

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Additional Estimates 2012-2013**

Outcome 4 - Workplace Relations and Economic Strategy

DEEWR Question No. EW0950_13

Senator Abetz asked on 13 February 2013, Hansard page 125

Question

**Article from Australian 30 October - Former Attorney-General says Fair Work
legislation flawed**

Senator ABETZ: Does the government agree with its former Attorney-General, who says that Fair Work Australia's investigation into alleged rorts at the Health Services Union was gripped by administrative paralysis and showed the need to reform legislation? Senator Jacinta Collins: Can you give me a reference for that quote? Senator ABETZ: Yes; the Australian of 30 October 2012. That is in the initial paragraph. I just wonder whether the government sees there is a need for change or whether it is happy with everything; and, if it is happy with everything, you are in disagreement with the former Attorney-General—and of course it is a right and proper thing for a government to be in disagreement with a former Attorney-General. I just want to know what is the case. Senator Jacinta Collins: I would have to see the context of the comments in that article, which is not before me at the moment. Therefore, I will take that on notice.

Answer

The Hon Bill Shorten MP, Minister for Education, Employment and Workplace Relations has provided the following response:

As I have stated previously, the Government has acknowledged that the investigations undertaken by the Fair Work Commission (FWC) into the Health Services Union (HSU) took too long.

In June 2012, the Government made a number of changes to the Fair Work (Registered Organisations) Act 2009 (RO Act) to improve transparency and accountability of registered organisations, including:

- requiring that the rules of all registered organisations deal with disclosure of remuneration, pecuniary and financial interests;
- tripling the civil penalties for breaches of the RO Act; and
- requiring education and training to be provided to officials of registered organisations about their governance and accounting obligations.

The Government also amended the RO Act to improve FWC investigations processes and enhance the investigative powers available to the FWC by:

- requiring FWC investigations to be completed as soon as practicable;
- requiring FWC follow up within 12 months where a contravention has been found;

- allowing FWC to delegate investigation functions to experts – such as those with experience or knowledge in auditing or forensic accounting;
- expressly permitting FWC to provide information to police and other regulatory agencies; and
- expanding the groups that the FWC can compel to provide information or evidence that is relevant to the investigation.

The Government also welcomed the inquiry by KPMG commissioned by FWC to review whether the investigations were appropriately conducted, whether FWC investigation procedures could be improved and whether the investigations considered all reasonable lines of inquiry. FWC has acted to implement the recommendations of the KPMG *Process Review of Fair Work Australia's Investigations into the Health Services Union*, which identified a number of deficiencies in the conduct of the investigation and made recommendations for improvements.

Importantly, I am advised by my Department that the KPMG report did not identify the need for any additional legislative amendments in light of the changes made by the Government to the *Fair Work (Registered Organisations) Act 2009* (RO Act) in June 2012 as set out above.

I understand that FWC is continuing to make progress in implementing the recommendations of the KPMG report. I have written to the General Manager requesting regular reports on the progress of measures she has taken to address issues identified by KPMG. Quarterly progress reports commenced on 28 September 2012 and a second report was received on 29 January 2013.