

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

**QUESTIONS ON NOTICE  
Budget Estimates 2011-2012**

**Agency - Fair Work Ombudsman**

**DEEWR Question No.EW0260\_12**

**Senator Abetz asked on 30/05/2011, Hansard page 50.**

**Question**

**Building Sector Investigations/Prosecutions**

Senator FISHER: ... In terms of the government's stated intent to crack down on sham contracting, what is the Fair Work Ombudsman doing to give them a 'cracker'?

...

Senator ABETZ: What about the building sector? Are you inquiring into that sector as well?

...

Mr Wilson: The arrangement we have with the Australian Building and Construction Commission is that matters relating to building industry participants within the meaning of that act are dealt with by the ABCC.

...

Senator ABETZ: What about previous prosecutions or investigations—I am not sure of the terminology—related to the building sector?

**Answer**

*The Fair Work Ombudsman provided the following response.*

The Fair Work Ombudsman has not conducted an audit campaign targeting sham contracting in the building industry. A small number of investigations over the last five years have involved employment arrangements incorrectly characterised as contracting arrangements.

The Fair Work Ombudsman and its predecessor agencies have undertaken two prosecutions in the building industry over the last five years relating to employment arrangements incorrectly characterised as contracting arrangements.

- In 2007 the the Workplace Ombudsman prosecuted BM Sydney Building materials for underpaying an 18 year old worker after engaging him as a contractor. The Workplace Ombudsman successfully argued that the worker should properly have been engaged as an employee.
- In 2008, a penalty of \$7,500 was awarded against Damien Richardson, a Victorian painter, for the underpayment of two employees who had been improperly classified as contractors.