

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2015 - 2016

Agency - Fair Work Commission

Department of Employment Question No. EMSQ15-000484

Senator McKenzie provided in writing

Question

FWC - Number of agreement approvals

In his presentation to the Australian Industry Group on 4 May, President Ross referred to the "Enterprise Agreements Pilot". This presentation stated that, "Staff prepare initial assessment for Gostencnik DP".

1. Is the consideration of enterprise agreement approvals now centralised or does it occur on a state by state basis – that is, do members of the commission in a particular review agreement approve applications made in that same state?
2. Who makes the decision on whether an agreement passes the better off overall tests – is it appointed members of the Commission or has that power also been delegated to staff?
3. Can you provide, for the six months before, and six months after, the pilot began:
 - a) a break-down of the number of agreement approval applications made in each location;
 - b) whether those agreement approval applications were dealt with and determined by a member from that same location;
 - c) If some were dealt with in other locations, the number that were dealt with by members from other States, and where the deciding member was.

Answer

1. *Is the consideration of enterprise agreement approvals now centralised or does it occur on a state by state basis – that is, do members of the commission in a particular review agreement [sic] approve applications made in that same state?*

As of 1 December 2015 an estimated 80 per cent of agreements are processed via the centralised triage process. The remaining agreements are allocated via the panel system.

The centralised model involves a preliminary analysis of enterprise agreements by a team of administrative staff who are specifically trained to assess compliance with each of the statutory approval requirements. Further information on the centralised model can be accessed at www.fwc.gov.au/about-us/news-and-events/update-2014-15-future-directions-pilot-programs.

2. *Who makes the decision on whether an agreement passes the better off overall tests – is it appointed members of the Commission or has that power also been delegated to staff?*

Staff do not have any delegation to decide whether or not an agreement passes the better off overall test.

A Commission Member, assisted by the analysis of an agreement undertaken by administrative staff, makes the decision as to whether or not the agreement is approved. As before, this involves the Member reaching a view as to whether or not he or she is satisfied that the agreement passes the better off overall test.

3. *Can you provide, for the six months before, and six months after, the pilot began:*

- a) *break-down of the number of agreement approval applications made in each location;*
- b) *whether those agreement approval applications were dealt with and determined by a member from that same location; and*
- c) *if some were dealt with in other locations, the number that were dealt with by members from other States, and where the deciding member was.*

Six months before the Pilot (April 2014 to 30 September 2014):

Location of application	Total applications	Location dealt with and determined in						% dealt and determined in location of application
		Adelaide	Brisbane	Canberra	Melbourne	Perth	Sydney	
Adelaide	128	110			10		8	86%
Brisbane	378	2	157		82		137	42%
Canberra	31			11	12		8	35%
Darwin	34	20			14			0%
Hobart	53				53			0%
Melbourne	617	5	4		509		99	82%
Newcastle	2						2	0%
Perth	284	6	1		130	109	38	38%
Sydney	470	3	2		49	1	415	88%
Total	1997	146	164	11	859	110	707	
% of total applications dealt with and determined in each location		7%	8%	1%	43%	6%	35%	

Six months after the Pilot began (October 2014 to 30 March 2015)

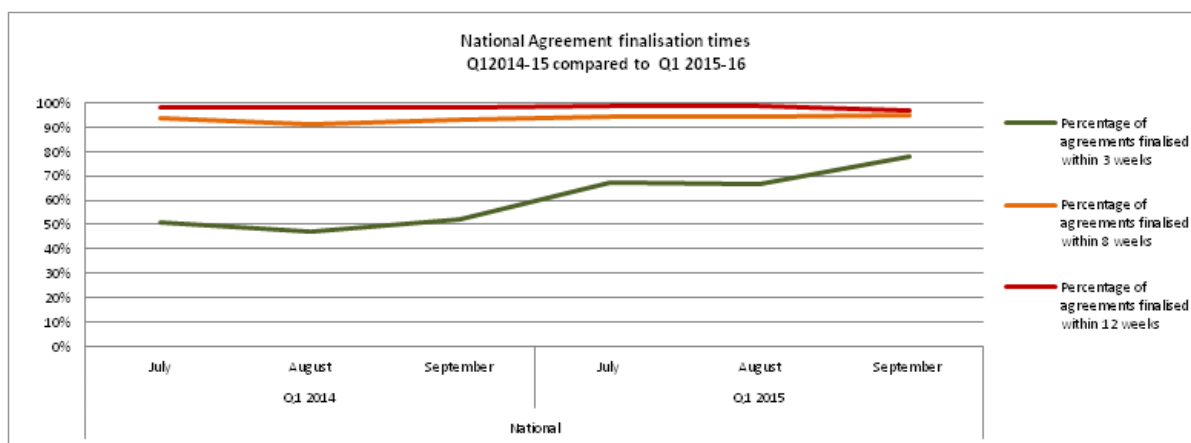
Location of application	Total applications	Location dealt with and determined in						% dealt and determined in location of application
		Adelaide	Brisbane	Canberra	Melbourne	Perth	Sydney	
Adelaide	174	129			10		35	74%
Brisbane	453		206		70		177	45%
Canberra	36				34		2	0%
Darwin	53	6	14		25	3	5	0%
Hobart	69	1			68			0%
Melbourne	866	1	5		756	1	103	87%
Newcastle	0							N/A
Perth	404	2			333	53	16	13%
Sydney	675	4	15		112	1	543	80%
Total	2730	143	240	0	1408	58	881	
% of total applications dealt & determined in each location		5%	9%	0%	52%	2%	32%	

The centralised model has significantly improved time taken to finalise enterprise agreement applications across all locations. The following graph and table provide a comparison of the percentage of agreement applications lodged across all locations that were finalised within three weeks, eight weeks and twelve weeks:

- in the first quarter of 2014–15 (prior to the commencement of the centralised triage process); and
- in the first quarter of 2015–16 (after the commencement of the centralised triage process)

The analysis indicates that, for example, in September 2014 (prior to the commencement of the centralised model), 51.9 per cent of agreement applications were finalised within three weeks. However, in July 2015 (after the commencement of the centralised model), 77.9 per cent of agreement applications were finalised within three weeks.

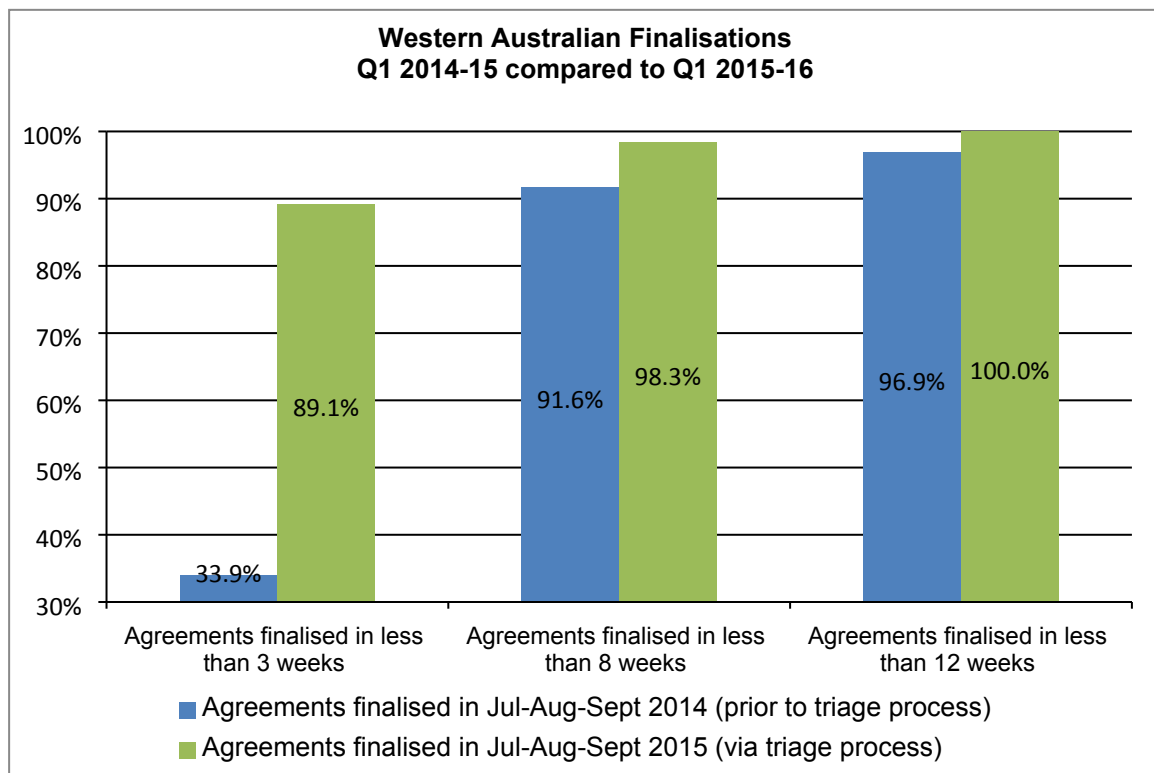
1.1 National Agreement finalisations



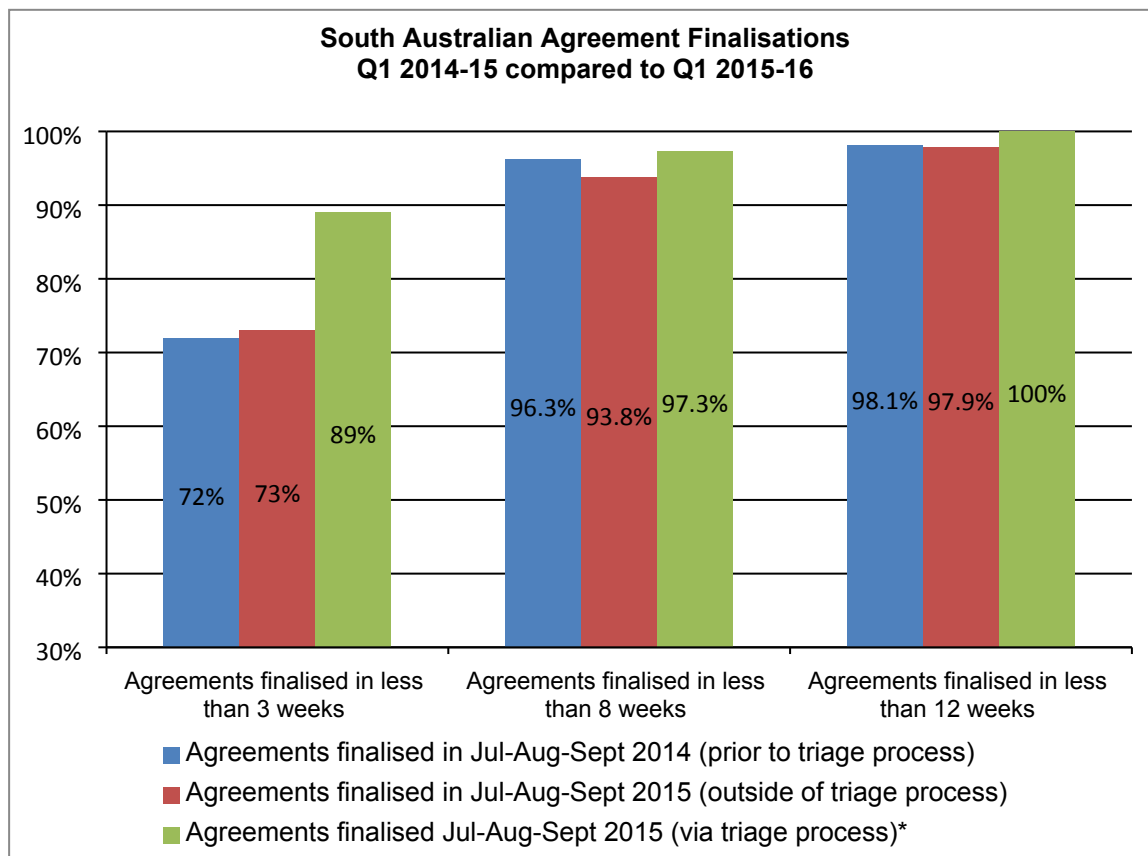
Month	Count	Median weeks lodgment to finalisation	Percentage of agreements finalised within 3 weeks	90th percentile	Percentage of agreements finalised within 8 weeks	Finalised within 3 weeks	Finalised between 3 and 8 weeks	Finalised between 8 and 12 weeks	Finalised in more than 12 weeks	Percentage of agreements finalised within 12 weeks	100th percentile
July 14	531	2.93	50.8%	7.23	93.4%	270	226	25	10	98.1%	21.23
Aug 14	476	3.15	47.3%	7.66	91.0%	225	208	34	9	98.1%	24.23
Sept 14	530	2.93	51.9%	7.34	93.0%	275	218	25	12	97.7%	22.24
July 15	505	2.21	67.3%	6.17	94.1%	340	135	24	6	98.8%	18.10
Aug 15	433	2.22	66.5%	6.35	94.0%	288	119	21	5	98.8%	18.25
Sept 15	443	1.67	77.9%	5.24	94.8%	345	75	9	14	96.8%	26.37

The national analysis provided above can be disaggregated so that information can be provided on a state-by-state basis for the same reporting period. For instance, the following graphs provide information on the timeliness outcomes for Western Australia and South Australia.

1.2 Western Australian agreement finalisations



1.3 South Australian agreement finalisations



*Approximately 43% of enterprise agreement applications in South Australia were dealt with via the centralised triage in the September quarter of 2015-16.

In both Western Australia and South Australia the graphs show that of the agreements finalised in the September 2015 quarter, approximately 90 per cent were finalised in less than 3 weeks via the triage process. This is a significant improvement on the September 2014 quarter figures.

In Western Australia a total of 192 agreements were finalised in the September 2014 quarter prior to the triage process being implemented, compared to 175 agreements being finalised in the September 2015 quarter via the triage process. It should be noted that all agreements lodged in Western Australia in the September 2015 quarter were dealt with via triage process.

In South Australia a total of 107 agreements were finalised in the September 2014 quarter prior to the triage process being implemented, compared to 86 agreements being finalised in the September 2015 quarter via the triage process. It should be noted that 37 of the 86 agreements lodged in South Australia in the September 2015 quarter were dealt with via triage process and the remaining 49 were allocated to Members through the panel system.

From 1 December 2015 an additional 24 industries were added to the triage process. This will result in an estimated 80 per cent of all agreement applications lodged with the Commission nationally being allocated to and finalised by Members via the triage process.