

Division 16: Mines, Industry Regulation and Safety — Service 3, Industrial Relations, \$78 578 000 —

Ms M.M. Quirk, Chair.

Dr A.D. Buti, Minister for Finance representing the Minister for Industrial Relations.

Mr R. Sellers, Director General.

Ms M. Haasnoot, Executive Director, Corporate Services.

Ms J. Hammond, Executive Director, Government Sector Labour Relations.

Ms J. Shelton, Director, Licensing Services.

Mr I. Munns, Deputy Director, General Safety Regulation.

Mr R. De Giorgio, Chief Finance Officer.

Mr J. Welch, Principal Policy Adviser, Minister for Industrial Relations.

Ms R. Marton, Senior Policy Adviser.

[Witnesses introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

The minister may agree to provide supplementary information to the committee, rather than asking that the question be put on notice for the next sitting week. I ask the minister to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the minister's cooperation in ensuring that it is delivered to the principal clerk by close of business Friday, 1 October 2021. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

I give the call to the member for North West Central.

Mr V.A. CATANIA: I refer to page 246, budget paper No 2, volume 1, and the seventh paragraph, which states —

The Department has assisted the Commission for Occupational Safety and Health prepare a consultation draft workplace behaviour code of practice. Workplace behaviours remain a safety and health concern at many workplaces. Workplace sexual harassment has been an emerging issue with some high-profile cases reported in the media this year, and State and Commonwealth responses to the Australian Human Rights Commission's report ...

How many bullying and sexual harassment complaints were made in 2020–21 and in 2021–22 to date?

Dr A.D. BUTI: The point is that it is a difficult question to answer, member, because they come under sections— mining and other industries. To get a figure for industrial relations, the member has to narrow it down.

Mr V.A. CATANIA: We are in the industrial relations section of the budget estimates. Have there been any sexual harassment or bullying complaints? I want to know the statistics for 2020–21 and 2021–22 to date. I am happy to take it as supplementary information if the minister does not have that information. It is pretty important information given the current climate in the resources sector.

[10.50 am]

Dr A.D. BUTI: If the member wants to ask that as a question on notice, he should go ahead.

Mr V.A. CATANIA: As I said, this is pretty important information. I would have thought the minister, or the team behind him, would have been prepared with that information.

The CHAIR: That is a statement, member.

Dr A.D. BUTI: That is not a question.

Mr V.A. CATANIA: Will the minister provide that answer as supplementary information? They are pretty important statistics to have, given the current climate and a parliamentary inquiry into the resources sector.

Extract from Hansard

[ASSEMBLY ESTIMATES COMMITTEE B — Thursday, 23 September 2021]

p424b-429a

Mr Vincent Catania; Dr Tony Buti; Dr David Honey; Mrs Lisa O'Malley; Mr Mark Folkard; Mr Yaz Mubarakai;
Mr Peter Rundle

Dr A.D. BUTI: The member has just mentioned the inquiry into the resources sector. Another member of the opposition who is the chair of that inquiry was supposed to be here. I am sure she can provide the member with those figures, but if he wants to put it on notice, he should put it on notice.

Mr V.A. CATANIA: I have a further question. That is an inquiry —

The CHAIR: Is it a further question or just a debating point?

Mr V.A. CATANIA: It is an important point, chair. That is an inquiry; it is a committee. The minister has been on a committee; we have been on a committee together. The committee cannot disclose that information.

The CHAIR: Member, I am not going to entertain rhetoric. I have the member for Bicton next.

Dr A.D. BUTI: Can I add that we are dealing here with industrial relations. The inquiry to which the member referred is dealing with the resources industry under another minister—the Minister for Mines and Petroleum.

Mr V.A. CATANIA: So industrial relations issues do not cover any bullying or sexual harassment complaints at all?

Dr A.D. BUTI: That is not what I said. The member referred to the inquiry. The inquiry is under the purview of the Minister for Mines and Petroleum. If the member wants to spend the next half-hour talking about supplementary information and questions on notice, feel free. I have just told him that if he wants to put a question on notice, put it on notice.

Mr V.A. CATANIA: Does the Industrial Relations Commission deal with bullying and sexual harassment complaints?

Dr A.D. BUTI: The member missed the boat there. That should have been asked in the previous section through the registrar who processes the complaints, not through the Industrial Relations Commission, which hears the cases.

Mr V.A. CATANIA: Has the Department of Mines, Industry Regulation and Safety received any bullying or sexual harassment complaints in 2020–21 and 2021–22 to date?

The CHAIR: This is service 3 only, member.

Dr A.D. BUTI: That is not relevant to this section. The member should ask the Minister for Mines and Petroleum.

The CHAIR: Does the member for Cottesloe have a further question on this or can we move to the member for Bicton?

Dr D.J. HONEY: Yes, I do. Have there been any complaints of harassment or bullying in this department—that is, the industrial relations department itself?

The CHAIR: It sounds like groundhog day to me. It is the same question.

Dr D.J. HONEY: No; it is different. It is related specifically to this.

Dr A.D. BUTI: We can deal only with the section in front of us. The member is relating the question to the whole department. I am not the minister for the whole department. We are looking at this section of the budget paper.

Dr D.J. HONEY: I ask about the industrial relations part of the department that is responsible for industrial relations.

Dr A.D. BUTI: Yes, and what is the member's question then?

Dr D.J. HONEY: Have there been any complaints of harassment or bullying in that department?

Dr A.D. BUTI: In industrial relations?

Dr D.J. HONEY: Yes.

Dr A.D. BUTI: And to which line item is the member referring?

Dr D.J. HONEY: I am referring to budget paper No 2, page 249, "Safety and Labour Relations Advice and Regulation".

The CHAIR: That is a different section to what the member was referring to.

Dr A.D. BUTI: I do not think it is relevant.

The CHAIR: Member for Bicton, put us out of our misery!

Mrs L.M. O'MALLEY: I refer to page 245 of budget paper No 2 under "Spending Changes". A line item under "Election Commitments" refers to the wage supply audit unit. How are these resources to be spent and what is the intended outcome?

Dr A.D. BUTI: I will throw to the director general.

Mr R. Sellers: Thank you. I will pass to Mr Munns.

Mr I. Munns: Yes, that is a great initiative. We are looking to engage a number of officers to specifically monitor and ensure that the payments being made are appropriate when contracts have been entered into. We are in the process

of developing the job descriptions for those new officers and then going out to recruit for them and build that unit in the private sector labour relations unit.

Mr M.J. FOLKARD: I refer to page 245 of budget paper No 2, volume 1, under “Spending Changes”. Funding is identified under “Election Commitments” for stakeholder engagement. How are these resources to be spent?

Dr A.D. BUTI: The government intends that information and education material about the work health and safety laws to be provided as widely as possible. It is therefore appropriate for the government to partner with peak employee and employer bodies that are members of the statutory committees. The \$350 000 in funding for each of the next four years is a substantial investment by the government aimed at helping to achieve a wide distribution of information about the work health and safety laws. The peak bodies are able to target these messages aimed at particular issues relevant to their sectors. The approach will complement promotional activities being undertaken by the Department of Mines, Industry Regulation and Safety. The peak bodies that are partnering with the government to promote the work health and safety laws are UnionsWA, the Chamber of Commerce and Industry of Western Australia, Master Builders Western Australia, the Housing Industry Association, the Chamber of Minerals and Energy of Western Australia, and the Association of Mining and Exploration Companies.

[11.00 am]

Mr Y. MUBARAKAI: I refer to the same page and the same line and ask about the implementation of resources that will be provided to make sure that the Work Health and Safety Act is implemented.

Dr A.D. BUTI: The government’s commitment at the March 2021 election was for the work health and safety laws to commence in January next year, 2022. As part of that commitment, the government committed to providing employer and employee peak bodies with \$150 000 per annum over the next two years. The government recognises the importance of this legislation, allocating significant resources to meet our commitment and ensure a smooth transition to the new laws. The budget includes funding for 45 FTEs in 2021–22, which will be investigators, inspectors and legal policy communication ministerial officers, reducing to 34 FTEs in 2023–24. We are committed to working to meet our election commitments. The government has also allocated an additional \$200 000 for the Department of Mines, Industry Regulation and Safety to promote the new laws in 2021–22. This is in addition to the \$450 000 previously allocated to DMIRS to promote worker safety. The total \$650 000 of funding will be used by DMIRS for a better worker safety campaign to promote the implementation of the Work Health and Safety Act and WorkSafe as the Western Australian agency responsible for the WHS laws. DMIRS has commenced publishing information and educational material about the WHS laws. More information will continue to be made available as the commencement date of the new law approaches. DMIRS is also finalising agreements with the employer and employee peak bodies on the grant funding commitment. It is a testament to the fact that this government is very committed to ensuring that people can go to work in a safe environment. That is all part of the new laws. The promotion of those laws will ensure that employees, employers and their organisations are fully across those laws.

Mr V.A. CATANIA: I refer to paragraph 7 on page 246. I quote —

The Department has assisted the Commission for Occupational Safety and Health prepare a consultation draft workplace behaviour code of practice.

Could the minister please explain why the department has assisted the Commission for Occupational Safety and Health to prepare a draft workplace behaviour code of practice?

Dr A.D. BUTI: I would have thought there is nothing unusual about that. I think it is what the department does, but I will throw to the director general on this.

Mr R. Sellers: The expertise for certain areas exists within both the department and other areas. It is not unusual for the department’s expertise to be called on and be part of working up codes of practice. It happens across a range of expertise in DMIRS, including in safety and mining.

Mr V.A. CATANIA: Paragraph 7 continues —

Workplace behaviours remain a safety and health concern at many workplaces.

Can the minister elaborate on the concerns that have been raised with the department?

Dr A.D. BUTI: I will ask the department, but, obviously, I do not think it is any surprise. There are always going to be issues about workplace behaviours. That is part of the reason we brought in new legislation and provided significant funding for promotion and discussion with employer and employee groups. We have also improved legislation, whether it is the work health and safety legislation or the impending changes to the industrial relations legislation. I will ask Mr Sellers whether he would like to answer or throw to someone else.

Mr R. Sellers: I think Mr Munns might be able to lead us through a bit of that background.

Mr I. Munns: It has been an ongoing area of concern for quite some time. The Commission for Occupational Safety and Health issued a code on workplace violence and aggression in 2010. Workplace environments have obviously been changing over the last decade or so. As a consequence, we felt it necessary to revise that existing code. During the process of the revision, the commission felt it was best to break the code into some new, discrete pieces of work. One of the discrete pieces of work is the one on workplace behaviours. Everything had its genesis in the code that has been around since 2010. It is being revised given the changes in workplaces and in the technological environment in which we now work.

Mr V.A. CATANIA: Paragraph 7 continues —

Workplace sexual harassment has been an emerging issue with some high-profile cases reported in the media this year, and State and Commonwealth responses to the Australian Human Rights Commission ...

Could the minister perhaps highlight those high-profile cases that have been reported in the media this year? Did the department assist the Commission for Occupational Safety and Health because it was prompted by the high-profile cases reported in the media?

Dr A.D. BUTI: I think Mr Munns provided an answer to that. It has been an ongoing issue. The department was involved in this way before the infamous cases that occurred in Canberra. The cases emanating from the Parliament House arena in Canberra were the highest profile cases in the last 12 months, but the department has been working on this for far longer than those high-profile cases. Of course, that just brought it to the immediate attention of the media.

Mr V.A. CATANIA: On sexual harassment complaints that have gone to government agencies, has there been an increase that the department is aware of?

Dr A.D. BUTI: Cases are brought before the Industrial Relations Commission. Cases are also brought internally to departments. Those cases that are brought to departments do not come through this department. Unless a complaint is made through the Industrial Relations Commission and the registrar, which we dealt with in the last session, that is the end of the matter as far as this department is concerned. As it mentions in the note the member referred to, it is talking about matters that have gone to the Australian Human Rights Commission or could have gone to the Equal Opportunity Commission, not the Industrial Relations Commission. Cases also go through the court system. Sexual harassment can be dealt with in many ways. Cases can be dealt with internally, through a department or through a complaint being made to the Industrial Relations Commission to the registrar, which was covered in the last session, the Equal Opportunity Commission in Western Australia or the Australian Human Rights Commission, but not through this department as such.

Mr V.A. CATANIA: The minister is not the minister responsible and perhaps the ministerial adviser may be able to answer this —

The CHAIR: No; the question is directed to the minister.

Mr V.A. CATANIA: I know that; that is what I am saying. I was saying that the minister is not the minister for this department but may be able to direct the question to the ministerial adviser. How many sexual harassment or bullying complaints have been made to the minister responsible for the Department of Mines, Industry Regulation and Safety?

[11.10 am]

Dr A.D. BUTI: I am not acting for the Minister for Mines and Petroleum here.

Mr V.A. CATANIA: Has the minister received any bullying or sexual harassment complaints directly as minister?

Dr A.D. BUTI: As minister for what?

Mr V.A. CATANIA: As minister representing the minister here, or as a minister.

Dr A.D. BUTI: Obviously, that is not a relevant question to ask in this session, but I can assure the member that I have not personally received anything about sexual harassment of one of my departmental employees. That has no relevance to this session, so can we move on?

Mr P.J. RUNDLE: I refer to page 246 of budget paper No 2, volume 1, and paragraph 8 under “Significant Issues Impacting the Agency”. It states, in part —

... the Government introduced the Industrial Relations Legislation Amendment Bill 2020 (the Bill) into Parliament. The Bill lapsed when Parliament was prorogued for the 2021 State election. The Bill contains the Government’s response to the 2018 Ministerial Review of the State Industrial Relations System and the 2019 Inquiry into Wage Theft in Western Australia. The Government has made a commitment to reintroduce the Bill, as well as introduce various other industrial relations reforms ...

Other than the three reforms listed—the new minimum entitlement to five days' unpaid family and domestic violence leave, enabling the concurrent appointment of suitably qualified industrial commissioners as industrial magistrates, and making Easter Sunday a public holiday in Western Australia—are any other reforms intended; and, if so, what are they?

Dr A.D. BUTI: There are other quite substantial reforms in this bill. We are dealing with the issue of the definition of “employee” under state industrial laws; the exclusion of employees engaged in domestic service in private homes will change. That will then be consistent with the International Labour Organization protocol of 2014. There will be a new anti-bullying jurisdiction for the commission, which will enable the commission to make orders to stop bullying or sexual harassment in the workplace. The commission will be enabled to make equal remuneration orders to ensure that employees receive equal remuneration for work of equal and comparable value. The commission will be given the power to review the scope of outdated private sector award clauses on its own motion to ensure comprehensive and equitable award coverage for employees. WA local governments will be enabled to move from the national industrial relations system to the state system. There will be an increase in penalties for noncompliance with state industrial laws and instruments to broadly reflect the penalty levels under the Fair Work Act 2009, which is commonwealth legislation. The compliance tools of industrial inspectors will also be broadened. There is a considerable number of reforms in the bill.

Mr P.J. RUNDLE: Can the minister give me a bit more detail on what the bullying part of those reforms entails?

Dr A.D. BUTI: Basically, they will mirror the anti-bullying clauses in the Fair Work Act 2009.

Mr P.J. RUNDLE: I assume bullying is part of the package, but we are improving the reforms in relation to that. What percentage of cases would involve bullying?

Dr A.D. BUTI: This department does not deal with cases. They go to the Western Australian Industrial Relations Commission registrar. As I mentioned to the member for North West Central, there are a number of areas to which complaints can be made. They can be made to the WAIRC registrar, which was covered in a previous session; they could possibly come under equal opportunity legislation and the Equal Opportunity Commission; they could possibly come under the Australian Human Rights Commission or the Fair Work Commission; they could even, in some cases, go through the court system; or they could come through this department under work health and safety, but that is another division, not this one.

Mr P.J. RUNDLE: When does the minister think that legislation will be coming into the mix?

Dr A.D. BUTI: Hopefully in the balance of this parliamentary year.

Mr P.J. RUNDLE: I refer to paragraph 9 on the same page, which outlines that the department is undertaking a range of strategies to combat the significant issue of wage theft. What are those strategies, as part of the Western Australian government's 2021 election commitments?

Dr A.D. BUTI: The department has established a compliance team focused on the issue of wage theft and is undertaking a range of compliance strategies to combat wage theft, including continuing to conciliate and investigate reactive complaints and targeting high-risk industries such as the restaurant, cafe, horticultural and security industries, with proactive compliance campaigns involving unannounced inspections by industrial inspectors. In 2020–21, inspectors recovered more than \$1.2 million in unpaid wages and entitlements, which I think is an outstanding effort by the inspectors, but also a real indictment of those industries. There have been recent enforcement proceedings in the Industrial Magistrates Court that have involved migrant workers in high-risk industries, and a number of employers have been identified as high risk. The department is also working with other government agencies, including Australian Border Force, RevenueWA and the Fair Work Ombudsman, to combat exploitative working arrangements. In addition, the Report Wage Theft website was established in December 2019 and has successfully provided an avenue for WA employees in both the state and national industrial relations systems to seek help in resolving underpayments and anonymously reporting wage theft.

Mr P.J. RUNDLE: Can the minister tell me who in the department is responsible for that strategy, and what is the budget allocation for its facilitation?

Dr A.D. BUTI: I will hand over to Mr Sellers, but obviously the department has established a compliance team.

Mr R. Sellers: I will pass over to the deputy director general, Mr Munns.

Mr I. Munns: The work for that area of activity is undertaken by the private sector labour relations directorate. It is led by one of our executive directors. There is a compliance unit within that area of quite a number of staff who are out and about, doing these sorts of activities. It also includes some of the unannounced visits that the minister mentioned that are undertaken after normal business hours, because it is a 24/7 operation in the current environment. We are active throughout the working period to ensure that all workers, regardless of when they are at work, can expect to have their remuneration correctly supplied to them.

Extract from *Hansard*

[ASSEMBLY ESTIMATES COMMITTEE B — Thursday, 23 September 2021]

p424b-429a

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Mr Peter Rundle

The appropriation was recommended.

[11.20 am]