

Report on performance

Workplace Relations

2

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Outcome 2: Higher productivity, higher pay workplaces

Outcome 2 activities in the Department of Employment and Workplace Relations are directed towards encouraging employers and employees to adopt flexible and modern workplace relations practices. This allows workplaces to be productive and competitive and to offer employees secure jobs that are well paid.

Agreement making is at the centre of the workplace relations system, which is underpinned by a fair safety net and a compliance regime. The department contributes to Outcome 2 in the following ways:

- providing policy advice and legislation development services to government
- supporting employers and employees in adopting fair and flexible workplace relations practices, including helping employees and employers to
 - make use of the flexibilities available under the *Workplace Relations Act 1996*
 - understand their rights and obligations under the federal workplace relations system.

There were a number of changes to departmental outputs for Outcome 2 during 2005–06:

- In February the department announced changes whereby Output 2.2.4, Employee entitlements safety net schemes, was subsumed into Output 2.2.3, Workplace Relations Services. At the same time a new Output 2.2.4, Office of Workplace Services, was created.
- On 27 March the Office of Workplace Services was created as an executive agency and the performance measures were transferred to that agency from Output 2.2.4, Office of Workplace Services. For activities under this output see the annual report of the Office of Workplace Services.
- Output 2.2.5, Defence Force Remuneration Tribunal, then became Output 2.2.4, Defence Force Remuneration Tribunal, and Output 2.2.6, Secretariat to the Remuneration Tribunal, became Output 2.2.5, Secretariat to the Remuneration Tribunal.
- On 1 October, with the establishment of the Office of the Australian Building and Construction Commissioner, Output 2.2.7, Building Industry Taskforce, was abolished. For activities under this output see the annual report of the Office of the Australian Building and Construction Commissioner.
- Output 2.2.8, Office of the Australian Safety and Compensation Council, then became Output 2.2.6, Office of the Australian Safety and Compensation Council, and Output 2.2.9, Office of the Federal Safety Commissioner, became Output 2.2.7, Office of the Federal Safety Commissioner.

Highlights

- In 2005–06 Outcome 2 developed policy and legislation for the successful passage of the WorkChoices reforms, which
 - introduced significant progress towards a national workplace relations system, with a consequent reduction in the complexity inherent in six different systems
 - established the Australian Fair Pay Commission as an independent body to set and adjust minimum wages
 - for the first time in federal law, established a safety net of minimum conditions of employment—known as the Australian Fair Pay and Conditions Standard—that applies to all employees in the national system
 - placed greater emphasis on direct bargaining between employers and employees by replacing the certification and approval process for making agreements with a simpler, streamlined lodgment-only process
 - improved the regulation of industrial action while protecting the right to take lawful industrial action
 - strengthened provisions relating to freedom of association
 - retained a system of awards that will be simplified to ensure that the awards provide minimum safety net entitlements
 - repealed the unfair dismissal provisions for businesses with 100 employees or less
 - continued to protect employees from unlawful termination on grounds such as trade union membership, family responsibilities, pregnancy, gender, and temporary absence from work due to illness, regardless of the size of the business
 - introduced comprehensive transitional arrangements for employers and employees entering the new system and for unincorporated businesses that are not covered by the federal system
 - established the Office of Workplace Services as an executive agency to ensure that the rights and obligations of employees and employers under the Workplace Relations Act are understood and enforced.
- The Workplace Relations Regulations 2006 were developed; they repealed and replaced the Workplace Relations Regulations 1996 in order to support the amendments made by the WorkChoices legislation.
- The outcome established the Award Review Taskforce in October 2005 and assisted the Taskforce in its work. This included development of discussion papers on the rationalisation of awards and wage and classification structures, extensive consultations with stakeholders.
- The outcome supported the Australian Government’s information campaign leading up to the introduction into the Parliament of the WorkChoices legislative reforms in October 2005.

- New service delivery arrangements for workplace relations were implemented; this included establishment of a national contact centre network and knowledge system, an expanded workplace advisory service, a national communication and education strategy, new workplace relations programmes, and the Office of Workplace Services.
- The outcome intervened on behalf of the Australian Government in minimum wage cases before the Australian Industrial Relations Commission and state industrial tribunals to support consistency with the new minimum wage fixing arrangements under WorkChoices.
- Policy and legislation were developed for the Independent Contractors Bill 2006 and the Workplace Relations Legislation (Independent Contractors) Bill 2006, which support the freedom of independent contractors to enter into arrangements outside the framework of workplace relations laws by
 - excluding certain state and territory laws that deem some categories of independent contractors to be employees for the purposes of state or territory industrial relations legislation
 - providing a transitional scheme for workers deemed by state or territory laws to be employees
 - retaining existing state and federal protections relating to contract outworkers and for owner–drivers in the road transport industry
 - providing a fairer and more accessible contract review mechanism for independent contractors, with consistent national application
 - establishing, for genuine employees, strong protections from sham contracting arrangements.
- The constitution establishing the Australian Safety and Compensation Council was signed and the *Australian Workplace Safety Standards Act 2005* was enacted.
- The Australian Government’s Building and Construction Occupational Health and Safety Accreditation Scheme was developed and implemented. This included processing 130 applications and accrediting 33 head contractors for provisional accreditation for Stage 1, which applies to directly funded Australian government building and construction projects with an estimated cost of \$6 million.
- A review of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* began.
- The outcome continued to assess and advise the Minister on applications from private sector companies to self-insure in the workers compensation scheme provided by the Commonwealth under the *Safety, Rehabilitation and Compensation Act 1988*.
- A whole-of-government approach to management of the Commonwealth’s asbestos-related liabilities was implemented.

Key priorities

To achieve the department's labour market outcomes, key priorities for Outcome 2 in 2005–06 were as follows:

- develop a workplace relations reform and legislation package to implement the Australian Government's policy agenda
- support the work of the Award Review Taskforce
- intervene in test cases before courts and industrial tribunals to support the Government's workplace relations reforms—in particular, maintenance of a fair and effective wages and conditions safety net that facilitates agreement making at the workplace level
- engage strategically with the International Labour Organization to advance Australian policy interests
- improve employers' and employees' access to workplace information and advice through streamlining operations and innovative information technology applications
- develop strategies for promoting agreement-making choices to employers and employees
- pursue strategic interventions in court and tribunal cases to ensure that the objects of the *Workplace Relations Act 1996* are protected
- progress flexible workplace relations solutions to achieve balance between work and family demands
- promote workplace relations initiatives that respond to the emerging pressures of an ageing workforce
- strengthen the operational framework and stakeholder partnerships for the General Employee Entitlements and Redundancy Scheme
- promote safer workplaces through leadership and coordination of national efforts on workers compensation and occupational health and safety arrangements to deliver nationally consistent regulatory frameworks
- establish and support the Australian Safety and Compensation Council and its two working groups, the occupational health and safety working group and the workers compensation working group
- progress references from the Workplace Relations Ministers' Council to continue to achieve the targets set under the National Occupational Health and Safety Strategy and pursue matters relating to workers compensation—particularly in relation to psychological injury and the ageing workforce
- review and develop amendments to portfolio legislation on workers compensation and occupational health and safety
- implement a whole-of-government approach to management of the Commonwealth's asbestos-related liabilities
- continue to pursue reform in the building and construction industry to achieve proper regard for workplace relations and occupational health and safety law and promote improved health and safety practices.

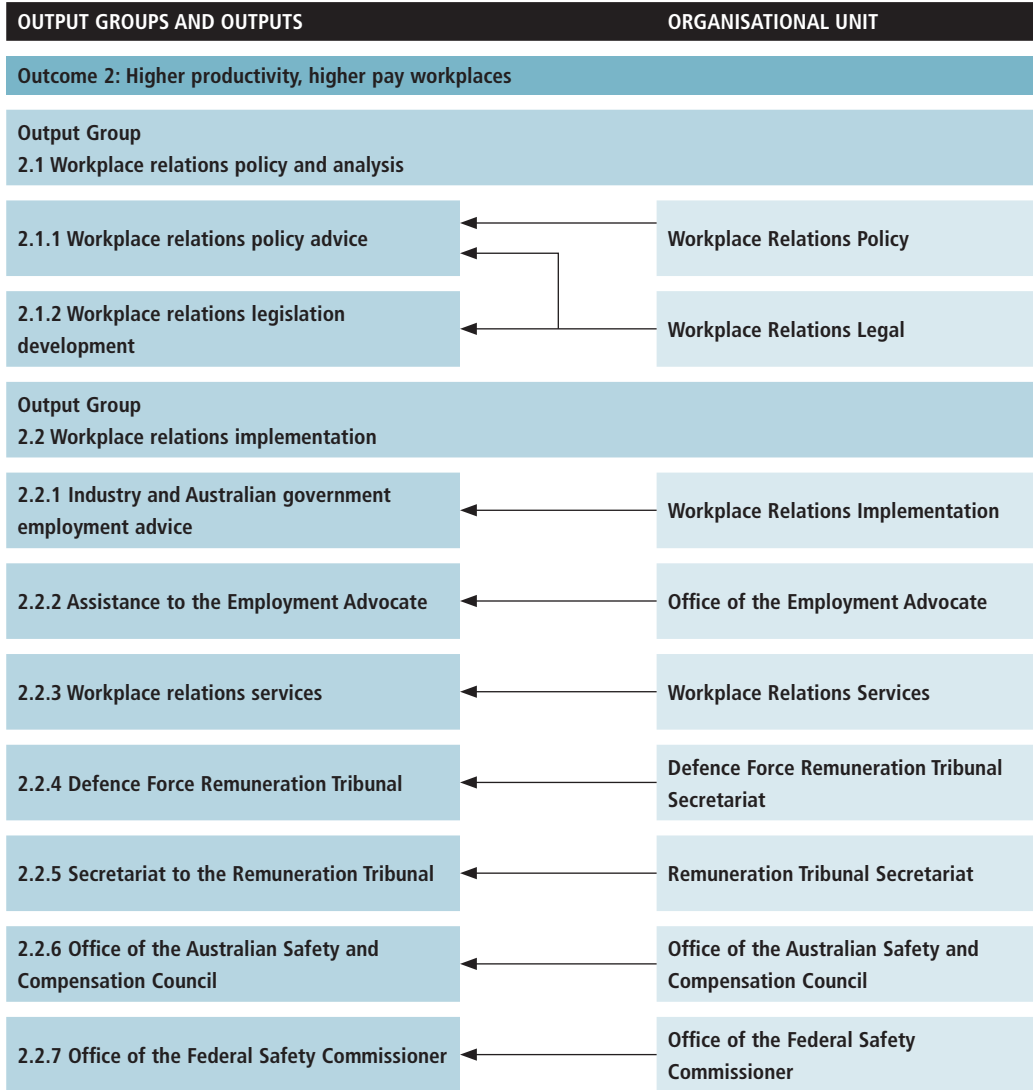
CHART 2.9

Organisational structure for Outcome 2, 30 June 2006

| | |
|--------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| Deputy Secretary Workplace Relations Finn Pratt | |
| Workplace Relations Policy Group Manager John Kovacic | Award Review Taskforce Secretariat Louise McSorley |
| | International Relations Linda Lipp |
| | Commonwealth Safety and Compensation Diane Merryfull |
| | Strategic Policy Brant Pridmore <i>A/g</i> |
| | Wages and Conditions Policy Malcolm Greening |
| Principal Advisor Ted Cole | |
| Workplace Relations Legal Chief Counsel Natalie James <i>A/g</i> | Legal Policy (1) David Bohn and David De Silva |
| | Legal Policy (2) Elen Perdikogiannis |
| | Legal Policy (3) Bob Bennett |
| | Legal Policy (4) Peter Cully |
| Workplace Relations Services Group Manager Jenet Connell | Employee Entitlements Jo Major |
| | Workplace Advice and Education George Brenan |
| | Workplace Programmes Stewart Thomas |
| | Remuneration Tribunal Secretariat Derren Gillespie |
| | Defence Force Remuneration Tribunal Secretariat Chris Wallace |
| Workplace Relations Implementation Group Manager Michael Maynard | Building Industry Stuart Watson |
| | Framework Compliance Brien Armstrong |
| | Industries Colette Shelley |
| | Public Sector Tulip Chaudhury |
| Office of the Australian Safety and Compensation Council Group Manager Sandra Parker | Information Services Amanda Grey |
| | National Occupational Health and Safety and Workers' Compensation Policy Flora Carapellucci |
| | Standards and International Drew Wagner |
| | Standards and Research Wayne Creaser |
| Office of the Federal Safety Commissioner Federal Safety Commissioner Tom Fisher | Office of the Federal Safety Commissioner Wayne Artuso |

CHART 2.10

Outcome 2, the interrelationship between the output groups, outputs and organisational units, 30 June 2006



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REPORT ON PERFORMANCE
Workplace Relations

TABLE 2.13**Outcome 2: financial and staffing resources summary, 2005–06 (\$'000)**

| OUTCOME 2 | Budget PBS (2005–06)^a | Additional Estimates and supplementary additional estimates (2005–06)^b | Other Adjustments (2005–06)^c | Estimated Actual (2005–06)^d | Actual expenses (2005–06) | Variation (2005–06) | Budget (2006–07) |
|----------------------------------------------------------------------|---------------------------------------------|------------------------------------------------------------------------------------------------------|----------------------------------------------------|---------------------------------------------------|--------------------------------------|--------------------------------|-----------------------------|
| | A | B | C | D = A + B + C | E | F = E - D | G |
| | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 |
| ADMINISTERED EXPENSES | | | | | | | |
| Workplace Reform—Secret Ballot | 1 600 | 0 | 0 | 1 600 | 0 | (1 600) | 1 600 |
| International Labour Organization Subscription | 6 153 | 132 | 0 | 6 285 | 6 278 | (7) | 6 186 |
| General Employee Entitlements and Redundancy Scheme (s20 FMA Act) | 68 124 | 2 044 | (20 355) | 49 813 | 49 243 | (570) | 85 446 |
| Special Employee Entitlements for Ansett Group Employees | 5 919 | 0 | 0 | 5 919 | 969 | (4 950) | 0 |
| Coal Mining Industry (LSI Funding) Act 1992 | 82 892 | 0 | (7 550) | 75 342 | 79 518 | 4 176 | 48 300 |
| Asbestos Claims | 14 682 | (13 782) | 0 | 900 | 469 | (431) | 0 |
| Unlawful Termination Assistance Scheme | | 2 699 | | 2 699 | 0 | (2 699) | 6 356 |
| Alternative Dispute Resolution Assistance Scheme | | 459 | | 459 | 0 | (459) | 1 874 |
| Total Administered expenses | 179 370 | (8 448) | (27 905) | 143 017 | 136 476 | (6 541) | 149 762 |
| PRICE OF DEPARTMENTAL OUTPUTS | | | | | | | |
| Output Group 2.1 Workplace relations policy and analysis | | | | | | | |
| Output 2.1.1—Workplace relations policy advice | 19 085 | 73 228 | (19 287) | 73 026 | 71 810 | (1 216) | 20 272 |
| Output 2.1.2—Workplace relations legislation development | 5 851 | 7 587 | (1 243) | 12 195 | 9 829 | (2 366) | 16 586 |
| Subtotal Output Group 2.1 | 24 936 | 80 816 | (20 531) | 85 221 | 81 639 | (3 582) | 36 858 |

TABLE 2.13 (CONTINUED)

Outcome 2: financial and staffing resources summary, 2005–06 (\$'000)

| OUTCOME 2 | Budget PBS (2005–06) ^a | Additional Estimates and supplementary additional estimates (2005–06) ^b | Other Adjustments (2005–06) ^c | Estimated Actual (2005–06) ^d | Actual expenses (2005–06) | Variation (2005–06) | Budget (2006–07) |
|-----------------------------------------------------------------------|--------------------------------------|---------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------------|------------------------------|------------------------|---------------------|
| | A | B | C | D = A + B + C | E | F = E - D | G |
| | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 | \$'000 |
| Output Group 2.2 Workplace relations implementation | | | | | | | |
| Output 2.2.1—Industry and Australian government employment advice | 9 041 | 1 892 | (326) | 10 607 | 10 437 | (170) | 12 317 |
| Output 2.2.2—Assistance to the Employment Advocate | 23 197 | 6 699 | 1 144 | 31 040 | 31 777 | 737 | 36 221 |
| Output 2.2.3—Workplace relations services | 21 087 | 12 470 | 15 456 | 49 013 | 52 410 | 3 397 | 45 853 |
| Output 2.2.4—Office of Workplace Services ^e | 0 | 13 151 | (7 642) | 5 509 | 5 508 | (1) | 0 |
| Output 2.2.5—Defence Force Remuneration Tribunal | 1 008 | 113 | 70 | 1 191 | 1 135 | (56) | 1 201 |
| Output 2.2.6—Secretariat to the Remuneration Tribunal | 1 666 | 186 | (138) | 1 714 | 1 668 | (46) | 1 711 |
| Output 2.2.7—Building Industry Taskforce ^f | 22 276 | (19 110) | (344) | 2 822 | 2 822 | (0) | 0 |
| Output 2.2.8—Office of the Australian Safety and Compensation Council | 18 187 | 1 999 | 82 | 20 268 | 20 369 | 101 | 20 545 |
| Output 2.2.9—Office of the Federal Safety Commissioner | 7 896 | 866 | (2 201) | 6 561 | 6 746 | 185 | 9 274 |
| Subtotal Output Group 2.2 | 104 358 | 18 265 | 6 102 | 128 725 | 132 871 | 4 146 | 127 122 |
| Total Departmental Expenses | 129 294 | 99 081 | (14 429) | 213 946 | 214 510 | 564 | 163 980 |
| Funded by: | | | | | | | |
| Revenue from government (appropriations) for departmental outputs | 140 131 | 73 815 | | 213 946 | 217 435 | 3 489 | 163 980 |
| Revenue from other sources | 7 286 | 1 940 | 4 036 | 13 262 | 15 116 | 1 854 | 12 893 |
| Total price of departmental outputs | 147 417 | 75 755 | 4 036 | 227 208 | 232 551 | 5 343 | 176 873 |
| Total for Outcome 2 | 315 950 | 92 573 | (38 298) | 370 225 | 366 102 | (4 123) | 326 635 |
| Average staffing level | 765 | 110 | 0 | 875 | 880 | 5 | 1 171 |

a Original 2005–06 budget estimate, as published in the 2005–06 Portfolio Budget Statements, refer to this document for further information on estimates.

b Additional estimates, as published in the 2005–06 Portfolio Additional Estimates, for further information on changes to estimates.

c Other adjustments include \$32 transfers to/from other agencies, adjustments to departmental expenses associated with internal restructuring and prioritisation of expenditure and adjustments to administered expenses as a result of actual experience.

d Estimated actual for 2005–06, as published in the 2006–07 Portfolio Budget Statements.

e This output was removed following the establishment of the Office of Workplace Services on 27 March 2006.

f This output was removed following the establishment of the Office of the Australian Building and Construction Commissioner on 1 October 2005.

The operating environment in 2005–06

The *Workplace Relations Amendment (Work Choices) Act 2005*, amending the *Workplace Relations Act 1996*, was passed by the Australian Parliament on 8 December 2005 and received royal assent on 14 December 2005. The bulk of the WorkChoices amendments commenced on 27 March 2006. Because the legislation has only recently come into force, it is not yet possible to assess the impact of the reforms on earnings and trends in working hours. The most recent data, from May 2004, show that 80 per cent of employees negotiated their wage-setting arrangements at the workplace level; this compares with just over 30 per cent in the early 1990s. The WorkChoices reforms aim to promote further agreement making at the workplace level.

Wages and earnings

Wages growth strengthened but remained contained in 2005–06. The Wage Price Index increased by 4.1 per cent (seasonally adjusted) in the year to the June quarter 2006, a slight decline (from 4.2 per cent) as occurred in the year to the June quarter 2005. In industry terms, the highest rates of increase in the Wage Price Index in the year to the June quarter 2006 were in electricity, gas and water supply (6.9 per cent), mining (5.9 per cent) and construction (5.5 per cent). These industries are currently experiencing a high labour demand.

Real wages—as measured by average non-farm compensation per employee from the Australian Bureau of Statistics *National Accounts* publication—increased by 1.6 per cent in the year to the June quarter 2006, down slightly from 1.8 per cent in the year to the June quarter 2005.

On commencement of the WorkChoices reforms, responsibility for setting minimum wages in the federal workplace relations system transferred to the Australian Fair Pay Commission, which will hand down its first decision in the spring of 2006.

Trends in working hours

The average working hours of full-time employees increased steadily from 39 hours a week in June 1985 to 43 hours a week in June 1994. The rate of increase in hours of work subsequently slowed: average hours per week for full-time employees stood at 40 in June 2006, down from 42 in June 2005. Employees in higher paying occupations—managers and administrators, professionals, associate professionals, and so on—tend to work longer hours on average.

Performance information: Outcome 2

TABLE 2.14

Performance measures: Outcome 2

| Impact | Performance indicator |
|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Higher pay and/or conditions through higher productivity | <p>The federal workplace relations system supports choice of agreement with higher pay, higher productivity outcomes</p> <p>Low incidence of industrial action</p> <p>The federal workplace relations framework is used by employers and employees</p> |

TABLE 2.15

Outcome effectiveness measures

| Performance indicator | Performance summary |
|-------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The federal workplace relations system supports choice of agreement with higher pay, higher productivity outcomes | <p>Annual growth in the Wage Price Index was 4.1 per cent to the June quarter 2006, a slight decline (from 4.2 per cent) as occurred in the year to the June quarter 2005 (seasonally adjusted)</p> <p>The most common measure of labour productivity—GDP per hour worked in the market sector—increased by 1.4 per cent in the year to the June quarter 2006, following a decrease of 1.4 per cent in the year to the June quarter 2005 (seasonally adjusted)</p> <p>At 30 June 2006 there were 14 383 current Collective Agreements, covering about 1.83 million employees and providing an average annualised wage increase of 4.1 per cent. This compares with 16 549 current Collective Agreements at 30 June 2005, covering about 1.74 million employees and providing an average annualised wage increase of 4.0 per cent</p> <p>The lower number of federal agreements as at 30 June 2006 is a consequence of the expiry of significant numbers of agreements during the reporting year, particularly in the building and construction industry. This reflects the cyclical nature of bargaining. It is expected that most of the expiring agreements will be replaced with new agreements. It is worth noting that the employee coverage of agreements remains high and in fact rose considerably during the reporting period</p> |
| Low incidence of industrial action | <p>In 2005–06 the rate of industrial disputation in Australia was a record low 22 working days lost per thousand employees. This welcome result confirms the general trend towards lower national rates of industrial disputation under the Workplace Relations Act. In contrast, the average annual rate of industrial disputation for the 1985–86 and 1990–91 period, before the introduction of enterprise bargaining was 224 working days lost per thousand employees (see Chart 2.11)</p> |
| The federal workplace relations framework is used by employers and employees | <p>The most recent Australian Bureau of Statistics data show that the proportion of the workforce whose pay was set by workplace agreements stood at 80.0 per cent in May 2004, up from 79.5 per cent in May 2002. Next release December 2006.</p> |

Performance results

Federal Collective Agreements

The new WorkChoices legislation came into effect on 27 March 2006. During 2005–06 the number of collective agreements lodged with the Office of the Employment Advocate had grown steadily; by the end of June 2006 there were 657 such agreements.

During that part of the reporting period preceding the introduction of WorkChoices, the number of current federal Certified Agreements—that is, collective agreements under the pre-WorkChoices system—reached an all-time high of 17 181 at the end of September 2005. The number of employees covered by these agreements also grew, reaching a record estimated 1.8 million at the end of December 2005. This estimate does not include employees covered by agreements that have expired but have not been replaced or terminated. The Australian Bureau of Statistics Employee Earnings and Hours Survey found that 1.9 million employees had had their pay determined by a federal Certified Agreement at May 2004. An ABS update is due out in late 2006.

The proportion of current agreements made directly with employees increased under both the pre-WorkChoices regime and the WorkChoices system. From 1 July 2005 until immediately before the introduction of WorkChoices on 27 March 2006, these agreements accounted for 21 per cent of all agreements, compared with 19.0 per cent for 2004–05. Under WorkChoices, these agreements accounted for 47 per cent of all collective agreements lodged to the end of June 2006, covering 17 per cent of employees covered by collective agreements.

Australian Workplace Agreements

The passage of the *Workplace Relations Amendment (Work Choices) Act 2005* resulted in important changes to individual agreement making from 27 March 2006. Although Australian Workplace Agreements (AWAs) must still be lodged with the Office of the Employment Advocate, they are no longer subject to the no-disadvantage test and do not require the approval of the Employment Advocate.

Just over 179 300 pre-WorkChoices AWAs were approved in 2005–06. In the period up to the introduction of WorkChoices on 27 March 2006, AWA approvals were up 1.4 per cent on the same period a year earlier. The total number of AWAs approved since 1997 now exceeds 888 000.

In the period between 27 March and 30 June 2006, the Office of the Employment Advocate recorded the lodgement of 41 230 AWAs. Together with AWAs approved pre-WorkChoices, a total of 220 000 AWAs came into effect during 2005–06; this was an increase of 7 per cent on 2004–05.

Combining pre- and post-WorkChoices data on AWAs, the top five industries for AWAs in 2005–06 were:

- 1 Retail
- 2 Accommodation, cafes and restaurants
- 3 Property and business services
- 4 Manufacturing
- 5 Mining.

Other than manufacturing (down 2 per cent), each of these industries experienced AWA growth on the previous year; retail (up 20 per cent), accommodation, cafes and restaurants (up 10 per cent), property and business services (up 14 per cent), and mining (up 11 per cent).

Western Australia, Victoria and New South Wales accounted for 69 per cent of the total number of AWAs which came into effect during the year.

Small businesses (those employing less than 100 people) accounted for 48 per cent of all AWAs which came into effect during the year; this was an increase on the 41 per cent recorded in 2004–05.

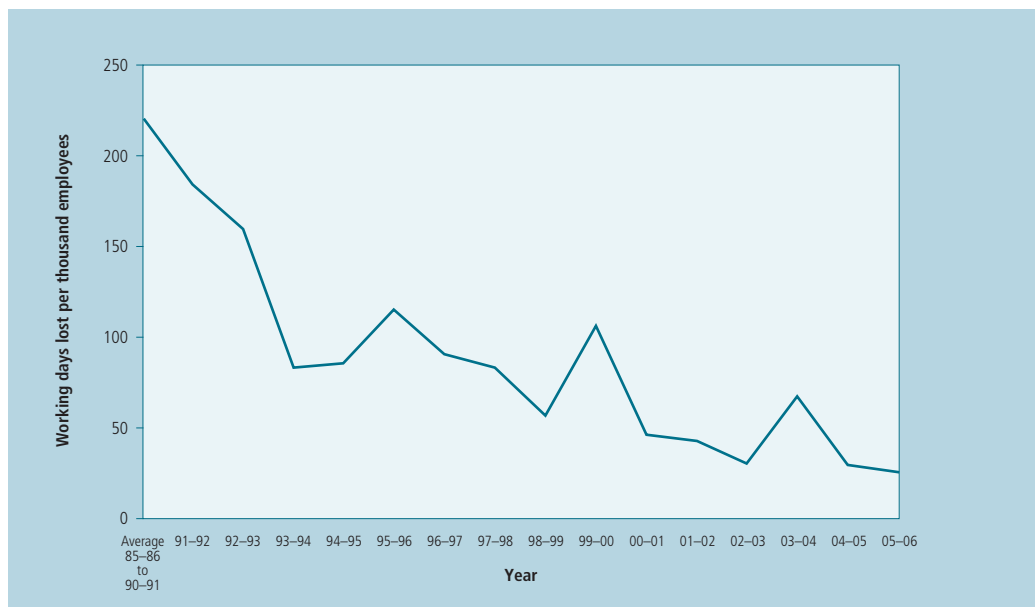
Industrial dispute

In 2005–06 the rate of industrial dispute in Australia was a record low 22 working days lost per thousand employees. This welcome result confirms the general trend towards lower national rates of industrial dispute under the Workplace Relations Act: between 1997–98 and 2005–06 the average annual rate of industrial dispute was 53 working days lost per thousand employees, whereas between 1985–86 and 1990–91, before the introduction of enterprise bargaining, the figure was 224.

The record low dispute rate recorded for 2005–06 follows the introduction of the *Building and Construction Industry Improvement Act 2005* and the appointment of the Australian Building and Construction Commissioner in early 2006. In addition, as noted, the Australian Government's WorkChoices reforms came into effect on 27 March 2006.

CHART 2.11

Industrial disputation, 1985–86 to 2005–06



Output Group 2.1: Workplace relations policy and analysis

The outputs in Output Group 2.1 are information based and contribute to higher productivity, higher pay workplaces through the provision of policy advice, research, evaluation, information, education and communication.

Contribution to Outcome 2

Output Group 2.1 contributes to Outcome 2 by providing timely policy advice on the development and operation of a more flexible legislative framework. A flexible legislative framework allows employers and employees to develop workplace agreements that increase productivity through flexible working arrangements.

Administered items

Two administered items are associated with Output Group 2.1:

- International Labour Organization subscription
- Asbestos Claims (transferred to Comcare in October 2005).

Note: Administered item Workplace Reform—Secret Ballots was transferred to Output Group 2.2 in the second half of the reporting year

Output 2.1.1: Workplace relations policy advice

Outputs 2.1.1 and 2.1.2 contribute to Outcome 2 in the following ways:

- **policy analysis and provision of advice on the Australian Government’s workplace relations reforms with a view to achieving higher productivity, higher pay workplaces**
- **development of workplace relations arrangements that encourage agreement making and facilitate flexible work practices underpinned by a genuine minimum safety net of wages and conditions**
- **strategic engagement with the International Labour Organization to advance Australia’s interests**
- **interventions in the public interest on behalf of the Australian Government in cases before federal and state and territory courts and industrial tribunals, including the Australian Industrial Relations Commission’s safety net review of wages and state wage cases**
- **support for the effective operation of portfolio agencies, tribunals and advisory bodies**
- **support for the work of the Award Review Taskforce.**

Highlights

- The policy parameters for the Government’s workplace relations reforms and supporting materials for the passage of WorkChoices through the Parliament were developed; this included preparation of policy advice for parliamentary debates and the Senate inquiry into the legislation.
- The policy parameters for the Independent Contractors Bill 2006 and the Workplace Relations Legislation (Independent Contractors) Bill 2006 were developed and the Government’s policy interests in relation to independent contracting were represented during the development of a Recommendation on the Employment Relationship at the 2006 International Labour Conference.
- Engagement with the International Labour Organization increased following June 2005, when Australia was elected to the ILO Governing Body for the 2005 to 2008 triennium. The Minister attended the June 2006 International Labour Conference and addressed the delegates in the plenary session. A new International Relations Branch was established in the Workplace Relations Policy Group to facilitate a coordinated departmental approach to international matters.
- The department intervened in the Australian Industrial Relations Commission’s Safety Net Review proceedings, advocating a deferral of proceedings until after the Australian Fair Pay Commission had made its first wage determination. It subsequently intervened in all state wage cases, advocating a similar approach.
- The department administered the 2005 National Work and Family Awards, which were presented by Minister Andrews in November 2005.

- Administrative support was provided for the Government’s \$2 million Workplace Dispute Settlement Pilot Programme for Victorian small businesses.
- The work of the Award Review Taskforce was supported.
- A review of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* began.
- Work continued on legislative amendments designed to provide improved workers compensation benefits to certain Australian Federal Police members deployed in high-risk overseas missions.
- The department continued to assess and advise the Minister on applications from private sector companies to self-insure in the workers compensation scheme provided by the Commonwealth under the *Safety, Rehabilitation and Compensation Act 1988*.
- A whole-of-government approach to management of the Commonwealth’s asbestos-related liabilities was implemented.

Performance results

TABLE 2.16

Performance indicators and actual performance:
Output 2.1.1, Workplace relations policy advice

| Performance indicator | Target | Result |
|-----------------------------------------------------------------------|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister with policy advice ^a | Effective or above | 359 briefs submitted, with an average rating of 4.3 (target met) |
| Price | \$73.439m | \$72.379m (1.44% below budget) |
| Administered funds | | |
| International Labour Organization subscription | | |
| Asbestos Claims (transferred to Comcare in October 2005) | \$6.285m | \$6.278m (0.11% below budget) |
| | \$0.900m | \$0.469m (47.90% below budget) This function was transferred from DEWR to Comcare in October 2005. There were a number of cross claims (refunds to DEWR) made throughout the year and this lead to an underspend of \$0.431m |

^a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).

Commentary

Policy advice

During 2005–06 the Workplace Relations Policy Group, together with the Workplace Relations Legal Group, provided policy advice to support the Government’s workplace relations reforms, including advice on the following:

- the most comprehensive review of the federal workplace relations laws undertaken through the WorkChoices reforms
- legislation to recognise the unique position of independent contractors in the Australian workplace and the economy
- the intersection between workplace relations law and other legislation such as corporations and trade practices laws
- wages developments and trends—including the ACTU’s Safety Net Wage Claim and state wage developments
- consultations with industry stakeholders and ministerial meetings—including secretariat arrangements for meetings of the Workplace Relations Ministers’ Council and the National Workplace Relations Consultative Committee
- governance arrangements for portfolio agencies that support the workplace relations framework—including the Equal Opportunity for Women in the Workplace agency, the Australian Industrial Relations Commission and the Australian Industrial Registry
- a pilot mediation programme for Victorian small businesses as an alternative to proceedings in the Australian Industrial Relations Commission.

Commonwealth safety and compensation policy

The department’s work in relation to Commonwealth occupational health and safety and workers compensation involved providing policy advice to the Government, including in relation to the following:

- recommendations of an independent review of aspects of the structure, governance and delivery of workers compensation and occupational health and safety by the Seacare Scheme—the *Seafarers Rehabilitation and Compensation Act 1992*, the *Occupational Health and Safety (Maritime Industry) Act 1993* and related Acts
- proposals to improve the efficiency and effectiveness of Commonwealth workers compensation and to implement the Australian Government’s response to the Productivity Commission report on national workers compensation and occupational health and safety frameworks. The proposals were designed to increase national consistency in relation to eligibility for workers compensation
- liaising, where necessary, with Comcare in relation to its management of the Commonwealth’s asbestos-related litigation

- a review of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* to determine its effectiveness in preventing workplace injuries and its ability to meet the needs of employers and employees at the enterprise level
- amending the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 to incorporate the National Occupational Health and Safety Commission's National Standard for Dangerous Goods
- progressing a ban on the importation of in situ asbestos goods through amendments to the Customs (Prohibited Imports) Regulations 1956—to complement existing national restrictions on use
- providing support to the Employer Commissioner of the Safety, Rehabilitation and Compensation Commission and to the department's representative on the Australian Safety and Compensation Council in respect of occupational health and safety policy
- applications for declarations of eligibility for private-sector companies to self-insure in the workers compensation scheme provided by the Commonwealth under the *Safety, Rehabilitation and Compensation Act 1988*. Three private sector companies were declared eligible to self-insure—K&S Freighters Pty Ltd, Linfox Armaguard Pty Ltd, and Linfox Australia Pty Ltd.

The International Labour Organization

The department continued its policy work to manage the Government's relationship with the International Labour Organization. Reports on the following subjects were prepared and provided to the ILO under Article 22 of the ILO's Constitution:

- application of eight ratified conventions concerning various topics
- a new ILO recommendation relating to human resources development—submitted to Parliament in November 2005.

The department also organised and carried out consultations on ILO matters with the Australian Chamber of Commerce and Industry and the Australian Council of Trade Unions in March 2006 and between government, employer and worker representatives from New Zealand and Australia in May 2006.

In addition, the department was represented at the November 2005 and March 2006 meetings of the ILO Governing Body in Geneva and the 95th session of the International Labour Conference in June 2006. Minister Andrews also attended the conference and addressed delegates in the plenary session. One of the main aims of his attendance was to promote the Australian Government's recent workplace relations and labour market reforms. The Minister met with the Director-General of the ILO and bilaterally with his ministerial counterparts in regional countries. In accordance with the provisions of the ILO Constitution, the department also funded the attendance of two employer and two worker representatives.

Further, the department did the following during 2005–06:

- participated in the second discussion about a new convention and recommendation for the promotion of occupational health and safety
- participated in the discussion about a proposed new recommendation on the employment relationship
- contributed to a general discussion of the role of the ILO in technical cooperation
- represented Australia in the Conference Committee on the Application of Standards concerning compliance in relation to Convention No. 87, Freedom of Association and Protection of the Right to Organise 1948, and Convention No. 98, Right to Organise and Collective Bargaining 1949.

An extraordinary (Maritime) session of the International Labour Conference was held in Geneva during February 2006. A delegation of representatives of DEWR, the Department of Transport and Regional Services and the Australian Maritime Safety Authority attended as government representatives. In accordance with the provisions of the ILO Constitution, DEWR also funded the attendance of one employer and one worker representative. The purpose of the session was to discuss the possibility of adopting a single maritime labour convention to replace almost all ILO maritime labour conventions that have been adopted since 1920. The consolidated instrument finalised by the conference received almost unanimous support and was adopted.

Australia is the 13th largest contributor to the ILO, with an assessed contribution of 5.9 million Swiss francs (A\$6.1 million) for 2006. Appendix 11 provides more information on ILO matters.

Management of international affairs

To facilitate a coordinated departmental approach on international affairs, in February 2006 the department created a new International Relations Branch in the Workplace Relations Policy Group. The department has also created the position of Senior Labour Counsellor attached to Australia's permanent mission to the United Nations in Geneva; the position is to be taken up in August 2006. These measures reflect the department's increased involvement in international activities and with the ILO and the benefits of a more coordinated approach to international affairs.

The Australian Industrial Relations Commission and court interventions

THE ACTU'S SAFETY NET CLAIM

On 21 September 2005 the ACTU filed with the Australian Industrial Relations Commission applications for a 4 per cent safety net increase in award wages. The claim was heard before a Full Bench of the commission on 16 November 2005 and 19 December 2005. The Commonwealth sought to have the hearing deferred until after the first determination of the Australian Fair Pay Commission in the spring of 2006, submitting that deferring the hearing was consistent with the commission's legislative obligations under Schedule 13 of the *Workplace Relations Act 1996*.

On 21 December 2005 the Full Bench of the commission issued its decision, favouring the Commonwealth's position that proceedings should be adjourned until after the Fair Pay Commission had made its first wage determination. The decision recognised that the Fair Pay Commission is now the primary body responsible for the fixing of minimum wages for employees covered by the federal workplace relations system.

STATE WAGE CASES

In late 2005 unions made applications in state industrial relations tribunals seeking an across-the-board 4 per cent increase in minimum wages in New South Wales, Queensland, South Australia, Western Australia and Tasmania. The Australian Government was of the opinion that state tribunals should maintain their practice of consistency with minimum rate adjustments in the national system and await the decision of the Fair Pay Commission before deciding on minimum wage adjustments in their own jurisdiction. Because of this, the Commonwealth sought to participate in the cases and have the state tribunals defer hearing the union applications. All state tribunals decided to proceed with their respective cases. The Commonwealth then sought to participate in the proceedings of the state cases, to seek deferral of the decisions until after the Fair Pay Commission's determination in the spring of 2006. The Commonwealth was granted leave to be heard in all cases, although it withdrew from the New South Wales case on 5 June 2006.

On 26 June 2006 the New South Wales Industrial Relations Commission and the Western Australian Industrial Relations Commission both ruled to increase award wages by \$20.

APPEAL AGAINST THE *DISABILITY WAGES CASE* DECISION

On 9 September 2005 the Disability Employment Action Centre lodged a notice of appeal against the decision of the Australian Industrial Relations Commission to vary the key federal award for employees with disability in Business Services (formerly sheltered workshops). The variation endorsed and implemented a significant agreement between unions and employers to introduce pro rata award wages for these employees and was supported by the Australian Government. The department briefed the Minister's representative in preparation for the appeal hearing, but the Disability Employment Action Centre withdrew its appeal on 22 November 2005.

THE BUILDING AND CONSTRUCTION INDUSTRY *APPRENTICE CASE*

On 25 November 2005 the Australian Government intervened in Australian Industrial Relations Commission proceedings before a Full Bench concerning a claim by the Construction, Forestry, Mining and Energy Union about wages and other provisions for apprentices and trainees under the National Building and Construction Industry Award 2000. The Government submitted that the case should be adjourned until the Australian Fair Pay Commission had made its first decision, so that regard could be had to that commission's determinations.

On 7 December 2005 the Industrial Relations Commission decided to adjourn the proceedings until the passage of the WorkChoices legislation and to refer the specific matter of wage rates

for adult apprentices to a single commissioner for additional conciliation. To date, the case has not progressed further before the Full Bench.

Workplace flexibility

REVIEW OF TELEWORK

In 2005 the Department of Employment and Workplace Relations co-chaired the Australian Telework Advisory Committee in partnership with the Department of Communications, Information Technology and the Arts. The committee was established to review the question of telework in Australia, including advising government on options for and impediments to the development of telework for employees and businesses. For the purposes of the committee, ‘telework’ was defined as a flexible working practice enabled by information and communication technology that allows work to be carried out away from the main worksite—in the home, for example.

The committee was engaged in an extensive review process throughout 2005, receiving written submissions and holding public consultations. It presented its report, *Telework for Australian Employees and Businesses—maximising the economic and social benefits of flexible working practices*, to government in February 2006. The report is available at <www.workplace.gov.au/WorkFamily>.

THE NATIONAL WORK AND FAMILY AWARDS

The department is a major partner in the Australian Chamber of Commerce and Industry—Business Council of Australia National Work and Family Awards, which provide important public recognition to businesses that lead the field in promoting greater balance between work and family.

In November 2005 the Minister for Employment and Workplace Relations presented the 12th National Work and Family Awards at a special event in Sydney. The award finalists provided outstanding examples of how best-practice family-friendly arrangements can be facilitated in the workplace. Their achievements are highlighted in the publication *Winning Workplaces 2005*, which is available at <www.workplace.gov.au/WorkFamily>.

THE WORKPLACE FLEXIBILITY INDUSTRY PROJECTS

The Workplace Flexibility Industry projects are part of the Employer Demand element of the Welfare to Work changes. They complement welfare reform policies by increasing opportunities for parents, mature age workers, people with disability and the long-term unemployed to gain flexible employment that suits their needs and allows them to balance paid work with priorities such as caring responsibilities. The projects are designed to increase employers’ awareness of the benefits of flexible working arrangements and so encourage the arrangements’ spread across workplaces in targeted industries. Two projects were undertaken in 2005–06, focusing on the retail industry and the restaurant and catering industry. These

industries offer scope for growth in part-time and flexible employment opportunities, are large employers of women, and employ people in geographically diverse areas.

THE RETAIL INDUSTRY PROJECT

The Minister for Employment and Workplace Relations launched the new *Flexibility Works—assisting workplace flexibility in retail* website at the 2006 National Retail Association Business Congress in Sydney in May 2006. The website is a resource for retailers seeking assistance with the development of strategies to implement and manage flexible working arrangements. It features practical guidelines and tools to help retailers implement, manage and evaluate flexible working arrangements in their business.

The new site <www.flexibilityworks.dewr.gov.au>, which has information and guidelines about improving flexibility in the workplace, would be of particular interest to retail business owners, managers and human resources practitioners.

THE RESTAURANT AND CATERING INDUSTRY PROJECT

The restaurant and catering industry project centres around case studies highlighting examples of real-life flexible working arrangements in the industry and the business benefits employers have experienced as a result. Supported by Restaurant and Catering Australia, the project involved site visits to employers to identify flexible working arrangements in operation and the business benefits of working flexibly. Interviews were conducted with both employers and employees. The resulting publication, to be launched later in 2006, will highlight a number of employers who have introduced flexible work practices and will be distributed to employers in the restaurant and catering industry to further encourage the spread of flexible working arrangements.

The Award Review Taskforce

The Award Review Taskforce was established to examine and report to the Minister for Employment and Workplace Relations on two separate but related projects—the rationalisation of federal awards and the rationalisation of award wage and classification structures. The taskforce is chaired by Matthew O’Callaghan, a Senior Deputy President of the Australian Industrial Relations Commission. The chairperson is supported by a Reference Group comprising representatives with technical expertise in award and classification matters; the members of the group are Peter Costantini, Andrew Herbert, Greg John, Tony Slevin, Warren Stooke and Nick Wilson.

On 19 December 2005 the taskforce released discussion papers on the rationalisation of awards and the rationalisation of wage and classification structures. It received submissions from 94 parties and held consultations in Sydney, Perth, Melbourne, Adelaide, Canberra, Newcastle and Hobart.

Consistent with its terms of reference, on 1 May 2006 the taskforce provided to Minister interim reports on award rationalisation and wage classification structures.

Employee share ownership

In order to promote more direct relations between employees and employers, the department continued to promote employee share ownership through educational and promotional activities at the workplace level. Australian Bureau of Statistics data released in March 2005 showed an increase in the number of Australian employees participating in employee share schemes, from 5.5 per cent in 1999 to 5.9 per cent in 2004.

2

Output 2.1.2: Workplace relations legislation development

Output 2.1.2 contributes to Outcome 2 in three main ways:

- managing the development of workplace relations, workers compensation and occupational health and safety legislation, including identifying legal approaches and issuing drafting instructions
- providing legislative support to the Minister during parliamentary debates and inquiries into legislation
- providing support to the Minister in relation to appointments of office holders to portfolio agencies, tribunals and advisory bodies.

Highlights

- The WorkChoices legislation, which provides for major reform to workplace relations in Australia, was developed and legal advice was provided in relation to its passage through Parliament.
- The Workplace Relations Regulations 2006 were developed to support the amendments made by the WorkChoices legislation.
- The Independent Contractors Bill 2006 and the Workplace Relations Legislation (Independent Contractors) Bill 2006 were developed and introduced into the Parliament on 22 June 2006.
- Legal advice on information materials to support implementation of the WorkChoices and independent contractors legislation was provided.
- Legal advice was provided on a range of workers compensation and occupational health and safety matters, legislation relating to occupational health and safety and workers compensation was developed, and its introduction by the Minister was facilitated.
- Legal support was provided for Commonwealth interventions in a range of tribunal and court proceedings concerning provisions of the Workplace Relations Act; this included the High Court constitutional challenge to the validity of the *Workplace Relations Amendment (Work Choices) Act 2005*.
- The department met the 31 December 2005 deadline under the *Legislative Instruments Act 2003* for the lodging of instruments on the Federal Register of Legislative Instruments made between 1 January 2000 and 31 December 2004. The deadline was subsequently extended to 30 September 2006.

Performance results

TABLE 2.17

Performance indicators and actual performance: Output 2.1.2, Workplace relations legislation development

| Performance indicator | Target | Result |
|---------------------------------------------------------------------------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister with legislation development ^a | Effective or above | 222 briefs submitted, with an average rating of 4.8 (target met) |
| Price | \$12.335m | \$10.020m (18.77% below budget) The underspend came about because the degree of litigation arising out of the workplace relations reforms in which the Commonwealth became involved was less than estimated in the reporting period |

a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).

Commentary

Legal policy advice

During 2005–06 the Workplace Relations Legal Group provided legal and legal policy advice on a variety of workplace relations matters. Among the topics dealt with were the following:

- clearance of new supporting guidance for policy parameters for Australian Public Service agreement making and new guidelines for the administration of the National Code of Practice for the Construction Industry
- administration of the Alternative Dispute Resolution Assistance Scheme and the Unlawful Termination Assistance Scheme
- monitoring workplace relations developments in other jurisdictions—including new laws and the decisions of state and territory tribunals and courts.

The WorkChoices legislation

The primary focus of the Workplace Relations Legal Group during the reporting period was facilitating the Australian Government's workplace relations legislative reforms through the development of the WorkChoices legislation. This included not only development of the Bill itself but also development of the necessary Regulations and provision of legal and policy advice in relation to implementation and interpretation of the legislation.

Although the Workplace Relations Services Group had primary responsibility for communications and advisory services associated with implementation of the WorkChoices legislation, the Workplace Relations Legal Group also committed significant resources (including a senior executive service coordinator) to the implementation phase of WorkChoices.

The group provided legal advice about the following:

- the content of information about the new legislation being used to train staff members
- for WorkChoices, information sessions and scripts and fact sheets on key subjects for Infoline operators
- the operation of the Workplace Relations Act and Regulations referred to by the WorkChoices Infoline
- material developed under the Employer Advisor Programme.

The group also supported the Commonwealth in the constitutional challenge to the validity of the legislation brought by the states and territories in *State of New South Wales & Ors v Commonwealth*—known as the Workplace Relations Challenge.

REGULATIONS

During the reporting year the Workplace Relations Legal Group was responsible for developing regulations in relation to the amendments made by the *Workplace Relations Amendment (Work Choices) Act 2006*. The principal Regulations were the Workplace Relations Regulations 2006, which commenced on 27 March 2006. These Regulations repealed and replaced the Workplace Relations Regulations 1996 to accommodate the amendments made by the WorkChoices legislation. Some of the Regulations replicate, with appropriate amendments, provisions in the repealed Workplace Relations Regulations 1996. The key Regulations deal with the following:

- prohibited content for the purposes of workplace agreements
- procedures for secret ballots on protected action
- the operation of the more favourable outcome and the more generous test under the Australian Fair Pay and Conditions Standard
- the making, retention and inspection of infringement notices issuable by workplace inspectors in certain circumstances
- other machinery and transitional provisions and provisions necessary for the effective operation of the *Workplace Relations Act 1996*, as amended by the WorkChoices legislation—such as how to deal with matters that were part-heard when the main WorkChoices reforms commenced.

The following Regulations also commenced on 27 March 2006:

- the Workplace Relations (Registration and Accountability of Organisations) Amendment Regulations 2006 (No. 1), which amended the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003 to accommodate the amendments made by the WorkChoices legislation and to provide a process to enable the Australian Industrial Relations Commission to convert representation orders made in state systems to orders under the federal system
- the Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1), which made amendments to 52 Commonwealth Acts and four Regulations, consequential on the amendments made by the WorkChoices legislation.

In addition, several minor technical Regulations were made after 27 March 2006:

- the Workplace Relations (Amendment) Regulations 2006 (No. 1), which made technical amendments to the Workplace Relations Regulations 2006
- the Workplace Relations (Amendment) Regulations 2006 (No. 2), which removed certain record-keeping requirements under the Workplace Relations Regulations 2006, particularly in relation to employees with a base annual salary of less than \$55 000
- the Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 2), which made a technical amendment to the *Building and Construction Industry Improvement Act 2005*
- the Workplace Relations Amendment (Work Choices) (Consequential Amendments) Amendment Regulations 2006 (No. 1), which made drafting corrections to the Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006.

The department also advised on and assisted the Minister in making Regulations designed to do the following:

- regulate the storage and handling of dangerous goods in Commonwealth workplaces
- establish the Australian Government's Building and Construction Occupational Health and Safety Accreditation Scheme and Regulations under the *Building and Construction Industry Improvement Act 2005*
- deal with transitional matters arising from the abolition of the Stevedoring Industry Finance Committee
- exclude royal commissioners from the jurisdiction of the Remuneration Tribunal and provide for an increase in the fees payable to the President and other members of the tribunal
- set out further publication and consultation requirements for the Australian Safety and Compensation Council in relation to the declaring of national standards and codes of practice
- change the rate of long-service leave levy collected from employers under the *Coal Mining Industry (Long Service Leave) Payroll Levy Act 1992*
- vary the levy rate on seafarer berths on prescribed ships
- increase the purchase fee for Comcare's *Guide to the Assessment of the Degree of Permanent Impairment*
- change the fee arrangements for trade certificates to facilitate the movement of skilled migrants into the Australian labour market
- vary details in relation to certain occupational health and safety data sheets
- provide that the three heads of the Australian Armed Forces are 'employing authorities' in relation to cadets for Commonwealth occupational health and safety purposes
- make a range of minor amendments to workplace relations matters—including matters arising from the WorkChoices legislation.

Occupational health and safety and workers compensation

The Workplace Relations Legal Group contributed to Australia's occupational health and safety and workers compensation arrangements by:

- developing legislation—including legislation to align the coverage of the *Safety, Rehabilitation and Compensation Act 1988* and the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, to improve the workers compensation arrangements applying to Commonwealth and other employees under the Safety, Rehabilitation and Compensation Act and to provide for increased benefits to members of the Australian Federal Police deployed on overseas missions
- developing Regulations for major hazard facilities under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, which provides for occupational health and safety regulation of Commonwealth employment
- developing Regulations to establish the Building and Construction Occupational Health and Safety Accreditation Scheme, which is part of the Australian Government's broad strategy to improve occupational health and safety performance in the building and construction industry
- developing Regulations to amend the Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003 so as to incorporate the Australian Safety and Compensation Council's National Standard for Manual Handling, with minor amendments reflecting conditions specific to the maritime industry
- developing Regulations pertaining to the storage and handling of dangerous goods.

Legislative instruments

The Workplace Relations Legal Group went to considerable lengths to meet the original deadline in the *Legislative Instruments Act 2003*, to have all relevant legislative instruments covering the period 1 January 2000 to 31 December 2004 lodged on the Federal Register of Legislative Instruments by 31 December 2005. The group met the 31 December deadline, which was subsequently extended to 30 September 2006.

The group is continuing to work on capturing pre-1 January 2000 legislative instruments in order to meet the deadline of 31 December 2007 for the lodgment of all legislative instruments. This is a significant project because it involves not only the task of back-capturing but also seeking policy input from appropriate parties on whether the older instruments continue to be relevant and, if they need revising, having to remake them as totally new instruments.

THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION AND COURT INTERVENTIONS

The Workplace Relations Legal Group advises the Minister on strategic interventions in court and tribunal proceedings to ensure that public interest considerations in relation to the operation of the Workplace Relations Act are put forward.

The Minister intervened in 12 cases in 2005–06. The following are the types of matters dealt with in those interventions:

- the scope of the Australian Industrial Relations Commission’s power to make an order that industrial action stop, not occur and not be organised under the amended Workplace Relations Act
- review of a decision relating to a secret ballot order for protected action, concerning operation of Item 20 of Schedule 4 of the *Workplace Relations Amendment (Work Choices) Act 2005*
- wage rates for apprentices and employees with disability
- state minimum wage cases.

Appendix 12 provides details of these and other interventions.

DEVELOPMENT OF LEGISLATION

The following Acts were introduced into the Parliament in 2005–06 and enacted in the same year:

- the *Australian Workplace Safety Standards Act 2005*
- the *National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Act 2005*
- the *Workplace Relations Amendment (Work Choices) Act 2005*.

The Australian Workplace Safety Standards Act took effect on 1 January 2006. It provides for the statutory function of the Australian Safety and Compensation Council, which was established on a non-legislative basis. That statutory function is to declare national standards and codes of practices for occupational health and safety.

The National Occupational Health and Safety Commission (Repeal, Consequential and Transitional) Act also took effect on 1 January 2006. It abolished the National Occupational Health and Safety Commission and allowed for consequential and transitional provisions relating to the commission’s abolition.

The Workplace Relations Amendment (Work Choices) Act was enacted on 14 December 2005, and the main provisions of the Act took effect on 27 March 2006. The Act makes significant amendments to the *Workplace Relations Act 1996* to create a more flexible, simpler and fairer system of workplace relations for Australia. It carries forward the evolution of Australia’s workplace relations system to improve productivity, increase wages, balance work and family life, and reduce unemployment. From the perspective of legislative drafting, the reforms were sweeping and complex, involving the repeal and replacement of most of the Workplace Relations Act and the changing of the constitutional underpinnings of the legislation from being largely based on the conciliation and arbitration power to being based on the corporations power.

As noted, the main provisions of the Work Choices Act took effect on 27 March 2006. Certain transitional provisions and provisions relating to school-based apprentices, redundancy entitlements in awards for small business employers, and the establishment of the Australian Fair Pay Commission took effect on 14 December 2005.

ACTS INTRODUCED INTO PARLIAMENT BEFORE 2005–06 BUT PASSED IN 2005–06

The following Acts were introduced into Parliament before 2005–06 but were passed in 2005–06:

- the *Asbestos-related Claims (Management of Commonwealth Liabilities) Act 2005*
- the *Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Act 2005*
- the *Building and Construction Industry Improvement Act 2005*
- the *Building and Construction Industry Improvement (Consequential and Transitional) Act 2005*.

The Asbestos-related Claims (Management of Commonwealth Liabilities) Act took effect on 26 October 2005. It provides for Comcare to assume and manage the common law asbestos-related conditions liabilities of the Australian Government and, with some exceptions, its agencies and controlled companies. The liabilities are assumed by Comcare (and cease to be liabilities of the agencies and controlled companies) on and from 26 October 2005 or the subsequent making of a claim. This centralisation of liabilities and their management is intended to provide greater consistency and meet increased demands for accountability and transparency.

The Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Act also commenced on 26 October 2005. Among other things, the Act repeals certain stevedoring legislation—the *Stevedoring Industry Finance Committee Act 1977*, the *Stevedoring Industry Act 1977* and the *Stevedoring Industry Levy Collection Act 1977*—with the effect of abolishing the Stevedoring Industry Finance Committee.

The Building and Construction Industry Improvement Act and the Building and Construction Industry Improvement (Consequential and Transitional) Act provide a tailored set of workplace relations reform measures for the building and construction industry. The legislation incorporates key elements of the Government’s legislative response to the Royal Commission into the Building and Construction Industry:

- establishment of a statutory office—the Australian Building and Construction Commissioner—to enforce Commonwealth workplace relations law in the building industry
- setting out functions and powers of the Federal Safety Commissioner—including the establishment of an occupational health and safety accreditation scheme in relation to individuals that contract with the Commonwealth
- provisions dealing with unlawful industrial action, coercion in relation to certified agreements and discrimination based on the type of industrial instrument.

The provisions dealing with unlawful industrial action took effect from 9 March 2005—that is, the date on which the Bills were introduced into Parliament. All other provisions commenced on 12 September 2005.

BILLS INTRODUCED IN 2005–06 AND REMAINING BEFORE PARLIAMENT

The following Bills were introduced in 2005–06 and remained before Parliament at 30 June 2006:

- the Occupational Health and Safety and Safety, Rehabilitation and Compensation Legislation Amendment Bill 2005
- the Independent Contractors Bill 2006
- the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006.

The Occupational Health and Safety and Safety, Rehabilitation and Compensation Legislation Amendment Bill would provide for the following:

- implementing the Australian Government’s response to the Productivity Commission’s Report no. 27, on national workers compensation and occupational health and safety frameworks, to cover, under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, corporations licensed under the *Safety, Rehabilitation and Compensation Act 1988*
- ensuring that Commonwealth authorities licensed under the Safety, Rehabilitation and Compensation Act but not covered under the Occupational Health and Safety (Commonwealth Employment) Act are covered by the latter Act
- allowing Comcare to charge all Commonwealth authorities an occupational health and safety contribution for administration of the Occupational Health and Safety (Commonwealth Employment) Act
- validating payments purported to have been made under the Safety, Rehabilitation and Compensation Act by some licensees and Commonwealth authorities for occupational health and safety contributions in 2002–03.

The Bill was introduced into the House of Representatives on 7 December 2005 and passed on 29 March 2006. It was referred to the Senate Employment, Workplace Relations and Education Legislation Committee on 1 March 2006. The department made a submission to the committee and appeared before it at its hearing of 21 April 2006. The majority committee report recommended that the Senate pass the Bill. Debate in the Senate is yet to commence.

The Independent Contractors Bill and the Workplace Relations Legislation Amendment (Independent Contractors) Bill would recognise and protect the unique position of independent contractors in Australian workplaces. The Bills would deliver on the Government’s 2004 election commitment to enshrine and protect the status of independent contractors in Australian workplaces. They were introduced into the House of Representatives on 22 June 2006.

BILLS INTRODUCED BEFORE 2005–06 AND REMAINING BEFORE PARLIAMENT

The following Bills were introduced before 2005–06 and remained before Parliament at 30 June 2006:

- the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005

- the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005.

The Occupational Health and Safety (Commonwealth Employment) Amendment Bill would amend the *Occupational Health and Safety (Commonwealth Employment) Act 1991* to revive measures that were removed from the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002 during Senate passage. The Bill was passed by the House of Representatives on 18 August 2005 and introduced into the Senate on 5 September 2005.

The Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill would amend the *Occupational Health and Safety (Commonwealth Employment) Act 1991* to exclude Commonwealth employers and employees from application of the Australian Capital Territory's industrial manslaughter legislation and (by prescription) any other similar laws enacted by a state or territory in the future. The Bill was passed by the House of Representatives on 8 December 2005 and introduced into the Senate on 8 December 2005.

BILLS INTRODUCED INTO PARLIAMENT BUT DISCHARGED FROM THE NOTICE PAPERS BEFORE BEING PASSED

The following Bills were introduced into Parliament but not progressed because the key reforms were subsumed into the *Workplace Relations Amendment (Work Choices) Act 2005*:

- the Workplace Relations Amendment (Better Bargaining) Bill 2005
- the Workplace Relations Amendment (Extended Prohibition of Compulsory Union Fees) Bill 2005
- the Workplace Relations Amendment (Fair Dismissal Reform) Bill 2004
- the Workplace Relations Amendment (Right of Entry) Bill 2004
- the Workplace Relations Amendment (Small Business Employment Protection) Bill 2004.

The Bills were discharged from the Parliamentary Notice Papers.

Outlook for 2006–07: Output Group 2.1

Output Group 2.1 will continue to advance workplace relations reform and provide policy advice on the operation of the workplace relations system. This will entail the following:

- engaging employees, employers, their representative organisations, the states and territories, and federal government agencies in the Australian Government’s reform programme
- supporting the Minister and the Government in furthering the workplace reform agenda by ensuring compliance with workplace relations laws and decisions
- supporting the successful passage of the Independent Contractors Bill and reviewing protections for owner–drivers, in consultation with transport industry stakeholders
- continuing to support the work of the Award Review Taskforce, which is to provide final reports on award rationalisation and rationalisation of wages and classifications by 31 July 2006
- coordinating development of the Government’s submission to the Australian Fair Pay Commission’s inaugural wage review
- commencing proceedings and/or pursuing strategic interventions in Australian Industrial Relations Commission and court cases to ensure that the objects of the *Workplace Relations Act 1996* are protected
- promote the agreement-making options available under WorkChoices to employers and employees
- progressing flexible workplace relations solutions to achieve balance between work and family demands
- promoting workplace relations initiatives that help relieve the emerging pressures of an ageing workforce
- assessing and advising on applications made by private sector companies for declarations for eligibility to self-insure under the *Safety, Rehabilitation and Compensation Act 1988*
- concluding the review of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*
- completing a review of the Department of Defence’s management of asbestos litigation. It is expected the review will be finalised during 2006–07
- preparing a report on agreement making, as required by s. 844 of the *Workplace Relations Act*
- engaging strategically with the International Labour Organization, the Organisation for Economic Co-operation and Development and other intergovernment agencies to advance Australia’s interests.

The High Court is expected to hand down its decision in *State of New South Wales & Ors v Commonwealth*—known as the Workplace Relations Challenge—in which the constitutional validity of using the corporations power to enact the *Workplace Relations Amendment (Work Choices) Act 2005* is under challenge. The department will advise the Australian Government about the decision.

The High Court is also expected to hear the appeal and hand down its decision in *Attorney-General for the State of Victoria v Andrews & Ors*, in which the Victorian Government is challenging the constitutional validity of the licensing provisions of the *Commonwealth Safety, Rehabilitation and Compensation Act 1988*, which were used to grant Optus a licence as a self-insurer under the Act. The department will assist in the preparation of submissions and advise the Australian Government about the decision.

Additionally, the High Court is expected to hear a case brought by four maritime unions, challenging the validity of Regulation 1.1, Chapter 2, of the Workplace Relations Regulations 2006. Regulation 1.1, Chapter 2, exempts foreign crew members working on foreign-registered ships operating in Australian waters under a permit issued under s. 286 of the *Navigation Act 1912* and their foreign employers from the scope of the amended Workplace Relations Act and from state and territory industrial relations laws. The department will assist in the preparation of submissions and advise the Australian Government about the decision.

The department will contribute to policy development and legislation on occupational health and safety and workers compensation matters under the *Safety, Rehabilitation and Compensation Act 1988*, as well as national arrangements.

Output Group 2.2: Workplace relations implementation

The outputs in Output Group 2.2 are information based and contribute to higher productivity, higher pay workplaces through the provision of policy advice, research, evaluation, information, education and communication.

Contribution to Outcome 2

Output Group 2.2 contributes to Outcome 2 in four main ways:

- developing initiatives that promote flexible work practices and ensure access and equity for all employees in the workplace
- providing to employers and employees information on and assistance with cooperative agreement making and related matters
- supporting workplace reform in the Australian government employment sector
- coordinating national efforts to improve occupational health and safety and workers compensation arrangements.

Administered items

Six administered items are associated with Output Group 2.2:

- the General Employee Entitlements and Redundancy Scheme
- the Special Employee Entitlements Scheme for Ansett Group Employees
- the *Coal Mining Industry (Long Service Leave Funding) Act 1992*
- the Unlawful Termination Assistance Scheme
- the Alternative Dispute Resolution Assistance Scheme
- the Protected Action Ballots Scheme—transferred from Output Group 2.1.

Output 2.2.1: Industry and Australian government employment advice

Output 2.2.1 contributes to Outcome 2 in the following ways:

- provision of policy advice about workplace reform across the building and construction industry, overseeing implementation of the Government's response to the Royal Commission into the Building and Construction Industry, and assessing building and construction companies' industrial instruments for compliance with the National Code of Practice for the Construction Industry and the Implementation Guidelines
- provision of policy advice on workplace relations reform in a range of private sector industries—including service industries (such as banking and finance, hospitality and retail), transport, resources and manufacturing (particularly the automotive sector)—and engaging in and building relationships with companies and representatives in these industries and representing the department's interests in relation to the Australian Government's Industry Action Agendas
- provision of advice to government and Australian public sector employers in relation to
 - workplace reform in the Australian public sector—including agreement making
 - public sector remuneration policy and associated matters
 - workplace relations matters associated with machinery of government changes as well as the corporatisation and privatisation of government organisations
- representing the Australian Government's interests as the employer in matters before the Defence Force Remuneration Tribunal
- monitoring and investigating alleged breaches of matters that threaten the integrity, policy intent and broader application of the *Workplace Relations Act 1996*.

Highlights

- In 2005–06 the department oversaw the introduction of the Building and Construction Industry Improvement Act, which commenced on 12 September 2005 but was retrospectively applied from 9 March 2005.
- The department managed the establishment of the Office of the Australian Building and Construction Commissioner. The commission has the power to enforce workplace laws and to help redress problems the building and construction industry encounters.
- The department coordinated preparation of the Australian Government’s response to the Senate Employment, Workplace Relations and Education References Committee report *Beyond Cole: the future of the construction industry—confrontation or cooperation?* The response was tabled on 22 December 2005 and responded to 20 recommendations made by the committee in relation to the Government’s reform measures for the building and construction industry, including the Building and Construction Industry Improvement Bill 2003.
- The Australian Government’s Implementation Guidelines were revised in November 2005, following a review designed to progress implementation of the Cole Royal Commission’s recommendations and ensure that the guidelines remain contemporary and continue to act as a catalyst for reform in the building and construction industry. The guidelines were further updated in June 2006, to reflect the introduction of WorkChoices and clarify several pre-existing requirements of the guidelines. No substantial new requirements were introduced by the June 2006 update, apart from those required through the amendments made to the Workplace Relations Act by WorkChoices.
- The department continued to build constructive relationships in specific industries through a range of forums—including visits to employers and participation in Industry Action Agendas.
- DEWR liaised with the Department of Education, Science and Training to implement the Higher Education Workplace Relations Requirements, which are contained in the guidelines of the *Higher Education Support Act 2003* and are administered by DEST. DEWR provided workplace relations policy advice to assist with implementation of the requirements.
- Thirty-seven Australian Public Service collective agreements were renegotiated, assessed against the Policy Parameters for Agreement Making in the Australian Public Service, and certified or lodged during 2005–06.
- The department provided advice on a number of machinery of government changes, leading to successful implementation of 10 such changes during the year.

Performance results

TABLE 2.18

Performance indicators and actual performance: Output 2.2.1, Industry and Australian government employment advice

| Performance indicator | Target | Result |
|-----------------------------------------------------------------------------------------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister and agencies with the provision of policy advice ^a | Effective or above | 117 briefs submitted, with an average rating of 4.4 (target met) |
| Price | \$11.657m | \$11.630m (0.23% below budget) |
| Administered funds | | |
| <i>Coal Mining Industry (Long Service Leave Funding) Act 1992</i> | \$75.342m | \$79.518m (5.54% above budget) The variance was due to fluctuations in the factors underpinning the 5% payroll levy from employers which impacted on the amount returned to the Corporation. A decrease in the payroll levy rate from 5.0% to 2.8% from 1 January 2006 resulted in lower than forecast costs and returns |

^a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).

Commentary

The building and construction industry

During 2005–06 the department continued to work on implementing the Government’s workplace relations reforms in the building and construction industry. There were four priorities:

- contributing, from a policy perspective, to the development and implementation of the *Building and Construction Industry Improvement Act 2005*, legislation that arose from the recommendations of the Royal Commission into the Building and Construction Industry
- promoting, among Australian government agencies, industry participants, and the states and territories, a better understanding of the workplace relations reforms, including the National Code of Practice and the Implementation Guidelines, WorkChoices and the Building and Construction Industry Improvement Act
- establishing a strategic relationship with the Office of the Federal Safety Commissioner
- working closely with the Australian Building and Construction Commissioner to enforce the law in the building and construction industry.

The department also continued to advise the Government about workplace relations developments in the building and construction industry.

CHANGING THE CULTURE OF THE BUILDING INDUSTRY: THE NATIONAL CODE OF PRACTICE

Through the National Code of Practice for the Construction Industry and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry the Australian Government expresses a commitment to reform in the industry.

The commitment is demonstrated by dealing only with organisations and personnel whose standards and behaviour conform to the principles of best-practice workplace relations and standards of honesty and integrity expressed in the code.

The code and the guidelines apply to construction activity by employers and their related entities who work for or on behalf of Australian government departments, agencies, budget-funded statutory authorities or companies under the *Commonwealth Authorities and Companies Act 1997*. Subject to certain financial thresholds, the code and the guidelines also apply to projects that are indirectly funded by the Australian Government.

During 2005–06 the department continued to help government agencies develop agreements to provide funding through grants and programmes for construction-related activities that meet the financial thresholds for the code and the guidelines. In particular, the department helped the Department of Transport and Regional Services in its efforts to develop bilateral agreements for the AusLink land transport programme; it also assisted the National Water Commission, which is providing funding through the National Water Initiative. The department continues to promote rigorous application of the code and the guidelines to Australian government construction projects by chairing meetings of the Code Monitoring Group and provides ongoing advice to agencies and industry about the application of the code and the guidelines. During 2005–06 the department implemented revised governance arrangements supporting the Code Monitoring Group, leaving it free to focus on policy and compliance.

The department has put considerable effort into ensuring that all building industry participants receive a quick, efficient assessment of their industrial instruments, consistent with the code and the guidelines. During 2005–06 the department completed 795 assessments. An assessment can relate to multiple industrial instruments.

The department has also placed emphasis on being accessible to industry participants and sensitive and responsive to the particular pressures they face in developing their new industrial arrangements or through the tendering or expression-of-interest process. This has involved discussions with industry bodies, industrial associations and individual employers, to facilitate their understanding of the assessment process and to discuss various aspects of their industrial instruments or particular parts of them.

A wide range of material on the application of the code and the guidelines is available on the Australian Workplace website <www.workplace.gov.au/building>.

Private sector industries

The department liaised with businesses in a number of service industries—particularly the banking and finance, retail, and business services sectors—as well as the transport, resources, automotive and manufacturing industries to advance workplace reform. It provided information

to businesses to enable them to make full use of agreement-making options to introduce tailored and flexible work arrangements available under the Workplace Relations Act. These interactions with business also afforded opportunities for the department to seek industry views on the Government's workplace relations reforms.

The department continued to administer the *Coal Mining Industry (Long Service Leave Funding) Act 1992*. Under the Act the cost of portable long-service leave entitlements is managed through a central fund administered by the Coal Mining Industry (Long Service Leave Funding) Corporation. Monthly levy collection transfers were made from the consolidated revenue fund to the central fund. The fund recovered all past outstanding liabilities during 2005–06. Further, the rate of long-service leave levy collected from employers under the *Coal Mining Industry (Long Service Leave) Payroll Levy Act 1992* changed during the year: the levy was reduced from 5 per cent to 2.8 per cent of eligible wages at 1 January 2006. The corporation publishes an annual report.

The department is also represented on working groups for a number of new industry action agendas, including those for advanced manufacturing, medical devices and the cement industry. This involves working with industry representatives to identify and consider workplace relations matters in the context of the broader action agenda—specifically, to consider the flexibilities provided by the Government's workplace relations framework and the capacity to deliver tailored workplace arrangements and improved productivity in the industries concerned. The department continues to contribute to a number of other action agendas that are being implemented, among them the science, marine, food and facilities management action agendas.

Agreement making in Australian government employment

As at 30 June 2006 all but two Australian Public Service Certified Agreements were stand-alone agreements—that is, agreements that displace the Australian Public Service Award 1998 determinations and previous agreements.

The number of Australian Workplace Agreements has increased: at 30 June 2006 there were 14 853 AWAs operating in the Australian Public Service; this compares with 11 823 at 30 June 2005.

The department provided strategic policy advice to the Minister, agency heads and Australian Public Service managers on a range of workplace relations matters related to agreement making. After the *Workplace Relations Amendment (Work Choices) Act 2005* amendments to the *Workplace Relations Act 1996* came into effect, the department issued updated Supporting Guidances to both the Workplace Relations Policy Parameters for Agreement Making in the Australian Public Service and the Workplace Relations Arrangements for Non-Commonwealth Authorities.

To help agencies with agreement making under the amended *Workplace Relations Act 1996*, the department held a series of seminars between February and May 2006. Representatives of more than 120 agencies attended the seminars, which were in Canberra and Sydney. The department has also released a series of Workplace Relations Advices since the commencement

of the amended Act. These advices are available at <www.workplace.gov.au>. Additionally, the department has continued to provide advice to public sector agencies on a one-on-one basis.

The 2005 Australian Public Service remuneration survey

The department commissioned a combined survey of Senior Executive Service and non-SES remuneration. Fifty-five agencies participated in the survey, the reports of which were made available in June 2006 on the Australian Workplace website <www.workplace.gov.au>. The results provide for participating agencies information about broader Australian Public Service remuneration matters and the service's remuneration positioning relative to the combined state and territory public sectors and the private sector. Agencies find the information valuable when developing and refining their remuneration strategies and policies.

Machinery of government

The department provides to the Minister and agencies advice on workplace relations matters, including those arising from transmission of business and machinery of government changes. In doing so, it works closely with the Australian Public Service Commission to ensure that the advice is both coordinated and value-adding in the context of government policy and the process involved. During the reporting year there were 10 machinery of government changes.

Cost recovery

A range of consultancy services and communication activities were provided to help Commonwealth public sector employers improve their workplace relations. These services and activities primarily related to agreement making.

The department continued to facilitate and support a range of forums for exchanging information on workplace relations, including the Australian Public Service Roundtable, the Corporate Heads of Management Network and the Workplace Relations Networks in Canberra and Sydney. The department also offered a number of subscription services such as the e-Guide and allowance subscription service.

Overall, cost recovery activities generated \$257 775 in 2005–06.

The Personnel Operations Programme

The Personnel Operations Programme, or POP, provides training, information and networking services on a range of Commonwealth public sector personnel issues to support human resources staff and others involved in administering Commonwealth employees' pay and conditions. During the year 319 people participated in 67 training courses, generating \$378 252 in revenue from subscriptions and course fees.

Australian Defence Force pay-setting arrangements and related allowances

Australian Defence Force pay-setting arrangements reflect the policy framework applying to Australian Public Service agencies while taking into account the specific nature of the ADF.

The Minister for Employment and Workplace Relations is the employing authority for ADF members and as a result the department is involved in matters before the Defence Force Remuneration Tribunal. A number of submissions were made to the tribunal on the Government's behalf during the reporting year. The ADF Remuneration Reform Project and a review of Flying Allowance were also completed, while a review of remuneration for senior officers was begun.

Framework compliance

The department worked closely with relevant stakeholders and the Office of Workplace Services to ensure that compliance with the Workplace Relations Act is maintained. Matters that threaten the integrity, policy intent and broader application of the Act are managed by the department. This has necessitated development of the department's compliance policy, which accords with the Australian and New Zealand standards and includes implementation of the industry monitoring procedures necessary to identify potential breaches of the Act.

Output 2.2.2: Assistance to the Employment Advocate

The passage of the *Workplace Relations Amendment (Work Choices) Act 2005* resulted in important changes to the role of the Employment Advocate from 27 March 2006.

Prior to the commencement of the *Workplace Relations Amendment (Work Choices) Act 2005*, the Office of the Employment Advocate was responsible for providing employers and employees assistance and advice on the Workplace Relations Act, Australian Workplace Agreements (AWAs), and freedom of association provisions. The office was also responsible for filing and approving AWAs, for handling alleged breaches of AWA processes, approved AWAs and the freedom of association provisions and, where appropriate, for providing legal assistance to parties in proceedings concerning AWAs or freedom of association.

On 27 March 2006, the Office of the Employment Advocate took on new and expanded responsibilities in relation to agreement-making. All workplace agreements, whether individual or collective, must be lodged with the office. The Office of the Employment Advocate is also responsible for accepting lodgement of notices about transmission of instruments, authorising multiple-business agreements, and advising parties to agreements on prohibited content.

The Office of the Employment Advocate now provides assistance and advice to employees and employers (especially employers in small business) and organisations in relation to all types of workplace agreements. The office also provides advice to employees, employers and organisations about awards and the Australian Fair Pay and Conditions Standard.

The Employment Advocate must encourage parties to agreement-making to take account of the needs of workers in disadvantaged bargaining positions—including women, people from a non-English speaking background, young people, apprentices, trainees and outworkers—and must assist workers to balance work and family responsibilities and promote better work and management practices through workplace agreements.

The staff of the Office of the Employment Advocate are employed under the *Public Service Act 1999* and are made available to the Employment Advocate by the Secretary of the Department of Employment and Workplace Relations.

The office's budget is allocated as part of the department's budget appropriation; information about the office's activities and financial management details is provided in Table 2.19.

2

Performance results

TABLE 2.19
**Performance indicators and actual performance:
Output 2.2.2, Assistance to the Employment Advocate**

| Performance indicator | Target | Result |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister and agencies with advocacy services ^a | Effective or above | 39 briefs submitted, with an average rating of 4.3 (target met) |
| Level of client satisfaction with advice and assistance provided by the Office of the Employment Advocate | 80% of clients find advice and assistance timely | 83% of clients found advice and assistance timely |
| | 80% of clients find advice and assistance helpful | 90% of clients found advice and assistance helpful |
| Quantity | | |
| Percentage of AWA applications finalised within 20 working days | 80% of AWA applications are finalised within 20 working days | At the commencement of WorkChoices on 27 March 2006, 65% of AWAs finalised within 20 working days ^b |
| Increase the number of AWA lodgments | Between 250 000 and 275 000 AWAs lodged | 87% of lodgement target achieved ^c |
| Increase the uptake of AWAs in small business | 10% annual increase in the number of small business employers lodging AWAs | Achieved an annual increase of 46% in the number of small business employers lodging AWAs ^c |
| Price | \$31.040m | \$31.777m (2.38% above budget) |

- a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).
- b With the commencement of the *Workplace Relations Amendment (Work Choices) Act 2005*, AWAs are no longer subject to the no-disadvantage test and do not require the approval of the Employment Advocate.
- c Result is based on all AWAs lodged in financial year 2005–06: AWAs lodged under the *Workplace Relations Act 1996* prior to 27 March 2006 and subject to the no-disadvantage test and approval of the Employment Advocate and AWAs lodged after 27 March 2006.

Commentary

The Office of the Employment Advocate produces an annual report that provides full commentary on this output.

Output 2.2.3: Workplace relations services

The Workplace Relations Services Group is the department's principal source of federal workplace relations information, education, and advisory services to employees, employers and the wider public. The group is responsible for the provision of communications and project management services across Outcome 2 and the administration of Trades Recognition Australia and the following schemes:

- the General Employee Entitlements and Redundancy Scheme
- the Special Employee Entitlements Scheme for Annett Group Employees
- the Unlawful Termination Assistance Scheme
- the Alternative Dispute Resolution Assistance Scheme.

The group also provides support for the Defence Force Remuneration Tribunal and the Secretariat to the Remuneration Tribunal through the provision of secretariat services (Outputs 2.2.4 and 2.2.5 respectively).

In 2005–06 the nature of activities under Output 2.2.3 was significantly affected by the department's responsibility for implementation of the *Workplace Relations Amendment (Work Choices) Act 2005*. Several of the department's objectives in implementing these workplace relations reforms were accomplished through the augmented Workplace Relations Services Group, under a changed departmental output structure. A Workplace Relations Reforms Implementation Taskforce was established to coordinate the planning and implementation of the reforms across the outcome.

During 2005–06 the Office of Workplace Services was established as an independent executive agency with expanded scope to monitor workplaces, provide compliance advice to employees and employers, and enforce certain requirements under the new *Workplace Relations Act 1996*.

The employee entitlements safety net schemes that were previously under Output 2.2.4 were subsumed into Output 2.2.3 and are administered by the Employee Entitlements Branch within the Workplace Relations Services Group.

The Workplace Advice and Education Branch was established to provide new and remodelled workplace relations information, education and advisory services.

To assist in the delivery of the department's workplace relations reform objectives, the Workplace Programmes Branch was established within the Workplace Relations Services Group. The branch's function is to administer Trades Recognition Australia and to establish and administer the new schemes under WorkChoices—the Unlawful Termination Assistance Scheme and the Alternative Dispute Resolution Assistance Scheme.

Workplace advice and education

The Workplace Advice and Education Branch contributes to Outcome 2 by providing a range of services and communications products designed to help employees and employers

understand and exercise their rights and obligations under the federal workplace relations system. It also helps employees and employers make use of the choices and flexibilities available in the system through agreement making. The branch provides telephone inquiry services via the WorkChoices Infoline and email inquiry services via the WageNet website <www.wagenet.gov.au>. It also responds to written inquiries about workplace relations rights, obligations and choices. The WorkChoices Infoline replaced the WageLine service, which operated until proclamation of the WorkChoices legislation on 27 March 2006.

By conducting seminars and workplace visits, the Workplace Advisory Service advises employees and employers on the options and flexibilities in the federal workplace relations system. The service was instrumental in raising public awareness of WorkChoices in 2005–06. The department also contracted industry and employer organisations to deliver WorkChoices education to Australian workplaces on a general and an industry-specific basis through the Employer Advisor Programme.

The branch also makes available to the public information about the federal workplace relations system on its WorkChoices website <www.workchoices.gov.au>. The website contains many publications, fact sheets and other communications products targeted at both employees and employers.

Employee entitlements safety net schemes

The General Employee Entitlements and Redundancy Scheme is a basic payment scheme for Australian employees who have lost their entitlements as a result of their employer's insolvency. GEERS-eligible entitlements consist of unpaid wages (including underpaid wages), accrued annual and long-service leave, payment in lieu of notice, and up to eight weeks' redundancy pay. GEERS is available to people whose employment was terminated on or after 12 September 2001 as a result of their employer's insolvency. Payments made under GEERS are subject to an annually indexed income cap, which was \$94 900 for 2005–06.

The Special Employee Entitlements Scheme for Ansett Group Employees was implemented following the passage of the *Air Passenger Ticket Levy (Collection) Act 2001*. SEESA provides a safety net for former employees of the Ansett Group, which collapsed on 12 September 2001. It provides the same level of assistance as GEERS but without the income cap.

Workplace programmes

Trades Recognition Australia

Trades Recognition Australia is a designated assessing authority responsible for the following:

- recognising the trade skills of potential migrants as part of the Department of Immigration and Multicultural Affairs Skilled Migration Program, in accordance with the *Migration Act 1958*. A positive Trades Recognition Australia assessment is a prerequisite for lodging a visa application with the Department of Immigration and Multicultural Affairs under the general Skilled Migration Program

- recognising the trade skills of Australian residents with skills acquired outside the Australian apprenticeship framework in metal and electrical trades, as prescribed in the *Tradesmen's Rights Regulation Act 1946*. A positive Trades Recognition Australia assessment results in the awarding of an Australian Recognised Trade Certificate and national recognition of trade skills acquired by means other than an Australian apprenticeship.

The Unlawful Termination Assistance Scheme

The Unlawful Termination Assistance Scheme, launched on 28 April 2006, was established under the WorkChoices reforms to provide legal assistance to employees who believe their employment might have been unlawfully terminated. The scheme provides to eligible employees financial assistance to seek legal advice on the merits of their claim for unlawful termination.

The Alternative Dispute Resolution Assistance Scheme

The Alternative Dispute Resolution Assistance Scheme, launched on 28 April 2006, was established under the WorkChoices reforms to give employers and employees a choice between referring certain disputes to a private alternative dispute resolution practitioner or to the Australian Industrial Relations Commission for assistance. Under the scheme parties to eligible disputes are able to receive government assistance towards the cost of alternative dispute resolution services.

The Workplace Relations Reform Implementation Taskforce

The department established the Workplace Relations Reform Implementation Taskforce to plan, coordinate and monitor implementation of the Australian Government's workplace relations reforms. Reporting to a high-level steering committee, the taskforce was established in July 2005. It became absorbed into the Workplace Advice and Education Branch in February 2006. During its period of operation the taskforce established the Australian Fair Pay Commission and Secretariat, the Awards Review Task Force, and the Office of Workplace Services. It also managed the business implementation of new information technology and telecommunications systems, business processes and linkages, and resourcing provisions required across the outcome, the Office of the Employment Advocate and the newly established bodies. These measures enabled coordinated delivery of new service arrangements under the reforms.

Highlights

- WorkChoices services and infrastructure were successfully implemented across the department and portfolio agencies. This included establishment and delivery of a number of new national services and institutions:
 - the contact centre network—in Perth, Sydney and Melbourne—and support telephony and information technology
 - a knowledge system database of Commonwealth industrial instruments and a range of supporting materials, guides and information tools

- communication and education programmes across all metropolitan and regional areas, involving Commonwealth and industry partnerships
 - the Australian Fair Pay Commission Secretariat
 - the Award Review Taskforce
 - the Office of Workplace Services.
- Three new schemes were developed and implemented in the second half of 2005–06:
 - the Unlawful Termination Assistance Scheme
 - the Alternative Dispute Resolution Assistance Scheme
 - the Protected Action Ballots Scheme.
 - The Employer Advisor Programme pilot was developed and delivered. This enabled 17 industry and employer organisations to deliver WorkChoices education to Australian workplaces on a general and an industry-specific basis. About 1500 seminars and workshops were delivered to over 25 000 participants.
 - A WorkChoices communications strategy was developed and delivered to raise public awareness of the workplace relations reforms and to provide to employees and employers information to help them in their transition to the new system.
 - A national WorkChoices education seminar series was developed and delivered by the Workplace Advisory Service. The seminars were delivered in conjunction with the Office of the Employment Advocate from 3 April to the 30 June 2006. A total of 350 seminars were delivered to 13 880 people.
 - In 2005–06, 11 109 claims for GEERS assistance were processed, resulting in over \$49 million in payments to Australian workers who lost their job through their employer’s insolvency. Over \$26 million of the total amount advanced under GEERS and the Employee Entitlements Support Scheme was recovered during 2005–06.
 - GEERS claim-processing times have reduced by more than 20 per cent, to an average of 11.9 weeks. More than 90 per cent of claims are finalised within the target of 16 weeks. The number of appeals received from GEERS claimants fell by 25 per cent during the reporting year.
 - In 2005–06 Trades Recognition Australia finalised over 24 400 applications for skills recognition—an increase of almost 66 per cent on 2004–05. Trades Recognition Australia met the challenge of a greatly increased assessment workload by continually improving its methods and performance. Noteworthy achievements for 2005–06 were significantly reduced turnaround times—for example, in the period January to July 2006, 98.5 per cent of international Migration Occupation in Demand List applications were finalised within 10 working days—and the provision of improved information, access and feedback to applicants.
 - The Project Office supported the planning and implementation of Outcome 2 information technology initiatives to ensure that projects were delivered on time and on budget and that deliverables were directly linked to business priorities.

Performance results

TABLE 2.20

Performance indicators and actual performance: Output 2.2.3, Workplace relations services

| Performance indicator | Target | Result |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister with the provision of policy advice ^a | Effective or above | 35 briefs submitted, with an average rating of 4.7 (target met) |
| Level of satisfaction of clients with liaison, information and education services | Effective or above | 7141 seminar evaluation forms completed, with an average rating of 4.1 |
| Timeliness of departmental responses to client requests | WageLine inquiries: 90% responded to within 3 minutes | 84% of WageLine ^b inquiries responded to within three minutes (target not met) 97% of WorkChoices Infoline ^c inquiries responded to within three minutes (target met) |
| | Written inquiries: 90% completed within 5 working days | 93% (target met) |
| Client satisfaction with timeliness of compliance services | 80% of surveyed clients are satisfied | 88% (target met) |
| Level of satisfaction of stakeholders with the management of the employee entitlements safety net schemes | Effective or above | 80% satisfied or extremely satisfied |
| Timeliness of the processing of claims | 80% of claims processed within 16 weeks of receipt | 91% (target met) |
| | 97% of claims processed within 4 weeks of receipt of verified data | 99% (target met) |
| Accuracy of the processing of claims | Greater than 97% of payments are not varied after appeal | 99% (target met) |
| Trades Recognition Australia (July to December 2005) | | |
| Trades skills assessment applications | 98% of applications in the international stream from the Migration Occupations in Demand List are finalised within 60 days | 99% (target met) |

TABLE 2.20 (CONTINUED)**Performance indicators and actual performance:
Output 2.2.3, Workplace relations services**

| Performance indicator | Target | Result |
|-------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | 95% of all other applications in the international and domestic streams are finalised within 90 days | 94% (target not met) |
| Trades Recognition Australia (January to July 2006) | | |
| Trades skills assessment applications | 95% of applications in the international stream from the Migration Occupations in Demand List are finalised within 10 working days | 99% (target met) |
| | 95% of all other applications in the international and domestic streams are finalised within 60 working days | 100% (target met) |
| Price | \$59.856m | \$64.453m (7.68% above budget) This outcome was a result of additional services purchased under the Employer Advisor Programme |
| Administered funds | | |
| General Employee Entitlements and Redundancy Scheme (s20 FMA Act) | \$49.813m | \$49.243m (1.15% below budget) |
| Special Employee Entitlements Scheme for Ansett Group Employees | \$5.919m | \$0.969m (83.64% below budget) Timeframe for the completion of the Administration of the Ansett Group of companies delayed due to legal proceedings. The number and value of claims in 2005–06 was therefore much lower than initially forecast |
| Unlawful Termination Assistance Scheme | \$2.699m | \$0.00m (100% below budget) There were no payments processed under this scheme in 2005–06 |
| Alternative Dispute Resolution Assistance Scheme | \$0.459m | \$0.00m (100% below budget) There were no claims received under this scheme in 2005–06 |
| Protected Action Ballots Scheme | \$1.600m | \$0.00m (100% below budget) There were no invoices received under this scheme in 2005–06 |

- a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).
- b WageLine was replaced by the WorkChoices Infoline on 27 March 2006. As a result, the WageLine performance is effectively measured over the quarters to January 2005 and March 2006.
- c The WorkChoices Infoline performance is measured over the quarter to June 2006.

Commentary: workplace advice and education

- The WorkChoices Infoline operated successfully from the time of implementation of WorkChoices on 27 March 2006, receiving in excess of 129 000 telephone inquiries and responding to over 3000 written inquiries.
- The Workplace Advisory Service delivered nationally 198 seminars and small business workshops covering a number of workplace relations topics before the implementation of WorkChoices. Following implementation, the service delivered 350 seminars nationally, covering topics specific to the WorkChoices legislation.
- More than 1500 educational seminars, workshops and consultations were delivered nationally through the pilot of the Employer Advisor Programme; they were conducted by key industry and employer organisations.

Inquiry services

Before implementation of the *Workplace Relations Amendment (Work Choices) Act 2005*, the department provided to clients information about their rights, obligations and choices under the federal workplace relations system. This was done by means of the WageLine telephone inquiry service and the email inquiry service WageNet and by responding to other written and over-the-counter inquiries.

Throughout 2005–06 the WageLine inquiry service was provided by departmental staff in the Australian Capital Territory, New South Wales, Victoria and the Northern Territory, whilst delivery of the service in Queensland, Western Australia, South Australia and Tasmania was contracted out to the state governments.

Since the implementation of WorkChoices on 27 March 2006, WageLine has been replaced by the WorkChoices Infoline inquiry service. Calls to the old WageLine service have been automatically diverted to the WorkChoices Infoline and, under operational arrangements with the contracted state governments, calls about the federal workplace relations system have also been referred to the Infoline.

The WorkChoices Infoline operates through a national contact centre having sites in Sydney, Melbourne and Perth. Each site is staffed with trained advisors who respond to inquiries received through the WorkChoices, WageNet and Workplace websites.

The most common inquiries received by the WorkChoices Infoline relate to wages, employment conditions and bookings for WorkChoices seminars. Between 27 March and 30 June 2006 the Infoline received more than 129 000 telephone inquiries and responded to over 3000 written inquiries.

WorkChoices Infoline

WorkChoices Infoline advisors responding to federal workplace relations system inquiries are supported by a number of IT and telephony systems that enable them to achieve high levels of client service. The advisors have access to the Knowledge Bank, which is the department's most comprehensive store of WorkChoices information. It encompasses industrial instruments,

guidelines, policies and knowledge that is distilled into ‘plain English’, allowing advisors to clearly explain to employees and employers the impact of the WorkChoices legislation on their specific situation.

The contact centre management system that supports the WorkChoices Infoline is coupled with telephony that has a high level of call-routing functionality. The system allows clients’ calls to be routed from any geographical location to the most suitable team of advisors and, through inquiry logging, gives advisors swift access to the most relevant information in the Knowledge Bank.

WorkChoices Infoline advisors work closely with the Office of Workplace Services and the Office of the Employment Advocate, which are both supported by the department’s contact centre infrastructure and systems. This shared approach to technology, coupled with established interagency service arrangements, allows calls to be seamlessly referred between agencies and inquiries to be managed in a coordinated manner. Advisors are able to refer complex queries to senior advisors and experts within the department.

As new programmes are introduced and legislation is enacted, the Infoline will act as the gateway for the latest information and advice.

Advisory and education services

From July 2005 to March 2006 the Workplace Advisory Service in the states and territories conducted 198 seminars and small business workshops covering a number of workplace relations topics. The seminars were both general and industry specific. The service also conducted a series of visits at the request of particular industry associations and employer groups.

Workplace advisors from different state offices were instrumental in the delivery of WorkChoices implementation projects.

WORKCHOICES EDUCATION

Following the introduction of the WorkChoices reforms, the Workplace Advisory Service, in conjunction with the Office of the Employment Advocate, conducted a series of WorkChoices information seminars in all states and territories. The seminars provided an overview of WorkChoices and the advantages and opportunities it offers and focused on topics such as the Australian Fair Pay Commission, the Australian Fair Pay and Conditions Standard, changes to the unfair dismissal laws, transitional arrangements and compliance. The Office of the Employment Advocate provided a detailed discussion on agreement making.

Between 3 April and 30 June 2006, 350 seminars were presented in metropolitan and regional locations across Australia. Bookings for the seminars were made using the newly established Events Management System, accessible on the WorkChoices website <www.workchoices.gov.au>. Over 13 880 people attended the seminars during that period.

The Workplace Advisory Service advisors in all states and territories also began a visit programme, with the purpose of providing advice and support to a range of employer, professional and business organisations and special interest groups so that they might help

and educate their members and employees in relation to WorkChoices. The organisations visited were a mix of small employer, business and professional organisations, as well as those representing special interest groups such as young people, migrants, Indigenous Australians and people with disability.

THE EMPLOYER ADVISOR PROGRAMME

In 2005–06 the pilot of the Employer Advisor Programme enabled 17 industry and employer organisations to deliver WorkChoices education to Australian workplaces on a general and an industry-specific basis. The objective was to provide more detailed information to employers by drawing on the knowledge and expertise of the programme providers. The pilot began in early May and was completed at the end of June 2006. During this time more than 1500 educational seminars, workshops and consultations were held in metropolitan, regional and rural areas of Australia; more than 25 000 people attended.

Information services and products

As part of its commitment to help employees and employers make use of the choices and flexibilities available under the federal workplace relations system, the department produced a range of publications and other information products, such as the following:

- a booklet outlining the impact of the WorkChoices reforms. The booklet is available in audio, Braille and large-print format and in 13 languages other than English
- fact sheets covering topics such as awards, the Australian Fair Pay and Conditions Standard, termination of employment, agreements, unions and industrial action. The fact sheets are also available in 13 languages other than English
- a monthly electronic newsletter explaining specific aspects of the WorkChoices system and keeping subscribers informed of current activities under the WorkChoices reforms
- the WorkChoices website, a public source of information on the workplace relations legislation, assistance schemes, and the federal workplace relations reforms more generally.

These products were made publicly available throughout the Workplace Advisory Service seminar series and via the WorkChoices Infoline. They could also be ordered on the WorkChoices website <www.workchoices.gov.au>.

Commentary: employee entitlements safety net schemes

The following achievements are of note in connection with the employee entitlements and safety net schemes in 2005–06:

- Eighty-five per cent of eligible claimants received all their outstanding entitlements under General Employee Entitlements and Redundancy Scheme.
- Over \$49 million in GEERS payments for 2005–06 brings the total assistance provided since the introduction of the employee entitlement schemes in 2000 to over \$697 million, helping more than 59 000 Australian workers.

- The Employee Entitlements Support Scheme was closed on 3 August 2005. During the scheme's operation over \$27 million was advanced to employees who lost their entitlements as a result of business insolvency.
- Over \$26 million advanced under GEERS and EESS was recovered during 2005–06; this compares with \$12 million in 2004–05 and \$5.1 million in 2003–04.
- During 2005–06 the department made available to the Ansett administrators an additional \$1.07 million for distribution to former Ansett employees. This takes to \$382.9 million the total advanced under the Special Employee Entitlements Scheme for Ansett Group Employees.
- In 2005–06 the Ansett administrators made available an additional \$28.9 million as recoveries against SEESA advances made to date. This takes to \$282.1 million the total recovered under the scheme.

Stakeholder feedback

As part of its administration of the General Employee Entitlements and Redundancy Scheme, the department aims to continually improve systems and processes to ensure better outcomes for claimants. GEERS complements the role of insolvency practitioners by helping a large group of creditors—employees—receive early payment of outstanding entitlements. The department works closely with insolvency practitioners to determine employees' entitlements and to process GEERS claims quickly and accurately.

Insolvency practitioners are a key stakeholder, and their feedback is regularly sought through a number of avenues, including the annual stakeholder satisfaction survey. In 2005–06 over 200 insolvency practitioners were surveyed: the results showed that 80 per cent of insolvency practitioners are 'satisfied' or 'extremely satisfied' with the department's administration of GEERS. The data obtained through the stakeholder satisfaction survey—in particular, through the focus groups—will guide the continuous improvement agenda for GEERS in 2006–07.

Changes to scheme arrangements

THE SPECIAL EMPLOYEE ENTITLEMENTS SCHEME FOR ANSETT GROUP EMPLOYEES

Following the establishment of the Special Employee Entitlements Scheme for Ansett Group Employees in 2001, the Commonwealth contracted a private sector entity, SEES Pty Ltd, to assist in the administration of the scheme. SEES Pty Ltd administered the scheme until 30 June 2005, when its contract was terminated. In 2005–06 the scheme was administered directly by the department.

THE EMPLOYEE ENTITLEMENTS SUPPORT SCHEME

On 3 August 2005 the Employee Entitlements Support Scheme was closed. The scheme had applied to people whose employment was terminated between 1 January 2000 and 11 September 2001; it was replaced by the General Employee Entitlements and Redundancy

Scheme from 12 September 2001. Recoveries continued under the EESS in 2005–06, whereas payments since its closure have been administered under GEERS.

NEW OPERATIONAL ARRANGEMENTS

On 1 November 2005 changes to the General Employee Entitlements and Redundancy Scheme were announced. The changes apply to insolvencies that occur on or after that date. They improve access to GEERS and increase the entitlements available while clarifying the principles underpinning the scheme's operation, as follows:

- assistance for underpaid wages received in the three months before the date of the employer's insolvency
- coverage for employees who resign or whose employment is terminated up to six months before the date of their employer's insolvency
- assistance that recognises a claimant's entitlement to a notice of termination under their terms of employment
- assistance for previously ineligible claimants by aligning the definition of 'excluded employees' under the scheme with the relevant definition under the *Corporations Act 2001*.

TABLE 2.21

Employee entitlement schemes: payments, 2005–06

| | General Employee Entitlements and Redundancy Scheme | Special Employee Entitlements Scheme for Ansett Group Employees |
|----------------------------------|-----------------------------------------------------|-----------------------------------------------------------------|
| Amount paid (\$) | 49 242 592 | 1 074 588 |
| No. of recipients | 7 790 | ^a |
| No. of insolvent businesses paid | 912 | Ansett Group Companies |
| Recoveries (\$) | 26 015 352 ^b | 28 876 556 |

^a During 2005–06, \$1.04 million was paid to 14 new recipients and \$0.03 million was paid to four past recipients for additional funds in respect of variation to previous claims.

^b Includes recoveries under the Employee Entitlements Support Scheme.

Commentary: workplace programmes

Trades Recognition Australia

Trades Recognition Australia successfully dealt with sustained increases in both international and domestic applications for the recognition of trade skills during 2005–06. The total number of applications received in 2005–06 increased by 46 per cent over 2004–05, and the total number of assessments completed in 2005–06 increased by 66 per cent over 2004–05 (see Table 2.22).

TABLE 2.22**Trade skill assessment applications, 2005–06 and 2004–05**

| Applications | International service | | | Domestic service ^a | | | Total applications | | |
|--------------|-----------------------|---------|----------|-------------------------------|---------|----------|--------------------|---------|----------|
| | 2004–05 | 2005–06 | Per cent | 2004–05 | 2005–06 | Per cent | 2004–05 | 2005–06 | Per cent |
| | (number) | | | (number) | | | (number) | | |
| Received | 14 198 | 20 722 | +46.0 | 1 140 | 1 656 | +45.3 | 15 338 | 22 378 | +45.9 |
| Finalised | 13 657 | 22 582 | +65.4 | 1 109 | 1 863 | +68.0 | 14 766 | 24 445 | +65.5 |
| Successful | 8 374 | 18 146 | | 812 | 1 202 | | 9 186 | 19 348 | |

a Figures for domestic applications include cases reopened for review or consideration by trades committees.

Trades Recognition Australia has also improved its client service levels through significantly improved assessment turnaround times, setting a benchmark for other assessing authorities. From 1 January 2006 Trades Recognition Australia's timeliness performance target for the finalisation of international applications from the Migration Occupation in Demand List was changed from 98 per cent finalised in 60 days to 95 per cent finalised in 10 working days. The timeliness performance target for all other applications was changed to 95 per cent finalised in 60 working days; this compares with the previous target of 90 days. Since their inception these new targets have already been exceeded: the 10-working-day target has been met in 98.5 per cent of cases, and the 60-working-day target has been met in 99.8 per cent of cases.

Trades Recognition Australia has been active in providing to prospective applicants advice in relation to lodging more effective applications for trade skills assessments. This advice has been delivered through provision of feedback on individual cases, through overseas visits to important sources of international applications, and through improvements to the information made available to applicants. These efforts have resulted in higher application quality and a higher success rate for applicants. In 2005–06, 80.5 per cent of international applications proceeding to a decision were successful; this compares with 63.2 per cent for 2004–05.

Services to clients have been improved with the introduction of a redesigned website on 1 June 2006. The site has been redesigned to simplify the lodgment of complete and decision-ready applications, as well as make it easier to find information about the lodgment process. The new website has a clearer structure, simplified navigation, improved search functionality, and more user friendly layout and content.

A new national approach to skills recognition

On 10 February 2006 the Council of Australian Governments agreed to tackle skills shortages by means of a national approach to apprenticeships, training and skills recognition, including an appropriate system for recognition of overseas qualifications. Under the auspices of Trades Recognition Australia, by 1 July 2007 a new offshore skills assessment process will be established in the five main source countries for the six occupations of motor mechanic, carpenter and joiner, general plumber, general electrician, airconditioning mechanic, and refrigeration mechanic. The programme will be expanded to other countries and occupations by 31 December 2008 as mutual recognition of licences is achieved and need is demonstrated.

In 2005–06 work began on the offshore assessment process, which will be managed by Trades Recognition Australia to ensure that approved assessing authorities deliver services that are fully consistent with current Australian quality assurance arrangements and assessment standards.

A childcare coordinator assessing authority

On 28 June 2006 the Minister for Immigration gazetted Trades Recognition Australia as the assessing authority for childcare coordinators, for pre-migration purposes, to take effect on 1 July 2006.

Trades Recognition Australia developed an assessment standard for childcare coordinators in consultation with childcare regulators and other stakeholders and taking account of state and territory legislation. The standard will be incorporated in Trades Recognition Australia's Uniform Assessment Criteria.

TABLE 2.23

Pre-migration applications, all trades: main source countries of trade training, 2004–05 and 2005–06

| Source country | New applications | |
|-------------------|------------------|---------|
| | 2004–05 | 2005–06 |
| India | 3212 | 6926 |
| United Kingdom | 3710 | 4391 |
| Australia | 2551 | 2040 |
| China | 530 | 1015 |
| Sri Lanka | 348 | 715 |
| South Africa | 378 | 626 |
| The Philippines | 380 | 578 |
| Republic of Korea | 314 | 556 |
| Pakistan | 120 | 360 |
| Ireland | 125 | 302 |

The Unlawful Termination Assistance Scheme

On 29 September 2005 the Prime Minister announced that a new scheme would be established to provide legal assistance to employees who believe their employment might have been unlawfully terminated. The Unlawful Termination Assistance Scheme was formally launched by the Minister for Employment and Workplace Relations on 28 April 2006.

The scheme offers financial assistance of up to \$4000 to eligible terminated employees for seeking legal advice on the merits of their unlawful termination claim, to help them make an informed decision about whether to initiate legal proceedings. The operational arrangements that guide the scheme's administration were released on the date of the launch. By 30 June 2006 the Workplace Programmes Branch had received 12 applications and 22 inquiries.

To complement the assistance provided under the Unlawful Termination Assistance Scheme, the development of a best-practice education and training programme on fair and proper employment termination practices was also announced. The National Adviser Network Programme will help employers and employees understand their rights and obligations in relation to the unfair dismissal and unlawful termination provisions of the *Workplace Relations Act 1996*. To this end, a tender for the development of a national advisory network to deliver this advice to employers and employees and to provide information on good management practices was released on 20 June 2006. The National Adviser Network Programme will be delivered during 2006–07.

The Alternative Dispute Resolution Assistance Scheme

Under the WorkChoices reforms, employers and employees have a choice between referring certain disputes to a private alternative dispute resolution practitioner or to the Australian Industrial Relations Commission for assistance. On 28 April 2006 the Minister for Employment and Workplace Relations launched the Alternative Dispute Resolution Assistance Scheme to provide financial assistance to eligible employers and employees choosing to use private alternative dispute resolution.

Under the scheme parties to eligible disputes can receive up to \$1500 of government assistance towards the cost of private alternative dispute resolution services. To ensure access to the scheme for parties located in regional or remote areas, an additional \$500 is available to meet reasonable travel expenses for alternative dispute resolution practitioners travelling to such areas to provide their services.

The scheme's operational arrangements, which set out the eligibility requirements and assistance limits, were released on 28 April 2006. By 30 June 2006 the Workplace Programmes Branch had received 68 inquiries.

The Outcome 2 Project Office

The second year of operation of the Outcome 2 Project Office has seen an increase in the number of projects managed and greater adoption of project management methodologies and practices across the outcome. The skills development of Project Office staff in 2005–06 and greater staffing resources have allowed the office to increase its participation in project governance and to develop improved project management processes. This contributed to the successful completion of 12 information technology projects across the outcome during 2005–06.

Commentary: the Workplace Relations Reform Implementation Taskforce

The Workplace Relations Reform Implementation Taskforce was established in July 2005 to coordinate, plan and implement WorkChoices. Initially, the taskforce focused on monitoring and analysing policy and legislative developments, with the aim of determining the work-breakdown structures required for implementation as well those required for continuing the department's business under the new regime.

Reporting regularly through a steering committee mechanism, the taskforce applied project and risk management principles and practices to synchronise the delivery of multiple project deliverables and milestones, whilst maximising the resources available across the outcome.

The initial analysis phase included estimating the resources required to implement the WorkChoices legislation in 2005–06, as well as the department’s additional resource requirements for future years. The necessary funding was secured through the 2005–06 Additional Estimates process. The taskforce established the business processes required under the new Workplace Relations framework and in turn those required for delivering the new services. Parallel to this was the development of the content and knowledge, based on the new policy and legislation, required for the following:

- content for training courses and workshops for staff
- a knowledge resource for the WorkChoices Infoline advisors and a central Knowledge Bank within the department
- content for seminars and publications used in the second phase of the WorkChoices communications campaign.

The following are other important initiatives implemented across Outcome 2:

- the completion of policy analysis and development and drafting of legislation and regulations
- provision of essential accommodation, facilities and office infrastructure to support implementation for the department and associated agencies before WorkChoices came into effect
- nationwide bulk recruitment and training for the department and the Office of Workplace Services, together with development and delivery of WorkChoices briefings and training to existing staff across the outcome
- establishment and operation of the Awards Review Taskforce and Secretariat and the Australian Fair Pay Commission and separation of the Office of Workplace Services from the department
- development and implementation of a two-phase communication campaign (through the Ministerial Committee on Government Communications) to inform the Australian public of WorkChoices
- development and launch of a national seminar series and associated supporting materials through the WorkChoices education seminars and the Employer Advisor Programme
- implementation of a national contact centre infrastructure and knowledge database that supports the department, the Office of the Employment Advocate and the Office of Workplace Services in handling WorkChoices inquiries from the public
- establishment of the Unlawful Termination Assistance Scheme and the Alternative Dispute Resolution Assistance Scheme.

Output 2.2.4: Defence Force Remuneration Tribunal

The Defence Force Remuneration Tribunal was established in 1984 to enable the pay and allowances of members of the Australian Defence Force to be determined having regard to the special nature of Defence Force service. The tribunal, which is supported by a secretariat staffed by departmental employees, has two functions:

- to inquire into and determine the salaries and relevant allowances to be paid to members of the Australian Defence Force
- to inquire into and make determinations on prescribed matters that have been referred to the tribunal.

The tribunal's work is predominantly determined by the matters brought before it by the parties, in particular by the ADF. To deal with these matters the tribunal sits as and when required.

Highlights

- The ADF Remuneration Reform Project was completed.
- A major review of Flying Allowance was completed.
- A review of remuneration for senior officers was begun.

Performance results

TABLE 2.24

Performance indicators and actual performance:
Output 2.2.4, Defence Force Remuneration Tribunal

| Performance indicator | Target | Result |
|-------------------------------------------------------------------------------------------------------------------------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister with activities of the Defence Force Remuneration Tribunal in administering legislation | Effective or above | The Tribunal's President, the Hon. Senior Deputy President RN Cartwright, reported a high level of satisfaction with the secretariat's performance |
| Price | \$1.230m | \$1.187m (3.53% below budget) |

Note: Before 27 March 2006 Defence Force Remuneration Tribunal was Output 2.2.5.

Commentary

The secretariat researched, analysed and provided briefs on a range of matters brought to the Defence Force Remuneration Tribunal by the Australian Defence Force. In addition, 23 determinations were prepared to formally implement the tribunal's decisions.

During 2005–06 the tribunal finalised reviews of the Army Reserve Light Cavalry Scout category and the Army Multimedia Technician category and conducted a complete review

of all ADF medical and dental categories. The tribunal also completed a major review of the ADF Remuneration Reform Project.

Hearings were conducted in relation to the remuneration framework, the underpinning principles and business processes, the placement methodology, career profiles for senior officers, and the placement of Warrant Officers and Regimental Sergeant Majors.

Additionally, the tribunal completed a major review of Flying Allowance, applicable to all ADF pilots and air crew.

A summary of each of the matters considered by the Defence Force Remuneration Tribunal appears in the tribunal's annual report for 2005–06, which also includes commentary on the output and on achievements for the year.

Output 2.2.5: Secretariat to the Remuneration Tribunal

The Secretariat to the Remuneration Tribunal advises and supports the Remuneration Tribunal, an independent statutory body established under the *Remuneration Tribunal Act 1973* to inquire into and determine or provide advice on remuneration and related matters for a range of Commonwealth offices. The secretariat is staffed by departmental employees.

Highlights

The Remuneration Tribunal conducted annual reviews of those aspects of the remuneration, within its jurisdiction, of Ministers, members of Parliament and parliamentary office holders; the federal judiciary and related office holders; and the holders of full-time and part-time public offices.

Performance results

TABLE 2.25

Performance indicators and actual performance:
Output 2.2.5, Secretariat to the Remuneration Tribunal

| Performance indicator | Target | Result |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of Remuneration Tribunal President with the quality and timeliness of services to the Tribunal ^a | Effective or above | 14 briefs submitted, with an average rating of 4.5 (target met) The President of the tribunal reported a high level of satisfaction with the secretariat's performance |
| Price | \$1.754m | \$1.724m (1.74% below budget) |

^a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).

Note: Before 27 March 2006 Secretariat to the Remuneration Tribunal was Output 2.2.6.

Commentary

The Remuneration Tribunal is required by the *Remuneration Tribunal Act 1973* to report annually to the Minister for Employment and Workplace Relations. Details of reviews undertaken and the remuneration outcomes decided by the tribunal are provided in that report.

The Secretariat to the Remuneration Tribunal researched and analysed a range of matters and provided advice to the tribunal on them. The secretariat also supported the tribunal in the meetings it participated in when fulfilling its responsibilities. The tribunal settled 21 determinations to formally implement its decisions. In particular, the tribunal determined an increase of 4.4 per cent for offices in its jurisdiction, generally with a 1 July 2006 date of effect.

Output 2.2.6: Office of the Australian Safety and Compensation Council

The Office of the Australian Safety and Compensation Council provides policy advice on national occupational health and safety and workers compensation. It develops national OHS standards and codes, carries out research, and provides comparative analyses of national workers compensation data. The office coordinates the department's international role in OHS and workers compensation and is a recognised source of national research and statistical information relating to the two subjects. It reports to the Minister for Employment and Workplace Relations and the Workplace Relations Ministers' Council on the Australian Safety and Compensation Council's achievements in developing and promulgating nationally consistent occupational health and safety and workers compensation arrangements.

Highlights

- In August 2005 the Office of the Australian Safety and Compensation Council declared amendments to the national exposure standards. The declaration was formalised in the instrument *Amendments to the Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment* [NOHSC: 1003 (1995)] Source A Updates 2005. The declaration took effect from 31 August 2005.
- The Small Business OHS Advisers Programme was launched by the Minister for Employment and Workplace Relations on 27 October 2005. The programme provides educative and advisory services to help small businesses across all industries in urban, regional and rural Australia comply with OHS laws and standards operating in each state and territory. The Australian Industry Group delivers the programme on behalf of the department.
- On 1 March 2006 the Minister for Employment and Workplace Relations announced the winners of the National Safety Awards. The awards recognise excellence in OHS management and identify OHS solutions, and there is a special award recognising small business efforts.

- The Office of the Australian Safety and Compensation Council produced the seventh *Comparative Performance Monitoring Report* of the Workplace Relations Ministers' Council. The report provides trend analysis of the OHS and workers compensation scheme performance for Australian jurisdictions and New Zealand.
- In April 2006 the Australian Safety and Compensation Council declared the *National Standard for Licensing Persons Performing High Risk Work*. This is the first occupational health and safety standard declared under the *Australian Workplace Safety Standards Act 2005*.
- On 28 April 2006 Mr Bill Scales AO, Chairman of the Australian Safety and Compensation Council, launched the Safe Design for Engineering Students resource package at a breakfast to mark the International Labour Organization's World Day for Safety and Health at Work. The package is aimed at tertiary engineering students.
- The council endorsed the *Report on Indicators for Occupational Disease* in April 2006. The report uses a range of data sources to track trends in occupational disease.
- The Office of the Australian Safety and Compensation Council prepared a submission and appeared before the Senate Community Affairs References Committee Inquiry into Workplace Exposure to Toxic Dust.
- The office embarked on a programme of work to respond to the recommendations of the Council of Australian Governments National Competition Policy Review and *Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business*. This programme of work involves the creation of strategies to improve the development and uptake of national OHS standards, with particular emphasis on the following:
 - reducing the time taken to develop national OHS standards
 - state and territory consultations with local stakeholders in parallel with national consultations to inform the development of the national standard and ensure agreement to nationally consistent arrangements
 - agreeing on specific time frames for implementation, so that each jurisdiction implements the standards or code within an agreed time frame
 - identifying priority areas in principal occupational health and safety Acts in each state and territory that should be harmonised.

Performance results

TABLE 2.26

Performance indicators and actual performance: Output 2.2.6, Office of the Australian Safety and Compensation Council

| Performance indicator | Target | Result |
|---------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister with the provision of advice by the Office of the Australian Safety and Compensation Council ^a | Effective or above | 56 briefs submitted, with an average rating of 4.4 (target met) |
| Quality | | |
| Level of satisfaction of the National Occupational Health and Safety Commission CEO with the quality and timeliness of services to the commission | Effective or above | Not applicable. The National Occupational Health and Safety Commission was abolished on 31 December 2005. |
| Price | \$20.626m | \$20.839m (1.03% above budget) |

^a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).

Note: Before 7 October 2005 Office of the Australian Safety and Compensation Council was Output 2.2.8.

Commentary

The Office of the Australian Safety and Compensation Council provided the council with support for the two meetings held in 2005–06. The first meeting was held in Perth on 20 October 2005 and focused mainly on the establishment details for the council. The second meeting was held in Hobart on 6 April 2006; a key outcome of this meeting was the declaration of the National Standard for Licensing Persons Performing High Risk Work.

The council established two working groups to assist the office in implementing the business plan endorsed by the Workplace Relations Ministers' Council. The OHS Working Group met for the first time on 21 February 2006; the Workers Compensation Working Group met on 23 February 2006 and held a teleconference on 8 May 2006. The membership of both working groups includes representatives of all jurisdictions and employer and employee groups.

OHS standards development

The National Standard and Code of Practice for Noise are under review. The Office of the Australian Safety and Compensation Council proposes to incorporate noise and related hazards such as vibration in a Physical Agents Standard, which will facilitate the development of hazard-based codes such as the Code of Practice for Noise.

The review of the Draft National Standard for Manual Handling and the Draft Code of Practice for Manual Handling has begun, and it is expected that the standard and code will be declared by the end of 2006.

The Office of the Australian Safety and Compensation Council has progressed in developing a Code of Practice for the Prevention of Falls in General Construction and the Construction Induction Code; it is expected that the codes will be declared by the end of 2006.

A code of practice for working with tilt-up wall panels and concrete elements in building construction is being developed; it is expected that the draft document will be released for public comment during the third quarter of 2006.

The review of the Hazardous Substances Regulatory Framework is under way, and a draft standard and code of practice for control of hazardous chemicals in the workplace is being prepared. It is expected that the draft documents will be released for public comment in late 2006.

International collaboration

In July and December 2005 the Office of the Australian Safety and Compensation Council led the Australian delegation to the UN Sub-Committee of Experts on the Globally Harmonised System of Classification and Labelling of Chemicals. The office continued to work with Australian government chemical regulators on implementation of the system in Australian regulatory systems.

The office also supported the work of the UN Institute of Training and Research through contributions to the Globally Harmonised System capacity-building programme in the ASEAN region. Officers with expertise in chemical management and regulation contributed to workshops in the Philippines, Malaysia and Thailand during 2005–06.

In July 2005 the office was designated a World Health Organization Collaborating Centre in Occupational Health for four years. The role of the collaborating centres is to assist the WHO and its regional offices in implementing the WHO Global Strategy on Occupational Health for All.

Communication

The Office of the Australian Safety and Compensation Council developed a communications strategy aimed at raising awareness of OHS and workers compensation. The strategy involves the presentation of Safe Work Australia Awards, conference sponsorship, targeted speaking opportunities, trade advertising, and the production and distribution of publications, newsletters and fact sheets.

The annual Safe Work Australia Week is an important mechanism for raising awareness and disseminating information. First held in October 2005, it is designed to raise awareness about the importance of workplace safety and encourage the Australian workforce to participate in safety-focused events. The department conducted a national advertising campaign to promote OHS and the week to employers and employees. Safe Work Australia Week was developed in conjunction with state and territory governments, to align pre-existing activities and provide a tool for communicating workplace health and safety messages in a nationally consistent manner.

Research

Throughout 2005–06 the Office of the Australian Safety and Compensation Council provided a range of research reports to the council to assist it in its policy development. Among the reports were the following:

- *Potential OHS Implications of Nanotechnology*
- *The Effectiveness and Usability of COSHH Essentials for Printers for the Australian Printing Industry*
- *Avian Influenza*
- *International Review of Surveillance and Control of Workplace Exposures*
- *Review of Australian and New Zealand Workplace Exposure Surveillance Systems.*

The Australian Safety and Compensation Council produced two practical workplace safety guides for employers and employees:

- *Guidance on the Prevention of Dermatitis Associated with Wet Work*
- the *Skin@Work* package.

CASE STUDY

The Small Business OHS Advisors Programme

Maintaining a safe work environment is an essential part of running any business. Many workplace accidents can be avoided by adopting sound business practices, conducting a safety audit, and implementing a workable safety plan that is business specific.

The Small Business OHS Advisors Programme—an Australian government initiative delivered by the Australian Industry Group—aims to help small businesses implement work safety procedures that are cost-effective, are beneficial to employers and employees, and comply with occupational health and safety laws and standards in each state and territory. The programme runs until June 2007.

The programme is open to small businesses in any industry across urban, regional and rural Australia employing up to 20 full-time staff or equivalent. Small business employers who register for the programme will receive free advice, training and on-site assistance. The service is provided by specialist small business occupational health and safety advisers and consists of four stages:

- *Stage 1.* Employers are trained in occupational health and safety principles, responsibilities and obligations, and legislative compliance.
- *Stage 2.* An occupational health and safety assessment is conducted at the workplace.
- *Stage 3.* A safety plan is developed for the workplace.
- *Stage 4.* Support and assistance in implementing the safety plan are provided.

CASE STUDY**The Safe Work Australia Awards**

The winners of the Safe Work Australia Awards 2005 were announced on 1 March 2006 by the Minister for Employment and Workplace Relations, the Hon. Kevin Andrews MP, and Mr Bill Scales AO, then Acting Chairman of the Australian Safety and Compensation Council, in a ceremony held at Parliament House, Canberra.

To be eligible for the Safe Work Australia Awards, participants must first win their respective category in state and territory awards. Selected by a panel of respected industry and government judges, the winners and finalists of the 2005 awards were as follows:

CATEGORY 1: BEST WORKPLACE HEALTH AND SAFETY MANAGEMENT SYSTEM

| | |
|-------------------------|---------------------------------|
| Winner | Hardy Wine Company Limited (SA) |
| Highly Commended | Insurance Australia Group (NSW) |
| Finalists | Cord Excavation (ACT) |
| | Shaw Contracting (Tas) |

CATEGORY 2: BEST SOLUTION TO AN IDENTIFIED WORKPLACE HEALTH AND SAFETY ISSUE

| | |
|------------------|----------------------------------------------|
| Winner | Australian Paper Tasmania (Tas) |
| Finalists | Fallstop Pty Ltd (NSW) |
| | Heiniger Australia Pty Ltd (SA) |
| | Robert Miles Electrical Sub-contractor (ACT) |
| | Fluidsentry Pty Ltd (Vic) |

CATEGORY 3: BEST WORKPLACE HEALTH AND SAFETY PRACTICES IN SMALL BUSINESS

| | |
|-----------------|-------------------------------------------|
| Winner | D Williams Builders Pty Ltd (Tas) |
| Finalist | Port Fairy Builders and Traders OHS (Vic) |



Mr Bill Scales, Chairman of the ASCC (left) and Minister Andrews (right) with the winners of the Safe Work Australia Awards 2005, Mr Frank Hulshof and Kelvin Box from the Hardy Wine Company Limited, Ms Kate Smith from Australia Paper Tasmania, and Mr David Williams from D Williams Builders Pty Ltd.

CASE STUDY

The Safe Design for Engineering Students resource package

On 28 April 2006 Mr Bill Scales AO, Chairman of the Australian Safety and Compensation Council, launched the Safe Design for Engineering Students resource package at a breakfast held by the council to mark the International Labour Organization's World Day for Safety and Health at Work.

The resource package has been developed to help engineering students understand the importance of designing safe products, processes and systems and to develop 'safe design' skills appropriate to professional engineering. It is the council's vision that a safe design focus be incorporated in a wide variety of undergraduate subjects, so that safe engineering design is recognised as an integral part of basic engineering practice.

Specifically, the resource package does the following:

- summarises safety principles relevant to engineering design in a way that is easily accessible to engineering educators in a wide range of discipline areas and specialist fields
- provides educational materials that support engineering educators in integrating safe engineering design principles into their curricula
- provides a range of activities to help students learn about safe design and develop appropriate skills
- gives links to publications, occupational health and safety standards and websites that extend the scope of the material provided.

Output 2.2.7: Office of the Federal Safety Commissioner

The Federal Safety Commissioner, supported by the office, has responsibilities under the *Building and Construction Industry Improvement Act 2005* to promote occupational health and safety in the building and construction industry. The commissioner is doing this through the following means:

- development and administration of the Australian Government Building and Construction Occupational Health and Safety Accreditation Scheme
- promotion of best-practice occupational health and safety on building and construction projects—particularly Australian government-funded projects
- promotion of the adoption of safe design, with the aim of eliminating or minimising occupational health and safety risk during the construction phase
- working with industry stakeholders to identify initiatives that will lead to improved occupational health and safety performance in the industry
- helping Australian government agencies be model clients in relation to occupational health and safety.

Highlights

The reporting year was the first full year of operation for the Office of the Federal Safety Commissioner. Specific initiatives of the office were as follows:

- developing and implementing the Accreditation Scheme. Provisional accreditation for directly funded Australian government projects of \$6 million or more began on 1 March 2006, and 33 head contractors have been accredited
- investigating how best to assist subcontractors with a systematic approach to occupational health and safety
- establishing working relationships with state and territory OHS agencies
- producing case studies promoting innovative OHS responses to challenging building and construction projects
- developing safety principles and guidance materials
- forming industry and government reference groups to advise on matters affecting the building and construction industry's OHS performance
- starting to develop a standardised and comprehensive system for measuring the Australian building and construction industry's OHS performance.

More details are provided in the Federal Safety Commissioner's 2005–06 progress report, which is available at <www.fsc.gov.au>.

Performance results

TABLE 2.27

Performance indicators and actual performance: Output 2.2.7, Office of the Federal Safety Commissioner

| Performance indicator | Target | Result |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Quality | | |
| Level of satisfaction of the Minister with the advice provided by the Office of the Federal Safety Commissioner ^a | Effective or above | 32 briefs submitted, with an average rating of 4.5 (target met) |
| Quality | | |
| Level of satisfaction of clients with the provision of advice, information, education and promotion of safer workplaces on Australian government construction sites by the Office of the Federal Safety Commissioner | Effective or above | Target met. Over the past 12 months the FSC has consulted widely with industry, OHS authorities and other relevant agencies while championing a cooperative approach to improving OHS performance across the building and construction industry. This cooperative approach has raised awareness and resulted in considerable industry and Australian government agency support for FSC initiatives |
| Price | \$6.698m | \$6.937m (3.57% above budget) |

^a Ministers are asked to assess briefs based on their timeliness and presentation and the quality of advice. The scale is 1 (poor), 3 (effective) and 5 (outstanding).
Note: Before 1 October 2005 Office of the Federal Safety Commissioner was Output 2.2.9.

Commentary

During 2005–06 the Federal Safety Commissioner met with many industry participants—contractors, subcontractors, employees, unions, industry organisations and government agencies—to learn what occupational health and safety challenges and opportunities the building and construction industry faces. These discussions confirmed that the industry’s task in relation to improving OHS performance remains considerable.

There has been broad support for the role of the Federal Safety Commissioner in improving occupational health and safety in the industry. This is attested to by the strong interest in achieving accreditation under the Australian Government Building and Construction Occupational Health and Safety Accreditation Scheme and the number of requests the commissioner received to attend industry conferences and explain the work of the office. These requests have come from industry associations, large construction companies and government agencies.

Continuing collaboration with all industry participants supports the office’s goal of achieving world-class safety throughout the Australian building and construction industry. Through its work and the operation of the scheme, the office expects to bring about cultural change in the industry, whereby projects are delivered safely, on time and on budget.

Outlook for 2006–07: Output Group 2.2

- In 2006–07 the department will complete the remaining work associated with implementation of WorkChoices—in particular the following:
 - extension of the Employer Advisor Programme pilot and its evaluation
 - continued development and delivery of advisory products and services
 - completion of information technology and telecommunications and accommodation projects
 - further coordination of service delivery arrangements with portfolio agencies—particularly the Office of the Employment Advocate, the Office of Workplace Services and the Australian Building and Construction Commission.
- The department will also implement the Australian Government’s workplace relations reforms under the new Independent Contractors Bill 2006, promote the agreement-making options available under WorkChoices to employers and employees, and promote workplace relations initiatives designed to relieve the emerging pressure of an ageing workforce.
- The department will continue to implement the Government’s workplace relations reforms in the building and construction industry, including:
 - monitoring developments following WorkChoices, enactment of the *Building and Construction Industry Improvement Act 2005* and establishment of the Office of the Australian Building and Construction Commissioner, and implementation of the code and guidelines
 - education of and communication with industry and government agencies to ensure understanding and implementation of the code and guidelines, WorkChoices and the Building and Construction Industry Improvement Act.
- The department will continue to promote the Government’s workplace relations reforms in private sector industries, including the transport, resources, automotive and manufacturing sectors, as well as in service sectors such as banking and finance, retail, and business services.
- Representatives of a wide range of industries will continue to be consulted. This is increasingly important now that the Government’s workplace relations reform legislation is in effect. Industry will benefit from being made aware of the new flexibilities and simpler processes available to it.
- Instances of unprotected industrial action will continue to be monitored for the purpose of investigating non-compliance with the Workplace Relations Act, including breaches of Australian Industrial Relations Commission or court orders.
- In relation to the employee entitlement safety net schemes, the department will continue to work with insolvency practitioners and others to improve the way the General Employee Entitlements and Redundancy Scheme interacts with business practices, while maintaining the intent and purpose of the scheme. It will also strengthen the GEERS operational framework.

- Trades Recognition Australia will continue to help skilled migrants enter Australia as quickly as possible, particularly in the case of occupations for which skill shortages exist and through implementation of Council of Australian Governments skills initiatives associated with overseas assessment.
- The department will respond to the recommendations of the Council of Australian Governments National Competition and Policy Review and the *Rethinking Regulation* report of the Taskforce on Reducing Regulatory Burdens on Business.
- The department will work with stakeholders on national workers compensation and occupational health and safety arrangements to achieve nationally consistent frameworks
 - reviews of national occupational health and safety standards and codes in the areas of workplace chemicals, plant, major hazard facilities, licensing, occupational noise, and manual tasks will continue to be finalised
 - occupational health and safety codes of practice for building and construction in the areas of prevention of falls, induction, and work with tilt-up wall panels and concrete elements will continue to be developed or be finalised.
- The Federal Safety Commissioner will be replacing existing provisional accreditation arrangements with full accreditation requirements from 1 October 2006 and will develop and implement Stage 2 of the Accreditation Scheme. Stage 2 will extend to all contracts for building and construction projects funded directly or indirectly by the Australian Government, subject to financial thresholds that are yet to be announced.
- The Federal Safety Commissioner will release occupational health and safety principles and accompanying guidance material to assist clients and contractors in making a commitment to safety that goes beyond complying with legislation. The commissioner will also be promoting initiatives with Australian government agencies to help them become model clients in effective management of building contractors.