

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

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

Agency - Australian Building and Construction Commission

DEEWR Question No. EW0279_12

Senator Fisher asked on 30/05/2011, Hansard page 82.

Question

Maximum Penalty

Senator FISHER: But I am wanting as a reference point the Fair Work Act's, in general terms, maximum penalty of \$33,000. So in how many cases have courts or tribunals imposed a fine in excess of that? Mr Corney: I can provide you with some information in respect to percentages. To the particular question, we would have to take that on notice over the period. cont. pg 83 Senator FISHER: Okay. Could you, on notice, provide more detail? The number of cases in excess of, in your terminology, 'matters'; how many impositions of the fines there have been, noting that there might be more than one fine per matter; the quantum, obviously, so the extent to which it has exceed, if at all, the \$33,000; and for what? What was the nature of the matter concerned. Senator FISHER: What I am trying to identify is the extent to which what the courts have done would be influenced if the government persisted with provisions that were in the earlier bill to downgrade the maximum penalty available. Mr Johns: We will take it on notice and we will do our best.

Answer

The Office of the Australian Building and Construction Commissioner has provided the following response:

To date, in 16 proceedings courts in the Federal jurisdiction have imposed orders for penalties that are equal to or greater than 30% of the maximum under the *Building and Construction Industry Improvement Act 2005*.

Having regard to the principles applied by courts in relation to the assessment of civil penalties to be imposed, it is not possible to hypothesize about what would have been the penalty imposed by courts if the maximum penalties under the *Fair Work Act (2009)* had applied.