

Modern Slavery Committee Inquiry: Ethical Clothing Extended Responsibilities Scheme–Post Hearing Response

July 2024

Questions on Notice

1. In the Objectives of the scheme, does the phrase “prescribe practices and standards that will aid in compliance with, and prevent avoidance of — reference to the State award — ... and other industrial instruments” encompass Federal Awards?

RESPONSE:

The phrase “and other industrial instruments” which appears in Clause 3(2)(b) of the Objectives of the Ethical Clothing Trades Extended Responsibility Scheme 2005 (the Scheme) encompasses federal awards.

This view is consistent with the overall Objects of the Scheme and aligns with regulatory arrangements established under the scheme, which promote and facilitate compliance with all forms of protective regulation applying to outworkers in the textile, clothing and footwear sector.

2. Why and how was the Council disestablished and how would it be reestablished. Further, is that necessary for the re-enlivening of the scheme? What steps would need to be taken to reestablish the Council and who would be responsible for that?

RESPONSE:

There is no information to hand as to why the Ethical Clothing Trades Council of New South Wales (the Council) has not been convened since about 2004 after the terms of appointment of the 7 part-time members expired and there were no further appointments to the Council.

The Council is constituted under s 5 of the Industrial Relations Ethical Clothing Trades Act 2001 (the Act), which sets out the steps to be taken for re-establishment. Under the terms of the Act, the Council is not required for the re-enlivening of the scheme. However, should the scheme be amended or revoked, the Council would need to be reestablished and offered the opportunity to provide advice to the Minister in accordance with s 7 of the Act.

3. What kind of data does either the Inspectorate or through the Policy team have identifying potential high-risk industries and what monitoring could be done of those that would allow us to look at the potential expansion into other areas? How do you prioritise areas in terms of vulnerability and any methods that you currently have in that compliance team?

RESPONSE:

The Inspectorate identifies priority industries for proactive compliance and stakeholder engagement campaigns at the beginning of each planning period and these are continuously reviewed. In prioritising the Inspectorate considers the following factors:

- *trends in the data collected about complaint, web and phone enquiries made to the Inspectorate;*
- *recent activity by our equivalent inter-jurisdictional bodies;*
- *media reports of non-compliant behaviour with industrial legislation;*
- *publications by NGOs, academics, and other civil society organisations; and*
- *data collated by other government agencies such as Australian Bureau of Statistics, Anti-Slavery Commissioner, etc.*

In prioritising industries the Inspectorate considers indicators of worker vulnerability, such as precarity, migrant or linguistically diverse worker participation, complexity of supply chain relationships, union density etc. The Inspectorate then considers jurisdictional limitations, recent activity, and resources.

The Inspectorate has recently initiated a relationship with the Office of the Anti-Slavery Commissioner with a view to establishing more systematic informational sharing.

4. Within the Government who collects data on vulnerable industries or potential modern slavery hot spots and if so, is that information shared, for example with the Anti-Slavery Commissioner?

The Inspectorate collects and collates data per question 3 and has recently initiated a relationship with the Office of the Anti-Slavery Commissioner with a view to establishing more systematic informational sharing. Safe Work published an At Risk Workers Strategy 2018-2022 identifying workers who were more vulnerable to injury at work, based on a risk matrix and data they collected. It is not known if they have a data sharing relationship with the Anti-Slavery Commission.

5. If we were taking compliance activity which pushed more employers into the voluntary scheme would it then be appropriate for the Government to provide funding to the voluntary scheme.

RESPONSE:

Questions around Government funding is a matter reserved for Government.

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