

CHAPTER 2

Review of annual reports

2.1 This chapter examines selected annual reports in greater detail, and provides the Senate with information that may be of particular interest. The reports of Safe Work Australia, Fair Work Building and Construction and the Coal Mining industry (Long Service Leave Funding) Corporation are discussed in this chapter.

Safe Work Australia

2.2 Safe Work Australia (SWA) was established as an independent statutory agency in 2009 with responsibility for developing national policy on work health and safety (WHS) and workers' compensation. SWA's activities include:

- developing model WHS laws;
- research, collection, analysis and reporting of data relating to WHS issues; and
- coordinating efforts between community, WHS authorities and industry groups and unions to improve WHS in Australian workplaces.

2.3 The report outlined a number of achievements and landmarks for SWA during the 2011–12 financial year. Achievements of note included national mine safety reform through the development of model WHS regulations for mining and the commencement of the *Australian Work Health and Safety Strategy 2012-22* following on from the completion of the *National OHS Strategy 2002-12*. More broadly, the report noted that over 60 per cent of the Australian workforce is now under the same WHS protections.¹ In addition, the establishment of the Safety Ambassador of the Year Award, as part of the 2011 Safe Work Australia Week, resulted in 500 workplace leaders from across the nation become Safety Ambassadors.²

2.4 SWA also maintained an international presence for Australia in the sector through organisations like the United Nations Sub-Committee of Experts on the Globally Harmonised System; the International Organisation for Standardisation Nanotechnology Technical Committee; the Organisation for Economic Co-operation and Development Working Party for Manufactured Nanomaterials; and the World Health Organisation and the International Labour Organisation.³

2.5 Key items on SWA's agenda for the coming years includes the continual oversight and improvement of SWAs business processes and raising WHS awareness in the wider community – particularly in the agriculture, construction and road transport industries.⁴

¹ Safe Work Australia, *Annual Report 2011-12*, pp 6–8.

² Safe Work Australia, *Annual Report 2011-12*, p. 7.

³ Safe Work Australia, *Annual Report 2011-12*, pp 6–8.

⁴ Safe Work Australia, *Annual Report 2011-12*, p. 8.

2.6 SWA also reported that:

Safe Work Australia does not have any administered funding and there were no new measures sought or provided in the 2011-12 financial year. The organisation had a full year operating loss for 2011-12 and this continued to absorb the remaining surplus from 2009-10. There are plans in place to make use of the remaining surplus in 2012-13 while being very mindful of any impact on the out-year budgets, particularly in terms of staffing levels.

The 2011-12 appropriation was reduced as a result of Operation Sunlight, which seeks to improve the openness and transparency of public sector budgetary and financial management and to promote good governance practices.⁵

2.7 This annual report is well presented and easily navigated and the committee considers that this report has fulfilled all requirements. The committee encourages timeliness in the presentation of annual reports and notes that this annual report was tabled on 26 November 2013.

Fair Work Building and Construction

2.8 The Office of the Fair Work Building Industry Inspectorate (operating as Fair Work Building and Construction (FWBC)) is an independent statutory agency established to regulate workplace relations laws in the building and construction industry. Activities that are undertaken by FWBC in this role include public education, providing advice in the sector and ensuring compliance with workplace relations laws by industry in the sector.⁶

2.9 Prior to 1 June 2012, the Office of the Australian Building and Construction Commission (ABCC) operated as the lead agency for monitoring and promoting appropriate standards of conduct across the building and construction industry. After the ABCC was abolished on 31 May 2012, it was replaced by FWBC.⁷ FWBC underwent significant changes during the 2011-12 financial year. The report is divided into two parts – the first covering the activities of the ABCC from 1 July 2011 to 31 May 2012, and the second covering FWBC from 1 June 2012 to the end of the 2011-12 financial year.

2.10 Commenting on these changes, FWBC Chief Executive Leigh Johns noted that:

While FWBC is a new agency, its functions, powers and objectives are similar to predecessor agencies which regulated compliance with workplace laws in the building and construction industry... In its first month, FWBC saw a successful transition of some 150 staff from the former agency, the adoption of a new brand, and an energetic effort by all staff to connect with industry participants on new terms.⁸

⁵ Safe Work Australia, *Annual Report 2011-12*, p. 68.

⁶ Fair Work Building and Construction, *Annual Report 2011-12*, p. 14.

⁷ Fair Work Building and Construction, *Annual Report 2011-12*, pp 127-9.

⁸ Fair Work Building and Construction, *Annual Report 2011-12*, p. 8.

2.11 As well as reporting on activity during its one month of operation, the FWBC Annual Report identifies the organisation's focus on six key areas:

- unprotected industrial action;
- freedom of association;
- coercion;
- right of entry;
- wage and entitlements; and
- sham contracting.

2.12 In addition to this, the report highlights FWBC's intention to provide evidence-based advice concerning productivity in the sector.⁹

2.13 During the reporting period, the Annual Report notes that FWBC received 179 enquiries with 12 per cent related to the National Code and 11 per cent related to wages and entitlements. Ninety-seven per cent of enquiries were responded to within one day, with the remainder addressed within three working days. Approximately 12 per cent of enquiries led to an investigation.¹⁰

2.14 The Sham Contracting Inquiry was a significant body of work started by the ABCC and continued by FWBC. Sham contracting occurs when people who should be dealt with as employees are instead treated as independent contractors – thus missing out on legitimate entitlements such as annual leave.¹¹ The Sham Contracting Report was released in November 2011, and FWBC has now assumed responsibility for implementing the recommendations arising from the report. As a result of the report, further research to gather reliable data on sham contracting has been undertaken to inform policy development on this issue.¹²

2.15 This annual report is well presented and easily navigated and the committee considers that this report has fulfilled all requirements.

Coal Mining Industry (Long Service Leave Funding) Corporation – Report for 2011–12

2.16 The Coal Mining Industry (Long Service Leave Funding) Corporation, established in 1992, provides reimbursement payments to employers providing long service leave to workers in the black coal mining industry in New South Wales, Queensland, Western Australia and Tasmania.

⁹ Fair Work Building and Construction, *Annual Report 2011–12*, pp 10—11.

¹⁰ Fair Work Building and Construction, *Annual Report 2011–12*, pp 26—7.

¹¹ Fair Work Building and Construction, *Sham Contracting Inquiry*.
<http://www.fwbc.gov.au/sham-contracting-inquiry/> (accessed 21 August 2013).

¹² Fair Work Building and Construction, *Annual Report 2011–12*, p. 30.

2.17 During the 2011–12 financial year, the *Coal Mining Industry (Long Service Leave) Legislation Amendment Act 2011* came into effect which implemented proposals made by an industry working party. These proposals reformed the portable long service leave arrangements in the black coal mining industry.¹³

2.18 The Board of the Corporation reported its expectation that the fund will record modest and sustainable investment returns in the long term and noted that the fund recorded a return on investment of assets of 4.35 per cent for the 2011–12 financial year.¹⁴ However, the report also notes that, over the financial years between 2008–2012, the annual average return has been 3.18 per cent with an average real rate of -0.79 per cent.¹⁵

2.19 The committee notes that this report does not include information on the corporation's environmental performance, disability strategy or its occupational health and safety strategy. In addition, certain requirements of the *Commonwealth Companies (Annual Reporting) Orders 2011* have also been omitted. These requirements include a glossary, information on the qualifications and experience of directors in the company and an index identifying where information required under the *Corporations Act 2001*, the *Commonwealth Authorities and Companies Act 1997* and the *Commonwealth Companies (Annual Reporting) Orders 2011*.

2.20 The committee notes that these omissions were raised by the committee in relation to the corporation's previous annual report.¹⁶ The committee suggests that the corporation should take action to address these shortcomings in the next report. It also notes that this report was tabled on 26 February 2013.

Comments made in the Senate

2.21 The committee is obliged, under Senate Standing Order 25(20)(d), to consider any remarks made about these reports in the Senate. The committee is satisfied that there were no such comments to include.

¹³ Coal Mining Industry (Long Service Leave Funding) Corporation, *Annual Report 2011–12*, p. 2.

¹⁴ Coal Mining Industry (Long Service Leave Funding) Corporation, *Annual Report 2011–12*, p. 7.

¹⁵ Coal Mining Industry (Long Service Leave Funding) Corporation, *Annual Report 2011–12*, p. 9.

¹⁶ Education, Employment and Workplace Relations Legislation Committee, *Annual Reports (No. 2 of 2012)*, September 2012, p. 8.

Bodies not presenting annual reports to the Senate

2.22 The committee is required to report to the Senate each year on whether there are any bodies not presenting annual reports to the Senate which should. The committee is satisfied that there are no such bodies at this time.

Senator Bridget McKenzie
Chair