

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

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

Agency - Fair Work Australia

DEEWR Question No. EW0160_13

Senator Abetz asked on 28 May 2012 , Hansard page 30

Question

FWA - Section 337 of FW Act, false and misleading information

Senator ABETZ: So a person who gives false and misleading information to a Fair Work Australia investigation can have that false and misleading information used to show that he or she provided that false and misleading information? Ms Carruthers: I think the particular subsection you are referring to here is subsection 5 of section 337. Senator ABETZ: And? Does that or does that not— Ms Carruthers: It cannot be used against a person other than in proceedings arising out of paragraph (1)(b) or (c) of section 337. Ms O'Neill: It might be quicker if we took that on notice. Senator ABETZ: What a good idea.

Answer

Fair Work Australia has provided the following response:

Under section 337 of the *Fair Work (Registered Organisations) Act 2009* it is an offence for a person to refuse or fail to provide information or attend before the General Manager if a notice has been issued under subsection 335(2). It is also an offence for a person to provide information or knowingly or recklessly make a statement that is false or misleading.

Further, under subsection 337(4), a person is not excused from providing information on the ground that the information provided might incriminate the person or expose the person to a penalty.

However, subsection 337(5) provides that any information obtained by requiring a person to give information under subsection 335(2) is inadmissible against the person in criminal proceedings or civil proceedings, other than proceedings relating to the offence under paragraphs 337(1) (b) or (c).

It follows that, where potentially false or misleading information is given to Fair Work Australia in compliance with a notice that has been issued under subsection 335(2), such information is admissible in evidence against the person in proceedings under, or arising out of, paragraph 337(1) (b).