

Fair Work Australia has no derivative financial liabilities in both current and prior year.

**Fair Work Australia**  
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**Note 13G Market Risk**

Fair Work Australia holds basic financial instruments that do not expose Fair Work Australia to certain market risks.

Fair Work Australia is not exposed to currency risk, other price risk or interest rate risk.

**Note 14 Financial Assets Reconciliation**

		2012 \$'000	2011 \$'000
<b>Financial Assets:</b>	Notes		
<b>Total financial assets as per balance sheet:</b>		<b>71,276</b>	71,015
Less non-financial instrument components::			
Appropriation receivable	5B	<b>68,360</b>	70,171
Other receivables	5B	<b>433</b>	369
Total non-financial instrument components		<b>68,793</b>	70,540
<b>Total financial assets as per financial instruments note</b>		<b>2,483</b>	475

**Note 15 Administered Income**

	2012 \$	2011 \$
<b>Own Source Revenue</b>		
Non taxation revenue		
Termination of employment application fees	<b>875,699</b>	788,253
Less refunds of termination of employment application fees	<b>(405,279)</b>	(368,421)
<b>Total application fees</b>	<b>470,420</b>	419,832

**Note 16 Administered Payables**

	2012 \$	2011 \$
<b>Other payables</b>		
Refund of termination of employment application fees	<b>11,357</b>	-
<b>Total other payables</b>	<b>11,357</b>	-
<b>Other payables expected to be settled within 12 months:</b>		
External parties	-	-
<b>Total payables</b>	<b>11,357</b>	-

Settlement was usually made within 30 days

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
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**Note 17 Administered Cash Flow Reconciliation**

	2012 \$	2011 \$
<b>Reconciliation of cash and cash equivalents as per Administered Schedule of Assets and Liabilities to Administered cash Flow Statement</b>		
<b>Cash and equivalents as per:</b>		
Schedule of administered cash flows:	-	-
Schedule of administered assets and liabilities	-	-
<b>Difference</b>	<u>-</u>	<u>-</u>
<b>Reconciliation of net cost of services to net cash from operating activities:</b>		
Net Cost of Services	470,420	419,832
<b>Changes in assets / liabilities</b>		
Increase / (decrease) in other payable	11,357	-
<b>Net cash from (used by) operating activities</b>	<u>481,777</u>	<u>419,832</u>

**Note 18 Administered Contingent Liabilities and Assets**

As at 30 June 2012 there were no unrecognised or contingent assets or liabilities requiring disclosure (2011: \$0).

**Fair Work Australia**  
**NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS**  
for the period ended 30 June 2012

**Note 19 Appropriations**

**Table A: Annual Appropriations ('Recoverable GST exclusive')**

	2012 Appropriations						Appropriation applied in 2012 (current and prior years) \$'000	Variance \$'000
	Appropriations Act		FMA Act					
	Annual Appropriation \$'000	Appropriations reduced <sup>(a)</sup> \$'000	AFM <sup>(b)</sup> \$'000	Section 30 \$'000	Section 31 \$'000	Section 32 \$'000		
<b>DEPARTMENTAL</b>								
Ordinary annual services	75,161	-	-	-	3,108	-	78,269	729
<b>Total departmental</b>	<b>75,161</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3,108</b>	<b>-</b>	<b>78,269</b>	<b>729</b>
	2011 Appropriations						Appropriation applied in 2011 (current and prior years) \$'000	Variance \$'000
	Appropriations Act		FMA Act					
	Annual Appropriation \$'000	Appropriations reduced <sup>(a)</sup> \$'000	AFM <sup>(b)</sup> \$'000	Section 30 \$'000	Section 31 \$'000	Section 32 \$'000		
<b>DEPARTMENTAL</b>								
Ordinary annual services	77,750	-	-	-	1,596	-	79,346	8,502
Other Services Equity	1,000	-	-	-	-	-	1,000	711
<b>Total departmental</b>	<b>78,750</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,596</b>	<b>-</b>	<b>80,346</b>	<b>9,213</b>

(a) Departmental and non-operating appropriations do not lapse at financial year end. However, the responsible Minister may decide that part of all of a departmental appropriation is not required and request the Finance Minister to reduce that appropriation. The reduction in the appropriation is effected by the Finance Minister's determination and is disallowable by Parliament.

(b) Advance to the Finance Minister (AFM) - Appropriation Acts (No. 1,3,5) 2011-12: section 13 and Appropriation Acts (No. 2,4,6) 2011-12: section 15.

(c) Variance are as a result of payment of 2010-11 liabilities in 2011-12, less any liabilities due for payment in 2011-12 which will be paid in 2012-13.



Fair Work Australia  
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 for the period ended 30 June 2012

Table B: Departmental Capital Budgets ('Recoverable GST exclusive')

	2012 Capital Budget Appropriations			Capital budgets applied in 2012 (current and prior years)			Variance <sup>(d)</sup> \$'000
	Appropriations Act		Total Capital Budgets \$'000	Payments for non financial assets <sup>(c)</sup> \$'000		Total payments \$'000	
	Annual Capital Budget reduced <sup>(b)</sup> \$'000	Section 32 \$'000		Payments for non financial assets <sup>(c)</sup> \$'000	Payments for other purposes \$'000		
<b>DEPARTMENTAL</b> Ordinary annual services DCB Capital Budget Bill 1 (DCB) <sup>(a)</sup>	2,214	-	2,214	4,990	-	4,990	(2,776)
<b>Total departmental</b>	2,214	-	2,214	4,990	-	4,990	(2,776)

	2011 Capital Budget Appropriations			Capital budgets applied in 2011 (current and prior years)			Variance \$'000
	Appropriations Act		Total Capital Budgets \$'000	Payments for non financial assets <sup>(c)</sup> \$'000		Total payments \$'000	
	Annual Capital Budget reduced <sup>(b)</sup> \$'000	Section 32 \$'000		Payments for non financial assets <sup>(c)</sup> \$'000	Payments for other purposes \$'000		
<b>DEPARTMENTAL</b> Ordinary annual services DCB Capital Budget Bill 1 (DCB) <sup>(a)</sup>	4,168	-	4,168	431	-	431	3,737
<b>Total departmental</b>	4,168	-	4,168	431	-	431	3,737

(a) Departmental and Administered Capital Budgets are appropriated through Appropriation Acts (No.1.3.5). They form part of ordinary annual services, and are not separately identified in the Appropriation Acts. For more information on ordinary annual services appropriations, please see Table A: Annual appropriations.  
 (b) Appropriations reduced under Appropriation Acts (No.1.3.5) 2010-11: sections 10, 11, 12 and 15 or via a determination by the Finance Minister.  
 (c) Payments made on non-financial assets include purchases of assets, expenditure on assets which has been capitalised, costs incurred to make good an asset to its original condition, and the capital repayment component of finance leases.  
 (d) Fair Work Australia drew down from prior year capital appropriations as per the capital budget plan. The Capital Budget Plan for 2011-12 was 11.9 million dollars.

**Fair Work Australia**  
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**Table C: Unspent Departmental Annual Appropriations ('Recoverable GST exclusive')**

Authority	2012 \$'000	2011 \$'000
Appropriation Act (No. 4) 2005-06	2,125	2,125
Appropriation Act (No. 4) 2006-07	6,677	6,677
Appropriation Act (No. 1) 2008-09	34,337	34,337
Appropriation Act (No. 1) 2009-10	2,967	18,856
Appropriation Act (No. 2) 2009-10	614	614
Appropriation Act (No.1) 2010-11	-	6,562
Appropriation Act (No. 2) 2010-11	1,000	1,000
Appropriation Act (No.1) 2011-12 *	21,126	-
<b>Total</b>	<b>68,846</b>	<b>70,171</b>

\* includes cash on hand at 30 June 2012

**Table D Special Appropriations ('Recoverable GST exclusive')**

Authority	Type	Purpose	Appropriation applied	
			2012 \$'000	2011 \$'000
Financial Management and Accountability Act 1997 s. 28(2), Administered	Refund	To provide an appropriation for the refund of application fees received by the Commonwealth as per the Fair Work Regulations 2009 and apart from this section there is no specific appropriation for the repayment.	(394)	(368)

**Table E Disclosure by Agent in Relation to Annual and Special Appropriations ('Recoverable GST exclusive')**

During the year Fair Work Australia was granted authority and drawing rights by the Department of Finance and Deregulation to make payments under the *Judges' Pensions Act 1968*. The Fair Work Australia makes pension payments directly to former Presidential Members of Fair Work Australia and its preceding bodies. Payments are made under agency relationship for Department of Finance and Deregulation.

<b>Department of Finance and Deregulation - to make payments to former Presidential Members of Fair Work Australia and its preceding bodies</b>	
<b>2012</b>	<b>\$'000</b>
Total receipts	4,350
Total payments	(4,350)
<b>Department of Finance and Deregulation - to make payments to former Presidential Members of Fair Work Australia and its preceding bodies</b>	
<b>2011</b>	<b>\$'000</b>
Total receipts	3,875
Total payments	(3,875)

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**Note 20: Compliance with Statutory Conditions for Payments from the Consolidated Revenue Fund**

Section 83 of the Constitution provides that no amount may be paid out of the Consolidated Revenue Fund except under an appropriation made by law. The Department of Finance and Deregulation provided information to all agencies in 2011 regarding the need for risk assessments in relation to compliance with statutory conditions on payments from special appropriations, including special accounts. The possibility of this being an issue for Fair Work Australia was reported in the notes to the 2010-11 financial statements and Fair Work Australia undertook to investigate the issue during 2011-12.

During 2011-12, Fair Work Australia developed a plan to review exposure to risks of not complying with statutory conditions on payments from appropriations. The plan involved:

- identifying each special appropriation and special account;
- determining the risk of non-compliance by assessing the difficulty of administering the statutory conditions and assessing the extent to which existing payment systems and processes satisfy those conditions;
- determining procedures to confirm risk assessments in medium risk cases and to quantify the extent of non-compliance, if any, in higher risk situations;

Fair Work Australia identified two appropriations involving statutory conditions for payment, comprising:

- Judges Pension Act 1968 special appropriations
- Section 28(2) of *Financial Management and Accountability Act 1997* special appropriation for refund of application fees

As at 30 June 2012 this work had been completed in respect of both the special appropriation with statutory conditions for payment (representing \$4.350m expenditure in 2011-12 for Judges Pension Act payments and \$0.394m for refund of application fees).

The work conducted to date has identified no issues of non compliance with Section 83.

**Note 21: Compensation and Debt Relief**

	2012 \$	2011 \$
Administered		
No 'Act of Grace' expenses were expensed during the reporting period (2011: Nil).	-	-
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the <i>Financial Management and Accountability Act 1997</i> (2011: Nil).	-	-
709 waivers of amounts owing to the Australian Government were made pursuant to subsections 367(2)(c), 395(2)(c), 373(2)(c), and 775(2)(c) of the <i>Fair Work Act 2009</i> . (2011: 631).	\$44,236	\$38,140
No payments were provided under the Compensation for Detriment caused by 'Defective Administration Scheme' during the reporting period (2011: Nil).	-	-
No ex-gratia payments were made during the reporting period (2011: Nil).	-	-
No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the <i>Public Service Act 1999</i> (PS Act) during the reporting period (2011: nil).	-	-

**Fair Work Australia**  
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**Note 21: Compensation and Debt Relief (continued)**

	2012 \$	2011 \$
Departmental		
No 'Act of Grace' expenses were expensed during the reporting period (2011: Nil).	-	-
No waivers of amounts owing to the Australian Government were made pursuant to subsection 34(1) of the <i>Financial Management and Accountability Act 1997</i> (2011: Nil).	-	-
No payments were provided under the Compensation for Detriment caused by 'Defective Administration Scheme' during the reporting period (2011: Nil).	-	-
No ex-gratia payments were made during the reporting period (2011: Nil).	-	-
No payments were provided in special circumstances relating to APS employment pursuant to section 73 of the Public Service Act 1999 (PS Act) during the reporting period (2011: nil).		

**Note 22 Reporting of Outcome**

Fair Work Australia determines the attribution of its shared items based on a survey of employee time spent on each activity and the salary paid to these employees. The basis of attribution in the table is consistent with the basis used for the 2011 – 12 Budget.

**Note 22A: Net Cost of Outcome Delivery**

	2012 \$'000	2011 \$'000
<b>Departmental</b>		
Expenses	(80,356)	(74,349)
Own source income	3,108	1,596
<b>Administered</b>		
Expenses	-	-
Own source income		
Other taxes, fees and fines	470	420
<b>Net cost of outcome delivery</b>	<b>(76,778)</b>	<b>(72,333)</b>

The Outcome is described in **Note 1.1**. Net costs shown include intra-governmental costs that are eliminated in calculating the actual Budget Outcome.

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**Note 22B: Major Classes of Departmental Expenses, Income, Assets and Liabilities by Outcome**

Outcome 1	Program 1		Total	
	2012 \$'000	2011 \$'000	2012 \$'000	2011 \$'000
<b>Departmental expenses</b>				
Employees	49,606	43,694	49,606	43,694
Suppliers	28,934	28,276	28,934	28,276
Depreciation and amortisation	1,685	2,097	1,685	2,097
Other expenses	131	282	131	282
<b>Total</b>	<b>80,356</b>	<b>74,349</b>	<b>80,356</b>	<b>74,349</b>
<b>Departmental income</b>				
Revenue from Government	72,947	71,462	72,947	71,462
Sale of goods and services	1,493	412	1,493	412
Other non-taxation revenues	1,615	1,184	1,615	1,184
Gains	380	58	380	58
<b>Total</b>	<b>76,435</b>	<b>73,116</b>	<b>76,435</b>	<b>73,116</b>
<b>Departmental assets</b>				
Cash & cash equivalents	486	452	486	452
Trade & other receivables	70,790	70,563	70,790	70,563
Buildings & leasehold improvements	7,059	3,402	7,059	3,402
Property, plant and equipment	2,753	1,759	2,753	1,759
Intangibles	934	1,093	934	1,093
Other	1,382	1,858	1,382	1,858
<b>Total</b>	<b>83,404</b>	<b>79,127</b>	<b>83,404</b>	<b>79,127</b>
<b>Departmental liabilities</b>				
Suppliers	2,958	1,309	2,958	1,309
Other payables	7,010	6,482	7,010	6,482
Employee provisions	18,356	14,332	18,356	14,332
Other provisions	2,631	2,848	2,631	2,848
<b>Total</b>	<b>30,955</b>	<b>24,971</b>	<b>30,955</b>	<b>24,971</b>

Outcome 1 is described in **Note 1.1**. Net costs shown include intra-government costs that are eliminated in calculating the actual Budget outcome.

**Note 22C: Major Classes of Administered Income by Outcome**

	Actual 2012 \$	Actual 2011 \$
<b>Administered Income</b>		
Other non-taxation revenues	470,420	419,832
<b>Total</b>	<b>470,420</b>	<b>419,832</b>

The Outcome is described in **Note 1.1**.

**Fair Work Australia**  
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**Note 23: Net Cash Appropriation Arrangements**

	<b>2012</b>	2011
	<b>\$'000</b>	\$'000
<b>Total Comprehensive Income less depreciation/amortisation expenses previously funded through revenue appropriation</b>	<b>(2,236)</b>	864
Plus: depreciation/amortisation expenses previously funded through revenue appropriation	<b>(1,685)</b>	(2,097)
<b>Total comprehensive income (loss) - as per the Statement of Comprehensive Income</b>	<b>(3,921)</b>	(1,233)

\* From 2010-11, the Government introduced net cash appropriation arrangements, where revenue appropriations for depreciation/amortisation expenses ceased. Entities now receive a separate capital budget provided through equity appropriations. Capital budgets are to be appropriated in the period when cash payment for capital expenditure is required.

## APPENDIX K

### AGENCY RESOURCE STATEMENT

Table K1 shows the total resources from all origins. The table summarises how resources will be applied by outcome and by administered and departmental classification.

**TABLE K1: FAIR WORK AUSTRALIA RESOURCE STATEMENT 2011–12**

	Actual available appropriation for 2011–12 \$'000 (a)	Payments made 2011–12 \$'000 (b)	Balance remaining 2011–12 \$'000 (a) - (b)
<b>Ordinary Annual Services<sup>1</sup></b>			
Departmental appropriation <sup>2</sup>	134 916	76 972	57 944
s.31A relevant agency receipts	3108	3108	-
<b>Total</b>	<b>138 024</b>	<b>80 080</b>	<b>57 944</b>
<b>Departmental non-operating</b>			
Equity injections <sup>3</sup>	10 416	-	10 416
<b>Total</b>	<b>10 416</b>	<b>-</b>	<b>10 416</b>
<b>Total Available Annual</b>			
Appropriations and payments	148 440	80 080	68 360
<b>Total net resourcing for Fair Work Australia</b>	<b>148 440</b>	<b>80 080</b>	<b>68 360</b>

(1) Appropriation Bill (No. 1) 2011–12 and Appropriation Bill (No. 3) 2011–12, including balance of prior year departmental appropriations.

(2) Includes an amount of \$2.214m for the Departmental Capital Budget. For accounting purposes this amount has been designated as 'contributions by owners'.

(3) Appropriation Bill (No. 2) 2011–12 and Appropriation Bill (No. 4) 2011–12, including prior year appropriations.

## APPENDIX L

### EXPENSES AND RESOURCES FOR OUTCOME

**TABLE L1: EXPENSES AND RESOURCES FOR OUTCOME**

Outcome 1: Simple, fair and flexible workplace relations for employees and employers through the exercise of powers to set and vary minimum wages and modern awards, facilitate collective bargaining, approve agreements and deal with disputes.	Budget <sup>1</sup>	Actual expenses	Variation
	2011–12 \$'000	2011–12 \$'000	2011–12 \$'000
	(a)	(b)	(a) - (b)
<b>Program 1: Dispute resolution, minimum wages, orders and approval of agreements.</b>			
<b>Departmental expenses</b>			
Ordinary Annual Services (Appropriation Bill No. 1)	75 161	76 972	(1811)
Revenue from independent sources (section 31)	99	3108	(3009)
Expenses not requiring appropriation in the budget year	1746	1685	61
<b>Total for Program 1</b>	<b>77 006</b>	<b>81 765</b>	<b>(4759)</b>
<b>Total Expenses for Outcome</b>	<b>77 006</b>	<b>81 765</b>	<b>(4759)</b>

(1) Full-year budget, including any subsequent adjustment made to the 2011–12 Budget.



## APPENDIX M

### INFORMATION ON SPECIFIC STATUTORY REQUIREMENTS

#### M.1 Occupational health and safety

##### M.1.1 Management arrangements

Fair Work Australia has health and safety management arrangements (HSMA) made consistent with the *Workplace Health and Safety Act 2011* (WHS Act).

Under these HSMA there is a statement of commitment, a workplace health and safety (WHS) policy, consultation arrangements, agreed employer/employee responsibilities and WHS structures and arrangements. There are also provisions relating to workplace inspections, training and information and emergency procedures. There are six designated work groups (DWGs) in Fair Work Australia, six Health and Safety Representatives (HSRs), and a national Health and Safety Committee, which met once in 2011–12. Each team at Fair Work Australia submits quarterly workplace health and safety reports.

##### M.1.2 Initiatives taken during the year

In 2011–12 the most significant WHS initiatives were associated with:

- implementation of new workplace health and safety advices and arrangements following the commencement of the WHS Act
- training of HSRs
- workplace inspections by HSRs
- ergonomic advice and assessments for employees
- refurbishments to offices in Brisbane, Adelaide and Perth
- emergency and evacuation planning across all premises

- incorporation of new codes of practice following release of the new legislation
- healthy lifestyle initiatives for staff, including Pilates and volleyball team, and
- annual influenza vaccination program for all staff.

##### M.1.3 Health and safety outcomes

In 2011–12 there was one new compensation claim and nine accidents/incidents. Fair Work Australia closely monitors its compensation exposure and internal rehabilitation programs against broader APS considerations of compensation costs, the increasing incidence of longer-term injuries and more problematic claims, including those of a psychological nature.

##### M.1.4 Reportable accidents and occurrences

Under s.38 of the WHS Act, Fair Work Australia is required to notify Comcare Australia of any notifiable accidents or dangerous occurrences arising out of work undertaken by any of its employees. There were two occurrences in 2010–11.

##### M.1.5 Investigations

Under Part 4 of the WHS Act, Fair Work Australia is required to report any investigations conducted during the year into any of its undertakings. No investigations were conducted in 2011–12.

##### M.1.6 Other matters

Under Division 7, Part 5 of the WHS Act, HSRs are entitled to issue provisional improvement notices to address immediate risks to improve health and safety performance. No such notices were issued in 2011–12.

**TABLE M1: ADVERTISING AND MARKET RESEARCH EXPENDITURE IN 2011–12 (OVER \$11 950)**

Supplier	Amount \$ <sup>1</sup>	Purpose
DEEWR	51 942	Recruitment advertising for President, Deputy Presidents, Commissioners and General Manager
Wallis Consulting	21 357	Client survey
<b>Total</b>	<b>73 299</b>	

(1) GST inclusive.

## M.2 Freedom of Information

### M.2.1 Information publication

Fair Work Australia is subject to the *Freedom of Information Act 1982* (FOI Act). As such, it is required to publish information to the public as part of the Information Publication Scheme (IPS). This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. There is an information publication plan on Fair Work Australia's website that shows what information has been published in accordance with the IPS requirements.

Fair Work Australia's plan can be found at <http://www.fwa.gov.au/index.cfm?page=legalsips>

### M.2.2 FOI requests

In 2011–12, Fair Work Australia experienced a significant increase in the number of freedom of information (FOI) requests and questions on notice received through the Senate Committee and hearings process.

A review of the organisation's approach to FOI and parliamentary reporting indicated that Fair Work Australia would benefit from a centralised and streamlined process with agreed steps to develop and finalise responses. In March 2011, Fair Work Australia appointed two internal FOI Officers.

## M.3 Advertising and market research

In accordance with s.311A of the *Commonwealth Electoral Act 1918*, the principal officer of every Commonwealth agency is required to include a statement in their annual report setting out particulars of all amounts paid by, or on behalf of, the agency during the reporting period to:

- advertising agencies;
- market research organisations;
- direct mail organisations;
- media advertising agencies; and
- persons or organisations to whom those amounts were paid.

Fair Work Australia did not conduct any advertising campaigns or undertake market research during 2011–12.

Fair Work Australia spent \$81 476 on advertising during the 2011–12 reporting period. Expenditure exceeding \$11 950 is detailed in Table M1.

## M.4 Legal services expenditure

In compliance with the requirements of the Legal Services Directions 2005, Fair Work Australia reports that total legal services expenditure for 2011–12 was \$1 523 913 (GST included). The amount relates solely to external legal services. Details are available on the Fair Work Australia website.

Fair Work Australia had no internal legal services expenditure.

## M.5 Ecologically sustainable development

Australian Government agencies are required to report on their performance regarding the environment and ecologically sustainable development in line with s.516A of the *Environment Protection and Biodiversity Conservation Act 1999*.

Fair Work Australia operates to ensure energy resources are utilised as efficiently as practicable in the context of a working tribunal and that it maintains a healthy working environment for both the staff and the public. Fair Work Australia's procurement decisions have regard to environmental management requirements including assessing energy ratings in the purchasing of equipment, purchasing locally produced recycled paper and other environmentally friendly stationery items.

Programs are in place for the recycling of paper, packaging, batteries, toner and other materials where

possible to reduce the carbon footprint generated by Fair Work Australia.

All copying and printing equipment have duplex capabilities to reduce paper usage.

Kitchens in a number of offices have separate bins to manage waste including organic, recycling and general waste. Low sodium and low phosphate detergents are supplied for use in kitchens.

The Melbourne office has sensor lighting installed in court, conference and meeting rooms and offices which have a timer mechanism to automatically switch lighting off when the rooms are not occupied. Low energy down lights have been installed. Shower timers have been installed in all showers.

Green vehicle options are promoted to executive vehicle scheme participants, with a number of hybrid and diesel powered vehicles being leased.

Fair Work Australia participated in and supported Earth Hour 2012, a campaign to create awareness of global warming and encouraging people to take on better energy conservation habits, by turning off lights, appliances and desktop computers in all offices for Earth Hour on 31 March 2012.

## M.6 Discretionary grants and grant programs

Fair Work Australia did not administer any discretionary or other grants programs during the reporting period, and no discretionary or other grants were made.

However, in 2010–11, Fair Work Australia awarded research partnerships, no additional partnerships were awarded in 2011–12.

Information on current research partnerships is available on the Fair Work Australia website.

## M.7 Corrections to previous annual report

### **Page 58, section 3.4.5—Consultants**

During 2010–2011 Fair Work Australia did not enter any new consultancy contracts, and one ongoing consultancy contract was active during 2010–11, involving the total expenditure of \$55 000. The reason for the correction was due to re-interpretation of consultancy definition in line with the annual reporting requirements.

### **Page 60, Table 13: Expenditure on consultancy contracts**

The number of active consultancies is 1 and Total expenditure for all active consultancies is \$55 000.

## M.8 Commonwealth Disability Strategy

Since 1994, Commonwealth departments and agencies have reported on their performance as policy adviser, purchaser, employer, regulator and provider under the Commonwealth Disability Strategy. In 2007–08, reporting on the employer role was transferred to the Australian Public Service Commission's *State of the Service Report* and the *APS Statistical Bulletin*. These reports are available at [www.apsc.gov.au](http://www.apsc.gov.au). From 2010–11, departments and agencies are no longer been required to report on these functions.

The Commonwealth Disability Strategy has been overtaken by a new National Disability Strategy which sets out a ten year national policy framework for improving life for Australians with disability, their families and carers. A high level report to track progress for people with disability at a national level will be produced by the Standing Council on Community, Housing and Disability Services to the Council of Australian Governments and will be available at [www.fahcsia.gov.au](http://www.fahcsia.gov.au). The Social Inclusion Measurement and Reporting Strategy agreed by the Government in December 2009 will also include some reporting on disability matters in its regular *How Australia is Faring* report and, if appropriate, in strategic change indicators in agency Annual Reports. More detail on social inclusion matters can be found at [www.socialinclusion.gov.au](http://www.socialinclusion.gov.au).

## APPENDIX N

### GLOSSARIES

#### N.1 Glossary of terms

##### **annual wage review**

A review of award minimum wages and the national minimum wage order conducted by Fair Work Australia constituted by the Minimum Wage Panel each financial year.

##### **applicant**

The initiating party to a proceeding before Fair Work Australia.

##### **arbitration**

A process in which Fair Work Australia determines a grievance or dispute by imposing a binding settlement. Fair Work Australia has powers of compulsory arbitration as well as offering voluntary arbitration.

##### **AusTender**

A web-based application, managed by the Department of Finance and Deregulation, enabling access to Australian Government business opportunities online ([www.tenders.gov.au](http://www.tenders.gov.au)).

##### **Australian Industrial Relations Commission (AIRC)**

Australia's national industrial tribunal from 1988 to 2009. Many of the AIRC's functions were assumed by Fair Work Australia on 1 July 2009. The AIRC ceased to exist and transferred the remainder of its functions to Fair Work Australia on 31 December 2009.

##### **award modernisation**

A process initiated in April 2008 by the Minister for Education, Employment and Workplace Relations. By December 2009 the AIRC had created 122 modern awards. The award modernisation process is continuing under Fair Work Australia. Award modernisation

with respect to enterprise awards is scheduled to be concluded by 31 December 2013.

##### **bargaining order**

An order made on application to Fair Work Australia by a bargaining representative negotiating for a proposed enterprise agreement to ensure good faith bargaining requirements or to promote fair and efficient bargaining.

##### **bargaining representative**

A bargaining representative for a proposed enterprise agreement is an employer or a person appointed by the employer to be his or her representative; an employee organisation with respect to its members who will be covered by the agreement (unless the member appoints another person or revokes the status of the employee organisation); and any other person the employee appoints in writing to be their bargaining representative.

##### **better off overall test**

The test that Fair Work Australia must apply to a proposed agreement before it can be approved. Individual flexibility arrangements under modern awards and enterprise agreements must also satisfy the test. Also referred to as the 'BOOT'.

##### **civil remedy provision**

A process to obtain penalties and compensation for certain breaches of the *Fair Work Act 2009*.

##### **certified agreement**

A legally enforceable collective agreement about terms and conditions of employment between an employer and a group of employees or between an employer

and one or more unions. Such agreements were certified by the AIRC.

### **collective agreement**

A legally enforceable agreement about terms and conditions of employment between an employer and a group of employees or between an employer and one or more unions. Collective agreements were approved by the Workplace Authority.

### **conciliation**

One of the informal processes used by Fair Work Australia to facilitate the resolution of a grievance or a dispute between parties by helping them reach an agreement. Mediation is another informal technique used.

### **corporate governance**

The process by which agencies are directed and controlled. Corporate governance is generally understood to encompass authority, accountability, stewardship, leadership, direction and control.

### **discrimination—direct and indirect**

Direct discrimination occurs when someone is treated unfairly or less favourably in the same or similar circumstances because, for example, of their gender or race. Indirect discrimination occurs when there is a rule, policy, practice or procedure that is the same for everyone, but has an unequal or disproportionate effect for a specific group of people.

### **dispute resolution**

The process of resolving disputes conducted by Fair Work Australia arising from the dispute resolution procedure in awards, agreements or the Fair Work Act.

### **Dispute resolution procedure**

The procedure specified in a modern award or enterprise agreement for the resolution of disputes arising under the award or agreement and in relation to the NES. If no procedure is specified a model dispute

resolution procedure specified in the Fair Work Act is deemed to apply.

### **Division 2B State award**

An award that applied to employers who were not constitutional corporations in New South Wales, Queensland, South Australia and/or Tasmania and who are now national system employers.

### **enterprise agreement**

A legally enforceable agreement that covers the employment conditions of a group of employees and their employer. Enterprise agreements can be single or multi-enterprise agreements and must meet a number of requirements of the Fair Work Act before they can be approved by Fair Work Australia.

### **entry notice**

A prescribed written notice provided by a union representative to an employer advising of an intention to visit the employer's premises. The person making the visit must hold a valid right of entry permit and can visit only for certain prescribed reasons including investigating suspected breaches of the Fair Work Act or a fair work instrument (such as a modern award or an enterprise agreement) and holding discussions with certain employees.

### ***Fair Work Act 2009***

The principal Commonwealth law governing Australia's workplace relations system.

### **fair work instrument**

Has the same meaning as in the Fair Work Act: a modern award, an enterprise agreement, a workplace determination or a Fair Work Australia order.

### ***Fair Work (Registered Organisations) Act 2009 (the Registered Organisations Act)***

The legislation that covers the registration and accountability of federally registered unions and employer associations.

### ***Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 (the Transitional Act)***

Legislation that governs transitional matters in connection with the Fair Work Act and other related matters.

### **Federal Court of Australia**

The court with jurisdiction over matters arising under the Fair Work Act.

### **Full Bench**

A Full Bench of Fair Work Australia is constituted by the President of Fair Work Australia and comprises at least three Fair Work Australia members, one of whom must be a Deputy President. Full Benches are constituted to hear appeals, matters of significant national interest and various other matters specifically provided for in the Fair Work Act.

### **general protections**

General workplace protections specified in the Fair Work Act including freedom of association, protection from discrimination and sham contracting, and the ability to exercise, or to not exercise, workplace rights. The general protections provisions provide a right to apply to Fair Work Australia if an employee or employer is the recipient of adverse action.

### **high income threshold**

An amount calculated in accordance with Fair Work Regulation 2.13.

### **Individual Flexibility Arrangement (IFA)**

An agreement between a single employer and employee that modifies the application of a modern award or enterprise agreement. The individual flexibility agreement must satisfy the better off overall test. There is no requirement to register an individual flexibility agreement.

### **low-paid authorisation**

An authorisation made on application to Fair Work Australia by a bargaining representative or union negotiating for a proposed multi-enterprise agreement. A low-paid authorisation gives access to an array of rights such as bargaining orders and low-paid workplace determinations.

### **mediation**

One of the informal processes used by Fair Work Australia to facilitate the resolution of a grievance or a dispute between parties by helping them reach an agreement. Conciliation is another informal technique used.

### **modern award**

An award created by Fair Work Australia. Modern awards created during the award modernisation process came into effect on 1 January 2010 and include terms that complement the National Employment Standards. Fair Work Australia must ensure that, together with the National Employment Standards, modern awards provide a fair and relevant minimum safety net. Modern awards are expressed to cover entire industries and/or occupations.

### **National Employment Standards (NES)**

A set of 10 minimum employment standards that apply to all employees within the federal system from 1 January 2010. The NES include maximum weekly hours, requests for flexible working arrangements, parental leave and related entitlements, annual leave, personal/carer's leave and compassionate leave, community service leave, long service leave, public holidays, notice of termination and redundancy pay.

### **national minimum wage order**

Fair Work Australia must make a national minimum wage order each year in the annual review undertaken by the Minimum Wage Panel. It includes a minimum wage for all national system employees, a casual loading for award- and agreement-free employees, and

special minimum wages for junior employees, trainees and employees with a disability.

**national system employee**

An employee covered by the national workplace relations system because they are employed by a constitutional corporation, the Commonwealth or a state reference employer, in certain designated industries or in a territory.

**national system employer**

An employer covered by the national workplace relations system because they are a constitutional corporation, the Commonwealth or a state reference employer, in certain designated industries or in a territory.

**Office of the Fair Work Ombudsman**

An inspectorate headed by the Fair Work Ombudsman, a statutory appointee, whose role is to impartially assist in, and enforce compliance with, Commonwealth workplace laws including the Fair Work Act, the *Independent Contractors Act 2006* and associated regulations.

**parental leave**

A term encompassing maternity leave, paternity leave and adoption leave. Parental leave is regulated by the NES.

**party**

An applicant or a respondent to a proceeding before Fair Work Australia.

**personal/carer's leave**

Combines entitlements to sick leave, carer's leave and bereavement leave into one entitlement. Personal/carer's leave is regulated by the National Employment Standards as of 1 January 2010.

**President**

The President of Fair Work Australia.

**protected action ballot**

A secret ballot allowing employees directly concerned to vote on whether or not they authorise industrial action to advance the claims for their proposed enterprise agreement.

**published documents**

Documents issued by Fair Work Australia with an individual print identification number, including decisions (including General Manager's and delegates' decisions), orders and determinations, and some recommendations and directions.

**registration**

The process by which employee and employer organisations formally register as industrial organisations. Registration under the Registered Organisations Act confers certain rights and obligations, including the right to appear before Fair Work Australia and the obligation to report to Fair Work Australia on certain financial matters.

**respondent**

A party to a proceeding before Fair Work Australia initiated by someone else.

**right of entry**

The legal right of union officials to enter business premises under certain conditions for purposes described in the Fair Work Act.

**right of entry permit**

A permit issued by Fair Work Australia to officials of a union who are found to be 'fit and proper persons' to hold an entry permit. A permit holder is able to utilise specific rights under the Fair Work Act.

**Small Business Fair Dismissal Code**

A code declared by the Minister for Education, Employment and Workplace Relations for small businesses to follow when dismissing an employee in order to make the dismissal fair.



**take-home pay order**

An order made by Fair Work Australia to preserve an employee's take-home pay where it may have been reduced following the introduction of a modern award.

**transitionally recognised associations**

Organisations that are or were registered in state IR systems and have been recognised by the General Manager of Fair Work Australia.

**unfair dismissal**

Unfair dismissal occurs when the employee who is protected by unfair dismissal provisions has been dismissed, the dismissal is harsh, unjust or unreasonable, it is not a genuine redundancy, and the dismissal is not consistent with the Small Business Fair Dismissal Code (if it applies).

**workplace determinations**

Fair Work Australia can make three types of workplace determinations: low-paid, bargaining-related and industrial action-related. A workplace determination is similar to an enterprise agreement, but is determined by Fair Work Australia when the parties cannot reach agreement on their own. The process and content of workplace determinations are regulated by the Fair Work Act.

Note: Definitions in this glossary have been prepared to assist readers in understanding this annual report. They should not be regarded as comprehensive or legally authoritative.

## N.2 Glossary of acronyms and abbreviations

ACTU	Australian Council of Trade Unions
Ai Group	Australian Industry Group
AIRC	Australian Industrial Relations Commission
ANAO	Australian National Audit Office
ANF	Australian Nursing Federation
AO	Order of Australia
APCS	Australian Pay and Classification Scales
APS	Australian Public Service
ASU	Australian Municipal, Administrative, Clerical and Services Union
ATO	Australian Taxation Office
AWU	Australian Workers' Union
BOOT	better off overall test
CFMEU	Construction, Forestry, Mining and Energy Union
CMS+	The case management system used by Fair Work Australia
DWGs	designated work groups
eFiling	electronic filing
Fair Work Act	<i>Fair Work Act 2009</i>
Fair Work Regulations	<i>Fair Work Regulations 2009</i>
FOI	Freedom of Information
FOI Act	<i>Freedom of Information Act 1982</i>
FWAEA	<i>Fair Work Australia Enterprise Agreement 2011–14</i>
FWAFB	Fair Work Australia Full Bench
FWO	Fair Work Ombudsman
GST	goods and services tax
HSRs	Health and Safety Representatives
HSU	Health Services Union
ICT	information and communications technology
IFA	Individual Flexibility Arrangement
ILO	International Labour Organization
IM	information management
IPS	Information Publication Scheme
IRCNSW	Industrial Relations Commission of New South Wales
IRSSA	Industrial Relations Society of South Australia
IT	information technology

NAPSAs	notional agreements preserving state awards
NES	National Employment Standards
OHS	occupational health and safety
OHS Act	<i>Occupational Health and Safety Act 1991</i>
Public Service Act	<i>Public Service Act 1999</i>
Public Service Regulations	<i>Public Service Regulations 1999</i>
QIRC	Queensland Industrial Relations Commission
Registered Organisations Act	<i>Fair Work (Registered Organisations) Act 2009</i>
RO Act	<i>Fair Work (Registered Organisations) Act 2009</i>
SACS industry	social, community, disability services industry throughout Australia
SAIRC	South Australian Industrial Relations Commission
SES	senior executive service
TAFE	Tertiary and Further Education
TIC	Tasmanian Industrial Commission
Transitional Act	<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>
tribunal	Fair Work Australia
TWU	Transport Workers' Union of Australia
VHIA	Victorian Hospitals Industrial Association
WHS	workplace health and safety
Work Choices Act	<i>Workplace Relations Amendment (Work Choices) Act 2005</i>

## APPENDIX O

### LIST OF REQUIREMENTS

PART OF REPORT	DESCRIPTION	REQUIREMENT	REF
Aids to access	Letter of transmittal	Mandatory	iii
	Table of contents	Mandatory	v
	Index	Mandatory	171
	Glossary	Mandatory	N
	Contact officer(s)	Mandatory	ii
	Internet home page address and internet address for report	Mandatory	ii
Year in review	Review by President of Fair Work Australia	Mandatory	1.1
	Role and functions	Mandatory	1.3
	Organisational structure	Mandatory	1.5, 3.1
	Outcome and program structure	Mandatory	1.6
	Where outcome and program structures differ from PB Statements/PAES or other portfolio statements accompanying any other additional appropriation bills (other portfolio statements), details of variation and reasons for change	Mandatory	N/A
Overview	Portfolio structure	Mandatory for portfolio departments	N/A
	Review of performance during the year in relation to programs and contribution to outcomes	Mandatory	2.1
	Actual performance in relation to deliverables and KPIs set out in PB Statements/PAES or other portfolio statements	Mandatory	C
	Where performance targets differ from the PBS/ PAES, details of both former and new targets, and reasons for the change	Mandatory	N/A
	Discussion and analysis of performance	Mandatory	2, 3
Report on performance	Trend information	Mandatory	2.1–2.7
	Significant changes in nature of principal functions/ services	Suggested	1.1
	Factors, events or trends influencing agency performance	Suggested	1.1
	Social inclusion outcomes	If applicable, mandatory	N/A
	Performance against service charter customer service standards, complaints data, and the department's response to complaints	If applicable, mandatory	1.7.1

	Discussion and analysis of the department's financial performance	Mandatory	4.7
	Agency resource statement and summary resource tables by outcomes	Mandatory	J, K
	Developments since the end of the financial year that have affected or may significantly affect the department's operations or financial results in future	If applicable, mandatory	N/A
<b>Management accountability</b>			
Corporate Governance	Agency heads are required to certify that their agency comply with the Commonwealth Fraud Control Guidelines	Mandatory	4.4.5
	Statement of the main corporate governance practices in place	Mandatory	4.1
	Names of the senior executive and their responsibilities	Suggested	4.1.1
	Senior management committees and their roles	Suggested	4.1.2
	Corporate and operational planning and associated performance reporting and review	Suggested	4.2
	Policy and practices on the establishment and maintenance of appropriate ethical standards	Suggested	4.3
	How nature and amount of remuneration for SES officers is determined	Suggested	4.6.1
External Scrutiny	External scrutiny	Mandatory	4.4.1
	Judicial decisions and decisions of administrative tribunals	Mandatory	4.4.3
	Reports by the Auditor-General, a Parliamentary Committee or the Commonwealth Ombudsman	Mandatory	3.2.2
Management of human resources	Assessment of effectiveness in managing and developing human resources to achieve departmental objectives	Mandatory	4.5
	Workforce planning, staff turnover and retention	Suggested	4.5
	Impact and features of enterprise or collective agreements, individual flexibility arrangements (IFAs), determinations, common law contracts and AWAs	Suggested	4.6
	Training and development undertaken and its impact	Suggested	4.2.2
	Statistics on staffing	Mandatory	4.5
	Enterprise or collective agreements, IFAs, determinations, common law contracts and AWAs	Mandatory	4.6
	Performance pay	Mandatory	4.6.3
Assets management	Assessment of effectiveness of assets management	If applicable, mandatory	4.7.2, J
Purchasing	Assessment of purchasing against core policies and principles	Mandatory	4.7.3

Consultants	A summary statement detailing the number of new consultancy services contracts let during the year; the total actual expenditure on all new consultancy contracts let during the year (inclusive of GST); the number of ongoing consultancy contracts that were active in the reporting year; and the total actual expenditure in the reporting year on the ongoing consultancy contracts (inclusive of GST).	Mandatory	4.7.4
	Statement noting that information on contracts and consultancies is available through the AusTender website.	Mandatory	4.7.3
Australian National Audit Office Access Clauses	Absence of provisions in contracts allowing access by the Auditor-General	Mandatory	4.7.4
Exempt contracts	Contracts exempt from the AusTender	Mandatory	4.7.4
Financial statements	Financial statements	Mandatory	J
Other mandatory information	Occupational health and safety (s.74 of the <i>Occupational Health and Safety Act 1991</i> )	Mandatory	M.1
	Freedom of information for the period 1 July 2010 to 30 April 2011 inclusive (see terms of subsection 8(1) of the <i>Freedom of Information Act 1982</i> as it existed prior to 1 May 2011)	Mandatory	M.2
	Advertising and Market Research (s.31 IA of the <i>Commonwealth Electoral Act 1918</i> ) and statement on advertising campaigns	Mandatory	M.3
	Ecologically sustainable development and environmental performance (s.516A of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> )	Mandatory	M.5
	Grant programs	Mandatory	M.6
	Disability reporting—explicit and transparent reference to agency-level information available through other reporting mechanisms	Mandatory	M.8
	Correction of material errors in previous annual report	Mandatory	M.7
	List of requirements	Mandatory	O

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