

# Report on performance Workplace Relations



<b>Outcome 2: Higher productivity, higher pay workplaces</b>	96
The operating environment in 2004–05	103
Performance information: Outcome 2	104
<b>Output Group 2.1: Workplace relations policy and analysis</b>	107
<b>2.1.1</b> Workplace relations policy advice	108
<b>2.1.2</b> Workplace relations legislation development	117
Outlook for 2005–06: Output Group 2.1	128
<b>Output Group 2.2: Workplace relations implementation</b>	129
<b>2.2.1</b> Advocacy	130
<b>2.2.2</b> Industry and Australian government employment advice	132
<b>2.2.3</b> Assistance to the Employment Advocate	139
<b>2.2.4</b> Workplace relations services	140
<b>2.2.5</b> Employee entitlements safety net schemes	148
<b>2.2.6</b> Defence Force Remuneration Tribunal	152
<b>2.2.7</b> Secretariat to the Remuneration Tribunal	154
<b>2.2.8</b> Building Industry Taskforce	155
<b>2.2.9</b> Office of the Australian Safety and Compensation Council	157
<b>2.2.10</b> Office of the Federal Safety Commissioner	159
Outlook for 2005–06: Output Group 2.2	160

# Outcome 2: Higher productivity, higher pay workplaces

**Outcome 2 activities 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 compliance with workplace relations obligations. 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.

## Highlights

- Pay levels continued to increase under the federal workplace relations system—up by 4.0 per cent to the June quarter 2005. Productivity declined during the reporting year as economic growth moderated while employment levels remained high.
- More than 204 000 Australian Workplace Agreements were approved in 2004–05, bringing to 707 000 as at 30 June 2005 the total number approved since 1997.
- The Government's further workplace relations reforms were supported by detailed policy and legislative development.
- The department provided advice on and managed participation by the Minister for Employment and Workplace Relations in key Australian Industrial Relations Commission cases of significance for the objectives of the *Workplace Relations Act 1996* or the Government's workplace relations policies, including the 2005 Safety Net Review and the *Family Provisions Case* and three appeals to the High Court of Australia.
- The Government announced the establishment of the Australian Safety and Compensation Council to lead and coordinate national efforts to improve occupational health and safety and workers compensation arrangements. Continued support was provided to the National Occupational Health and Safety Commission.
- The Small Business Workplace Dispute Settlement Pilot Programme began in Victoria, providing small businesses with access to mediation services as an informal alternative to proceedings in the Australian Industrial Relations Commission.
- The proportion of Australian employees participating in employee share plans rose to 5.9 per cent in 2004–05; this represents a further 75 000 employees newly participating in such plans.

- Australia's election in June 2005 to the ILO Governing Body for 2005–2008.
- The department continued to implement the Government's reform agenda for the building and construction industry.
- The department further advanced the Government's priorities for workplace reform through managing an extensive legislation programme. This programme resulted in Parliament passing important legislation providing for the validation of agreements made under the Workplace Relations Act that would otherwise be invalid because they contain matters that do not pertain to the employment relationship. Legislation was also passed providing for a stronger, more effective occupational health and safety compliance and enforcement regime in Commonwealth employment.
- The department engaged in an extensive consultation process concerning proposed reforms relating to the use of independent contractor and labour hire arrangements.
- Submissions to state and federal inquiries were prepared, among them submissions on the use of independent contractor and labour hire arrangements and a range of proposed legislative measures.
- The Building Industry Taskforce prosecuted 17 cases before the courts. Five matters were finalised in 2004–05, four of them successfully.
- Guidelines accompanying the *Workplace Relations Amendment (Codifying Contempt Offences) Act 2004* were passed by the Senate on 22 June 2005. The changes give the Building Industry Taskforce new compliance powers to require people to provide information, produce documents, or attend and answer questions.
- Services provided through the department's Employee Entitlements Branch were reviewed and enhanced, resulting in a record number of claims being processed within the targeted time frames. More than 11 500 claimants were assisted through the General Employee Entitlements and Redundancy Scheme during 2004–05, resulting in \$66.7 million in payments to Australian workers who lost their entitlements as a result of the employer's insolvency.
- During the reporting year the department's Office of Workplace Services handled over 645 000 telephone inquiries about workplace relations matters and resolved over 4000 claims of breaches of workplace relations laws, recovering over \$6 million in employment entitlements.

## Key priorities

To achieve the department's labour market outcomes, key priorities for Outcome 2 in 2004–05 were as follows:

- develop and advance the Government's further workplace relations reforms by supporting its policies and legislative programme
- continue to seek passage of legislation to give effect to the reform agenda in the building and construction industry

- pursue strategic interventions in the Australian Industrial Relations Commission and state industrial tribunals, to ensure that the objects of the Workplace Relations Act are protected and to maintain an appropriate award safety net of wages and conditions whilst encouraging workplace flexibility
- facilitate national consistency in occupational health and safety and workers compensation through the establishment of the Australian Safety and Compensation Council
- promote greater uptake of employee share plans through various promotional activities with employers, employees and financial and business activities
- assume policy responsibility for management of all asbestos-related claims—other than in relation to the Defence Department and certain government business enterprises—brought at common law against the Government
- pursue closer engagement in international labour activities—particularly in the Asia-Pacific region through our membership of the ILO Governing Body, Asia-Pacific Economic Cooperation and bilaterally
- continue to develop flexible workplace relations solutions to respond to the challenge of balancing work and family life and facilitating choice for parents
- with the Australian Competition and Consumer Commission, develop strategies relating to the interaction of the *Trade Practices Act 1974* and workplace relations practices
- promote agreement-making choices to employers and employees
- build better relationships with key stakeholders associated with the General Employee Entitlements and Redundancy Scheme such as Insolvency Practitioners, the Australian Securities and Investments Commission, the Insolvency and Trustee Service Australia and the Ombudsman.

**CHART 2.6** ORGANISATIONAL STRUCTURE FOR OUTCOME 2  
**Department of Employment and Workplace Relations**  
 as at 30 June 2005

<b>Deputy Secretary</b>	
<b>Workplace Relations</b> Finn Pratt	
<b>Workplace Relations Policy</b>	<b>Safety, Compensation and International</b> Linda Lipp
<b>Group Manager</b> John Kovacic	<b>Strategic Policy</b> Anna Clendinning
	<b>Wages and Conditions Policy</b> Louise McDonough
<b>WR Reform Policy and Legislation Taskforce</b> Natalie James, Miranda Pointon, Diane Merryfull, David Bohn	
<b>Workplace Relations Legal</b>	<b>Legal Policy</b> Bob Bennett
<b>Chief Counsel</b> James Smythe	<b>Legislation Reform</b> Natalie James, Diane Merryfull, David Bohn
<b>Workplace Relations Services</b>	<b>Employee Entitlements</b> Alfred Bongi
<b>Group Manager</b> Jenet Connell	<b>Employee Entitlements Project</b> George Brenan, Sherry Pullen, Stewart Thomas <i>A/g</i>
	<b>Workplace Services</b> Steve Kibble
	<b>Remuneration Tribunal Secretariat</b> Derren Gillespie
	<b>Defence Force Remuneration Tribunal Secretariat</b> Chris Wallace
<b>Workplace Relations Implementation</b>	<b>Building Industry</b> Leigh Quealy
<b>Group Manager</b> Craig Symon	<b>Industries</b> Stuart Watson <i>A/g</i>
	<b>Public Sector</b> Michael Maynard
<b>Building Industry Taskforce</b>	<b>Legal</b> Stephen McBurney
<b>Director</b> Nigel Hadgkiss	<b>Operations</b> John Draffin
	<b>Corporate and Governance</b> Heather Hausler
<b>Office of the Australian Safety and Compensation Council</b>	<b>Safety Skills and Design</b> Wayne Artuso
<b>Group Manager</b> Sandra Parker	<b>National Standards</b> Louise McSorley
	<b>National Strategy and Information</b> Helen Bull
<b>Office of the Federal Safety Commissioner</b>	
<b>Federal Safety Commissioner</b> Tom Fisher	
<b>Advocacy Team</b>	
<b>Team Leader</b> Ted Cole	

**CHART**  
2.7

THE INTERRELATIONSHIP BETWEEN OUTCOME 2, THE OUTPUT GROUPS,  
OUTPUTS AND ORGANISATIONAL UNITS

**Department of Employment and Workplace Relations**

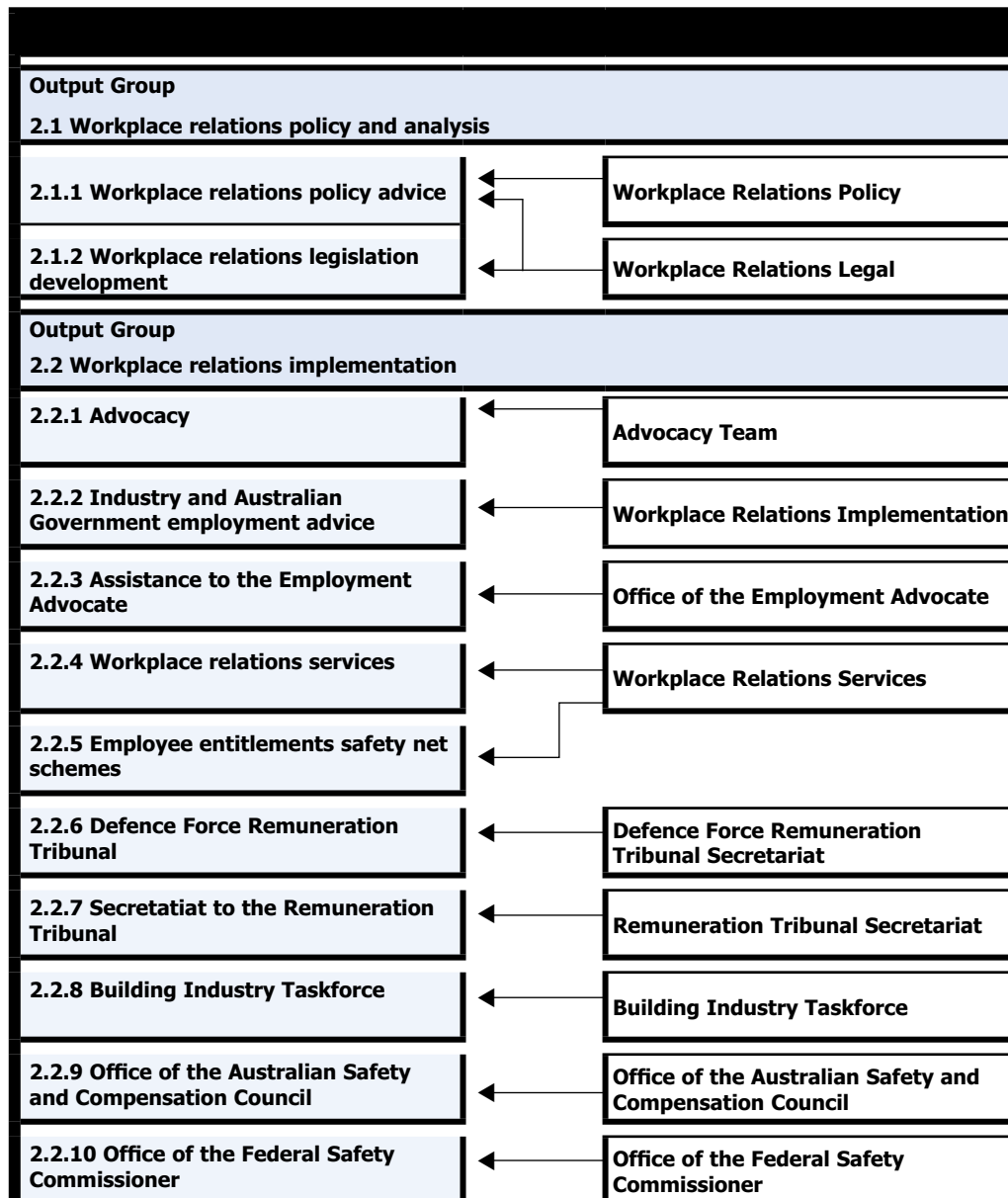
as at 30 June 2005

OUTPUT GROUPS AND OUTPUTS

ORGANISATIONAL UNIT

2  
Report on performance

Workplace Relations



## Outcome 2: financial and staffing resources summary, 2004-05

(\$'000)

TABLE  
2.15

	Additional Estimates and Supplementary			Other adjustments <sup>a</sup> 2004-05	Full-year Budget 2004-05	Actual expenses 2004-05	Variation 2004-05	Budget 2005-06
	Budget PBS 2004-05	Additional Estimates 2004-05	B					
<b>Outcome 2</b>	<b>A</b>	<b>B</b>		<b>C</b>		<b>E</b>		<b>G</b>
<b>Administered expenses</b>								
International Labour Organization subscription	6 001	0	155		6 156	6 199	43	6 153
Workplace Reform-Secret Ballots	1 600	0	(1 600)		0	0	0	1 600
General Employee Entitlements and Redundancy Scheme (s. 20 FMA Act)	75 957	0	(15 000)		60 957	66 676	5 719	68 124
Coal Mining Industry (Long Service Leave Funding) Act 1992	66 600	13 104	0		79 704	84 613	4 909	82 892
Special employee entitlements	204	0	80 245		80 449	84 042	3 593	5 919
Asbestos claims	0	0	0		0	0	0	14 682
<b>Total administered expenses</b>	<b>150 362</b>	<b>13 104</b>	<b>63 800</b>		<b>227 266</b>	<b>241 530</b>	<b>14 264</b>	<b>179 370</b>
<b>Price of departmental outputs</b>								
<b>Output Group 2.1: Workplace relations policy and analysis</b>								
Output 2.1.1: Workplace relations policy advice	12 540	0	(1 345)		11 195	11 790	595	19 085
Output 2.1.2: Workplace relations legislation development	5 007	0	332		5 339	5 955	616	5 851
<b>Subtotal Output Group 2.1</b>	<b>17 547</b>	<b>0</b>	<b>(1 013)</b>		<b>16 534</b>	<b>17 745</b>	<b>1 211</b>	<b>24 936</b>
<b>Output Group 2.2: Workplace relations implementation</b>								
Output 2.2.1: Advocacy	738	0	(19)		719	778	59	0
Output 2.2.2: Industry and Australian government employment	9 726	3 100	(5 230)		7 596	8 175	579	9 041
Output 2.2.3: Assistance to the Employment Advocate	18 129	0	2 734		20 863	21 169	306	23 197
Output 2.2.4: Workplace relations services	19 491	0	604		20 095	18 508	(1 587)	21 087
Output 2.2.5: Employee entitlements safety net schemes	11 945	0	(1 187)		10 758	11 341	583	10 837

Workplace Relations

Report on performance

2

## Outcome 2: financial and staffing resources summary, 2004–05 continued

(\$'000)

TABLE  
2.15

	Budget PBS		Additional Estimates and Supplementary		Other adjustments <sup>a</sup>		Full-year Budget		Actual expenses		Variation		Budget	
	2004–05	A	2004–05	B	2004–05	C	2004–05	D = A + B + C	2004–05	E	2004–05	F = E - D	2005–06	G
<b>Outcome 2</b>														
Output 2.2.6: Defence Force Remuneration Tribunal	851		0		113		964		1 058		94		1 008	
Output 2.2.7: Secretariat to the Remuneration Tribunal	1 821		0		(213)		1 608		1 774		166		1 666	
Output 2.2.8: Building Industry Taskforce	8 990		0		222		9 212		9 106		(106)		22 276	
Output 2.2.9: Office of the Australian Safety and Compensation Council	0		0		0		0		0		0		18 187	
Output 2.2.10: Office of the Federal Safety Commissioner	0		2 630		(1 792)		838		802		(36)		7 896	
<b>Subtotal Output Group 2.2</b>	<b>71 691</b>		<b>5 730</b>		<b>(4 768)</b>		<b>72 653</b>		<b>72 711</b>		<b>58</b>		<b>115 195</b>	
<b>Total departmental expenses</b>	<b>89 238</b>		<b>5 730</b>		<b>(5 781)</b>		<b>89 187</b>		<b>90 456</b>		<b>1 269</b>		<b>140 131</b>	
<b>Funded by</b>														
Revenue from government (appropriations) for departmental outputs	89 238		5 730		(5 781)		89 187		89 246		59		140 131	
Revenue from other sources	5 551		6 953		3 660		16 164		16 638		474		7 286	
<b>Total price of departmental outputs</b>	<b>94 789</b>		<b>12 683</b>		<b>(2 121)</b>		<b>105 351</b>		<b>105 884</b>		<b>533</b>		<b>147 417</b>	
<b>Total for Outcome 2</b>	<b>245 151</b>		<b>25 787</b>		<b>61 679</b>		<b>332 617</b>		<b>347 414</b>		<b>14 797</b>		<b>326 787</b>	
<b>Average staffing level (number)</b>	<b>693</b>		<b>40</b>		<b>0</b>		<b>733</b>		<b>752</b>		<b>19</b>		<b>765</b>	

a Includes s. 32 transfers to and from other agencies, actual administered expenses incurred by other agencies before s. 32 transfers, and other adjustments associated with internal restructuring, all of which are associated with the machinery of government changes.

## The operating environment in 2004–05

Workplace relations reform continues to have a significant impact on pay-setting arrangements. Until the early 1990s pay increases awarded in national wage cases flowed through to most of the workforce. By 2004, however, according to the latest Australian Bureau of Statistics data, about 80 per cent of employees had negotiated their pay-setting arrangements at the workplace level.

### Wages and earnings

Wages growth strengthened but overall remain contained in 2004–05. The growth rate for the Wage Price Index (formerly the Wage Cost Index) was 4.0 per cent in the year to the June quarter 2005, up from 3.6 per cent in the year to the June quarter 2004 (seasonally adjusted). Signs of localised wage pressures were, however, apparent in industries such as education (up by 5.7 per cent over the year to the June 2005 quarter), construction and government administration and defence (both up by 4.9 per cent over the year to the June quarter 2005).

Annual growth in the average weekly ordinary time earnings of full-time adults rose sharply, from 3.1 per cent in May 2004 to 6.0 per cent in May 2005 (seasonally adjusted). Annual growth in average weekly earnings for all employees increased from 3.0 per cent in the year to May 2004 to 5.8 per cent in the year to May 2005 (seasonally adjusted). Real average weekly ordinary time earnings for full-time adult workers—that is, earnings adjusted for movements in the consumer price index—increased by 3.5 per cent in the year to May 2005, up significantly from 0.6 per cent in the year to May 2004.

The Australian Industrial Relations Commission's Safety Net Review—Wages decision of June 2005 provided a \$17 a week increase in all award rates. This is below the record \$19 increase awarded in 2004 and the \$18 increase awarded in 2002. Consistent with this decision, the Federal Minimum Wage was increased by \$17 to \$484.40 a week. The real Federal Minimum Wage increased by 1.1 per cent in the year to June 2005, reflecting the safety net increase. Since June 1996 it has increased by 11.9 per cent.

### 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 and average hours per week for full-time employees stood at 42 in June 2005. The length of working hours in Australia continues to correlate with occupation and income: employees who work longer hours are generally in higher paid and managerial, administrative or professional occupations.

## Performance information: Outcome 2

TABLE  
2.16

### Performance measures: Outcome 2

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

## Performance information: Outcome 2

TABLE  
2.17

### Outcome effectiveness measures

Performance indicator	Performance summary
The federal workplace relations system supports choice of agreement with higher pay, higher productivity outcomes	The latest annual growth rate in the Wage Price Index was 4.0% to the June quarter 2005, up from 3.6% over the year to the June quarter 2004 (seasonally adjusted) The most common measure of labour productivity—GDP per hour worked in the market sector—decreased by 1.4% in the year to the June quarter 2005, following growth of 3.5% in the year to the June quarter 2004 (seasonally adjusted). The decline in productivity during the year occurred as economic growth moderated but employment levels remained high There were 16 508 current Certified Agreements at 30 June 2005, covering around 1.75 million employees and providing an average annualised wage increase of 4.0%. This compares with 14 874 current Certified Agreements, covering around 1.48 million employees and providing an average annualised wage increase of 3.9% at 30 June 2004. The increased level of agreement making in 2004–05 occurred in a range of industries, including construction, retail, and health and community services
Low incidence of industrial action	The rate of industrial disputation in Australia during 2004–05 was a record low 29 working days lost per thousand employees. This result is characteristic of the general trend towards lower national rates of industrial disputation in recent years. In contrast, the average annual rate of industrial disputation for the 1985–86 to 1990–91 period, preceding the introduction of enterprise bargaining (see Table 2.18), was 224 working days lost per thousand employees
The federal workplace relations framework is used by employers and employees.	The most recent Australian Bureau of Statistics data show that the proportion of the workforce whose pay was set by workplace or individual agreements stood at 80.0% in May 2004, rising from 79.5% in May 2002

## Performance results

### Agreement making

#### Federal Certified Agreements

The number of federal Certified Agreements current at the end of each quarter continued the steady rise evident since March 2003–04. The number of employees covered by current federal Certified Agreements has also grown and at 30 June 2005 was estimated to be 1.75 million. This estimate does not include employees covered by agreements that have expired but have not been replaced or terminated. According to the Australian Bureau of Statistics Employee Earnings and Hours Survey, 1.9 million employees had had their pay determined by a federal Certified Agreement at May 2004.

Federally Certified Agreements made without an industrial dispute needing to be formally found continued to rise—from 80 per cent of all current agreements at the end of 1998 to 93.3 per cent at 30 June 2005.

The proportion of current agreements made directly with employees and certified under s. 170LK of the Workplace Relations Act continued to increase: by 30 June 2005 it had reached 19.0 per cent of all current agreements.

The spread of agreement making into the private sector reached a record high during the September and December quarters of 2004–05, accounting for 94.54 per cent of all current agreements in each of these two quarters.

#### Australian Workplace Agreements

In addition to Certified Agreements, the Workplace Relations Act provides for agreement making for individual employees through Australian Workplace Agreements. In 2004–05 just over 204 000 AWAs were approved by the Employment Advocate—a 35 per cent increase on 2003–04 as at 30 June 2005. The total number of AWAs (including replacement agreements) approved since 1997 now exceeds 707 000, and more than 13 000 employers have now made AWAs.

During 2004–05 there was continued steady growth in AWA lodgments, with a 41 per cent increase nationally compared with 2003–04. Dramatic growth in AWA lodgments was experienced in Victoria, with lodgments up 129 per cent on 2003–04. Queensland also recorded a high rate of growth in lodgments—up 46 per cent on 2003–04. In Western Australia, New South Wales and South Australia growth in lodgments averaged 26 per cent on 2003–04.

Additional funding resulting from government policy aimed at further assisting the uptake of AWAs by small businesses (those with fewer than 20 employees) was provided to the Office of the Employment Advocate during 2004–05. The number of AWAs approved for employees working in small business was up 60 per cent on 2003–04. AWAs approved for small business accounted for 13 per cent of all AWAs approved in 2004–05; this compares with 11 per cent in 2003–04.

## Agreement making and work–family balance

The majority of federal Certified Agreements and AWAs include provisions to help employees achieve a work–family balance. The following are examples of such provisions:

- part-time work
- paid maternity, paternity and adoption leave
- access to single days of annual leave
- unlimited sick leave
- access to other leave for family purposes
- childcare assistance
- job sharing
- home-based work
- purchased leave or career-break schemes
- flexible working hours
- time off in lieu of overtime.

At 30 June 2005, 84 per cent of Certified Agreements, covering 94 per cent of employees contained at least one work-family provision.

### Industrial action

The rate of industrial disputation in Australia during 2004–05 was a record low 29 working days lost per thousand employees. This welcome result is characteristic of the general trend towards lower national rates of industrial disputation in recent years. It also stands in stark contrast to the average annual rate of industrial disputation of 224 working days lost per thousand employees reported for the 1985–86 to 1990–91 period, preceding the introduction of enterprise bargaining (see Table 2.18).

Record low numbers of working days lost per thousand employees have been recorded in four of the past five years in Australia under the Workplace Relations Act, with the exception being the ‘spike’ in 2003–04 (see Table 2.18). The department’s analysis of media reports suggests that this anomalous result in 2003–04 may be largely attributable to disputes in the state and territory public education and health sectors.

TABLE  
2.18**Industrial disputation, 1985-86 to 2004-05**

Year	Working days lost per 1000 employees
1985-86 to 1990-91 <sup>a</sup>	224
1991-92	183
1992-93	159
1993-94	82
1994-95	85
1995-96	114
1996-97	90
1997-98	82
1998-99	56
1999-00	105
2000-01	45
2001-02	42
2002-03	30
2003-04	67
2004-05	29
<b>1991-92 to 2004-05<sup>b</sup></b>	<b>84</b>

a Average over six years.

b Average over 13 years.

Source: Australian Bureau of Statistics Cat No. 6321.0.55.001

The record low rates of industrial disputation have been supported generally by provisions of the Workplace Relations Act promoting cooperative workplace relationships between employers and employees, free from unwarranted third party interference, and more specifically by the industrial action provisions of the Workplace Relations Act as well as the restoration of the secondary boycott provisions to the *Trade Practices Act 1974*.

## 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 and developing 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
- Workplace Reform—Secret Ballots.

Output  
2.1.1

# Workplace relations policy advice

**Output 2.1.1 contributes to Outcome 2 in the following ways:**

- **reviewing the implementation of workplace relations policy objectives and establishing future policy development directions**
- **providing policy advice on matters relating to workplace relations, workers compensation, and occupational health and safety**
- **developing and implementing workplace relations arrangements that encourage agreement making and facilitate flexible work practices underpinned by a genuine award safety net**
- **helping the Minister implement the Government’s workplace relations policy**
- **developing policy and initiatives aimed at improving performance and achieving broadly consistent outcomes in Australia’s occupational health and safety and workers compensation arrangements**
- **providing support for the effective operation of portfolio agencies, tribunals and advisory bodies.**

## Highlights

- The department provided to government advice on the development of the workplace relations reforms announced on 26 May 2005.
- An appropriate award safety net was maintained. The safety net encourages agreement making by supporting interventions by the Government in the Australian Industrial Relations Commission and state tribunals in a range of significant cases, including the 2005 Safety Net Review; the *Family Provisions Case*; the Queensland and Western Australian termination, change and redundancy cases; the New South Wales *Secure Employment Case*; and jury service in Victoria.
- The department facilitated the Minister’s introduction of legislation in relation to the Australian Industrial Relations Commission decision of 26 March 2004 to impose redundancy obligations on small businesses.

- The department supported Australian government intervention in Australian Industrial Relations Commission proceedings concerning wage arrangements for workers with a disability in Business Services (formerly sheltered workshops).
- Reflecting the integrated, national character of the Australian labour market, submissions were made to inquiries by the New South Wales Government and the Victorian Law Reform Commission, the Human Rights and Equal Opportunity Commission, and the Tasmanian Government.
- With the Department of Communications, Information Technology and the Arts, the department co-chaired the Australian Telework Advisory Committee in its review of the benefits of and barriers to telework in Australia and options to increase the incidence of flexible working.
- The department encouraged the breaking down of barriers preventing employee share ownership by introducing practical measures for achieving the Government's target of 11 per cent of employees holding shares in their organisation by 2009.
- The Minister was advised on the declaration of eligibility for certain private sector companies to self-insure in the workers compensation scheme provided by the Commonwealth under the *Safety, Rehabilitation and Compensation Act 1988*.
- The department assumed policy responsibility for management of all asbestos-related claims—other than in relation to the Defence Department and certain government business enterprises—brought at common law against the Government.
- The Government's engagement with the International Labour Organization was enhanced; this included Australia's election to the ILO Governing Body.

TABLE  
2.19

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.1.1, Workplace relations policy advice**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of the Minister with policy advice <sup>a</sup>	Effective or above	282 briefs submitted, with an average rating of 4.2 (target met)
<b>Price<sup>b</sup></b>	\$11.683m	\$12.350m
<b>Administered funds</b>		
International Labour Organization	\$6.156m	\$6.199m

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 (excellent).

b Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004-05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

### Policy advice

During 2004–05 the Workplace Relations Policy Group supported the development of policy on diverse workplace relations matters. Key results for the reporting period were to support the Government's further workplace reform agenda in the following ways:

- providing advice leading up to the Government's announcement of 26 May 2005 and subsequently engaging in detailed policy work to underpin the necessary legislative programme
- preparing for and providing advice in relation to the commencement of the *Age Discrimination Act 2004*
- supporting the Commonwealth's involvement in the Australian Industrial Relations Commission's consideration of applications for the declaration of common rule awards in Victoria
- making submissions to inquires into matters with implications for workplace relations—for example, the departmental submission to the Human Rights and Equal Opportunity Commission's examination of discrimination in employment on the basis of criminal record
- monitoring developments in relation to workplace surveillance and pursuing options to avert the emergence of different, inconsistent regulatory schemes in different jurisdictions
- coordinating briefing and speaking notes for the Minister's meetings and other engagements
- providing advice in relation to the intersection between trade practices and workplace relations law.

The department continued to provide to the Department of Family and Community Services workplace relations advice on reforms to business services funded under the *Disability Services Act 1986*. The department is represented on the Disability Sector National Industry Consultative Council, established by the Australian Industrial Relations Commission in 2003 to consider workplace matters for people with a disability who are employed in Business Services. The council met regularly throughout 2004 but did not meet in the first half of 2005, pending the outcome of formal Australian Industrial Relations Commission proceedings concerning wages for workers with a disability.

### Australian Industrial Relations Commission and court interventions

#### The Safety Net Review—Wages

Decisions of the Australian Industrial Relations Commission in annual Safety Net Reviews of Wages provide for adjustments to rates of pay in federal awards. The Government's submissions in the 2005 Safety Net Review—Wages included a report, prepared by the Centre of Policy Studies at Monash University, on the impact on the Australian economy of the

Australian Council of Trade Unions claim for an increase of \$26.60 in all award rates of pay. In particular, the Centre of Policy Studies modelled the impact of the claim on the economies of the states and territories and 57 statistical divisions. The centre estimated that an across-the-board \$26.60 award wage increase in 2005 would lead to employment growing by 74 000 fewer jobs in 2005.

### ***The Disability Wages Case***

The Government was granted leave to intervene on 1 February 2005 in Australian Industrial Relations Commission proceedings on a claim by the Liquor, Hospitality and Miscellaneous Workers Union for an award variation that seeks new wage arrangements for workers with a disability in Business Services. The Government submitted that no arbitration should take place until conciliation was exhausted and a Department of Family and Community Services review of the capacity of Business Services to implement pro rata award wages had been completed. It also took the position that any award variation should not result in job losses for people with a disability nor threaten the financial viability of any Business Services.

Following two conciliation conferences, a hearing was held on 27 June 2005. At the hearing the commission endorsed the agreement reached between the union and employers and supported by the Commonwealth on new pro rata wage arrangements for workers with a disability in Business Services.

### **Jury service entitlements: Victoria**

The Government made submissions in a claim by the National Union of Workers to extend jury service make-up pay entitlements to casual employees under the federal award covering the manufacturing groceries sector and to increase the level of the entitlement. The Commonwealth submitted that the casual loading adequately compensated for not receiving jury service make-up pay and that the claim could, if granted, have flow-on effects for other federal awards. The Australian Industrial Relations Commission granted the claim, although it decided that the jury service make-up pay should be limited to casual employees with more than 12 months' service.

CASE  
STUDY

## The *Family Provisions Case*

In July 2003 the Australian Council of Trade Unions lodged claims before the Australian Industrial Relations Commission to vary a number of awards to, among other things, extend unpaid parental leave from one to two years and grant a right to part-time employment on return from parental leave until the child reaches school age. Employer groups lodged counterclaims, proposing greater flexibility in the use of award leave entitlements and the removal of restrictions on casual and part-time employment.

In February 2004 all matters were referred to a Full Bench, and the Minister intervened in the public interest to oppose the ACTU claims. A series of written submissions were filed between May and November 2004. In late 2004 the department's Wages and Conditions Policy Branch and the Advocacy Team prepared the Commonwealth's final written submission and presented the Australian Government's case in the closing hearings in the commission.

The Government argued that the ACTU claims did the following:

- ignored the desirability of tailoring family-friendly working arrangements to the circumstances of the individual employee and workplace
- ignored the extent to which workplace bargaining is already providing flexible working arrangements where this is a priority for employees
- imposed greater replacement costs on employers
- increased red tape and compliance costs
- ignored the capacity of different industries to accommodate the claims.

Following further conciliation on the paid personal and carer's leave component, in August 2004 the parties in the case agreed to a new model clause for carer's leave. This would see an increase in the current cap on carer's leave from five to 10 days, taken from an employee's pool of personal leave, and an additional unpaid carer's leave entitlement for employees who have exhausted their personal leave or who are casuals.

A decision in the case is pending.

### Other interventions

The Government continued to successfully oppose the flow-on of the Australian Industrial Relations Commission's decision of 26 March 2004 to remove the exemption for small businesses from redundancy pay obligations in the Queensland and Western Australian Industrial Relations Commissions. Both the Queensland and Western Australian tribunals issued rulings rejecting union claims to flow-on redundancy pay obligations to small businesses in their respective states.

## The report on agreement making 2002–03

The report *Agreement making in Australia under the Workplace Relations Act 1996: 2002 and 2003* was tabled in Parliament on 30 November 2004, as required under s. 358A of the Workplace Relations Act. The report was prepared jointly by the department and the Office of the Employment Advocate.

## Work–family balance

### **The Australian Telework Advisory Committee**

The Australian Telework Advisory Committee was formed as a result of the Government's information and communication technology election policy, Connecting an Innovative Australia. The committee was established to advise government on options for and impediments to the development of telework for employees and businesses. For the purposes of the committee, 'telework' is defined as a flexible working practice enabled by ICT, which allows work to be carried out away from the main worksite—in the home, for example. The committee is made up of representatives of a range of government agencies, industry and business and is co-chaired by the Department of Communications, Information Technology and the Arts and the Department of Employment and Workplace Relations.

The committee met for the first time on 30 March 2005, with further meetings scheduled for July, September and November 2005. It has sought public submissions and feedback from consultations around Australia and will draft recommendations on the basis of its research and findings. Its final report to government is due in February 2006.

### **The National Work and Family Awards**

The 2005 Australian Chamber of Commerce and Industry – Business Council of Australia National Work and Family Awards were officially launched by the Hon. Kevin Andrews MP, Minister for Employment and Workplace Relations, on 9 March 2005 at the Australian Federal Police Headquarters in Canberra. The AFP won the prestigious Gold Award in the 2004 awards. The 2005 awards will, for the first time, include a Gold Award for the public sector.

Winners will be announced by the Minister at a special presentation on Thursday 24 November 2005 at the Sofitel Wentworth Hotel in Sydney. Information on winners and finalists will be provided in the free publication *Winning workplaces 2005*, which will be widely distributed after the awards presentations.



*The Hon. Kevin Andrews at the launch of the 2005 Australian Chamber of Commerce and Industry - Business Council of Australia National Work and Family Awards.*

## Employee share ownership

As a direct response to recommendations of the Nelson inquiry into employee share ownership in Australia, the department commissioned a major quantitative and qualitative research project to investigate the barriers to ESO uptake and the number, nature and extent of ESO plans in Australia. The research report, entitled *Employee share ownership in Australia: aligning interests*, uncovered valuable information relating to ESO, providing a constructive framework and focused course of further action for the department's Employee Share Ownership Development Unit.

Following through with its commitment to increase the uptake of ESO in Australia, the Employee Share Ownership Development Unit produced the *Employee share plans: getting started* kit. The kit, which was launched by the Minister for Employment and Workplace Relations in May 2005, aims to make employee share plans easier and cheaper for Australian businesses to implement. By using the kit, employers will have a step-by-step guide to begin implementing an ESO plan and will be able to customise their plan to suit their situation and business needs.

The Employee Share Ownership Development Unit expects that introduction of the *Getting started* kit will increase the uptake of employee share ownership, in line with the 11 per cent target by 2009, by directly addressing the barriers that at present deter businesses from taking the steps towards implementation. The kit will reduce the cost and complexity of implementing and administering employee share ownership, making the concept easier for employers and employees to understand.

Following the release of the kit, the Employee Share Ownership Development Unit conducted a series of workshop sessions to educate financial and business advisers. The workshops guided advisers through the kit and provided interactive advice on how the advisers could implement plans with their clients. The unit continues to work closely with government departments and regulators—including the Australian Taxation Office, the Treasury, and the Australian Securities and Investments Commission.

### CASE STUDY

## The small business mediation pilot

In the 2004 election policy statement, *Flexibility and Productivity in the Workplace: the key to jobs*, the Government committed \$2 million to establish a pilot workplace relations mediation service for businesses employing fewer than 20 people. The pilot mediation service will be provided under the auspices of the Australian Industrial Relations Commission on a regional and metropolitan basis, running in Victoria from May to December 2005. The department has appointed a consultant to evaluate the pilot and help determine whether a mediation service for small business should be introduced nationally.

## The International Labour Organization

The department performed ongoing policy work to manage the Government's relationship with the International Labour Organization. Reports on several matters were prepared and provided to the ILO under Articles 19 and 22 of the ILO's Constitution:

- application of 15 ratified conventions concerning various topics
- implementation of unratified instruments concerning labour inspection
- submission to Parliament in November 2004 of a new ILO convention concerning seafarers' identity documents.

The department organised and carried out consultations on ILO matters with the Australian Chamber of Commerce and Industry and the Australian Council of Trade Unions in December 2004 and May 2005 and between government, employer and worker representatives from New Zealand and Australia in April 2005.

The department also attended, with observer status, the November 2004 and March 2005 meetings of the ILO Governing Body in Geneva. It attended the June 2005 meeting as a member following the Australian Government's election to the Governing Body for the period 2005 to 2008 at the International Labour Conference in June 2005.

The department carried out preparatory work for and four departmental officers attended the 93rd Session of the International Labour Conference in June 2005. In accordance with the ILO Constitution, the department also funded the attendance of two employer and two worker representatives. The departmental delegates did the following:

- participated in the first discussion of a new convention and recommendation for the promotion of occupational safety and health
- participated in the second discussion about a proposed new consolidated convention concerning labour standards in the fishing sector
- contributed to a general discussion on youth employment
- represented Australia in relation to compliance matters associated with Convention No. 98, Right to Organise and Collective Bargaining, 1949.

Australia is the 13th highest contributor to the ILO, with an assessed contribution of \$6.4 million for 2005.

The Australian Government hosted a subregional meeting of the ILO in Melbourne from 4 to 8 April 2005. The main purpose of the meeting was to share between countries in the region information on fair and safe employment and workplace practices that contribute to economic development and offer participating countries capacity-building opportunities and exposure to best practice.

Appendix 11 provides more information about ILO matters.

## Occupational health and safety and workers compensation

During 2004–05 the department contributed to initiatives aimed at improving performance and achieving broadly consistent outcomes in Australia’s occupational health and safety and workers compensation arrangements. The initiatives included the following:

- implementing the Government’s response to the Productivity Commission’s final report on National Workers Compensation and Occupational Health and Safety Frameworks. In its response, the Government proposed the establishment of a new national consultative body—the Australian Safety and Compensation Council—to lead and coordinate national efforts on workplace safety and to improve workers compensation arrangements, including the rehabilitation and return to work of injured employees. The department has progressed the establishment of this body, a key milestone being the movement of the Office of the National Occupational Health and Safety Commission into the department
- advising the Minister on the declaration of eligibility for two private sector companies—Optus Administration Pty Ltd and Toll Group Ltd—to self-insure in the workers compensation scheme provided by the Commonwealth under the *Safety, Rehabilitation and Compensation Act 1988*. The declarations may be made if the Minister is satisfied it is desirable for private sector companies in competition with current or former Commonwealth authorities to be eligible for coverage
- initiating a comprehensive review of aspects of the structure, governance and delivery of workers compensation and occupational health and safety for the Seacare Scheme—the *Seafarers’ Safety, Rehabilitation and Compensation Act 1992* and the *Occupational Health and Safety (Maritime Industry) Act 1993* and related acts—and a strategy for proceeding
- providing policy advice on aspects of the Commonwealth workers compensation scheme—including a range of possible amendments to the *Safety, Rehabilitation and Compensation Act 1988*
- providing advice to the Minister on the centralisation of management of all asbestos-related claims brought at common law against the Government—with the exception of Defence Department claims and claims against certain government business enterprises
- advising the Government on proposed legislative amendments to the *Occupational Health and Safety (Commonwealth Employment) Act 1991* to exclude Commonwealth employers and employees from the application of the Australian Capital Territory’s industrial manslaughter laws and any other similar laws enacted by a state or territory in the future
- tabling the Government’s response to *Back on the job: report into aspects of Australian workers compensation schemes*, by the House of Representatives Standing Committee on Employment and Workplace Relations.

Other occupational health and safety work covered the following:

- advising the Government and the Workplace Relations Ministers’ Council on the development of regulations to prohibit the importation of explosives, including fireworks, without an authorisation

- amending regulations of the Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003 to incorporate the National Occupational Health and Safety Commission's National Standard for Manual Handling, with minor amendments reflecting conditions specific to the maritime industry
- amending Part 4 (Plant) of the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994
- providing policy support to the Minister's representative on the National Occupational Health and Safety Commission and to the Employer Commissioner on the Safety, Rehabilitation and Compensation Commission.

**Output**  
2.1.2

## Workplace relations legislation development

**Output 2.1.2 contributes to Outcome 2 in a number of ways:**

- **providing policy and legal advice on workplace relations legislation**
- **managing the development of workplace relations, workers compensation and occupational health and safety legislation**
- **providing parliamentary support to the Minister and the Government in relation to legislation**
- **helping the Minister implement the Government's workplace relations policy**
- **providing support for the effective operation of portfolio agencies, tribunals and advisory bodies.**

### Highlights

- Legal policy and legislation were developed to further the Government's workplace relations reform programme.
- The department supported the successful passage of legislation validating agreements made under the Workplace Relations Act that would otherwise be invalid because they contain matters that do not pertain to the employment relationship. The department also supported the successful passage of a stronger, more effective occupational health and safety compliance and enforcement regime for Commonwealth employment.
- The department provided legal policy and legal advice and developed and facilitated the introduction by the Minister of legislation in relation to centralising the management of asbestos-related claims, responding to the Royal Commission into the Building and Construction Industry, excluding Commonwealth employers and employees from the application of industrial manslaughter laws, refining the operation of protected industrial action, prohibiting bargaining services fee clauses in state employment agreements where

a constitutional corporation is party to the agreement, enhancing the right of entry system, exempting small business from the unfair dismissal provisions, and exempting small business from redundancy pay obligations.

- Support was provided for Commonwealth interventions in a range of tribunal and court proceedings concerning provisions of the Workplace Relations Act related to agreement making, transmission of business, right of entry, freedom of association, and protected industrial action.

TABLE  
2.20

## PERFORMANCE RESULTS

### Performance indicators and actual performance:

#### Output 2.1.2, Workplace relations legislation development

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of the Minister with legislation development services <sup>a</sup>	Effective or above	134 briefs submitted, with an average rating of 4.4 (target met)
<b>Price<sup>b</sup></b>	\$5.626m	\$6.199m
<b>Administered funds</b>		
Workplace Reform: Secret Ballots	\$0.00m	\$0.00m

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 (excellent).

b Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

### Policy advice

During 2004–05 the Workplace Relations Legal Group provided legal advice on a variety of workplace relations matters. Among the significant topics dealt with were the following:

- implementing the Government's workplace relations agenda—including the recommendations of the Royal Commission into the Building and Construction Industry—and developing and drafting guidelines for the exercise of new compliance powers under Part VA of the Workplace Relations Act
- exploring prospects for workplace relations reform to implement the Government's commitment to introducing a unitary workplace relations system
- exploring prospects for reform of the law in relation to independent contractor and labour hire arrangements
- monitoring workplace relations developments in other jurisdictions—including new laws and the decisions of state and territory tribunals and courts.

CASE  
STUDY

## Legislative reforms in independent contracting and labour hire

In March 2005 the department released a discussion paper entitled *Proposals for legislative reforms in independent contracting and labour hire arrangements*. The paper was the basis for departmental consultation on the content of the proposed Independent Contractors Act, which formed part of the Government's 2004 election policies. The paper canvassed options for legislative reform to prevent unreasonable workplace regulation of independent contractors—including the removal of constraints on and barriers to the freedom to contract and the freedom to engage workers through labour hire arrangements.

Some key issues the paper dealt with were as follows:

- definitional issues—whether the current reliance on common law definitions of ‘employee’ and ‘independent contractor’ should be retained or whether these terms should be legislatively defined
- barriers to the use of independent contractors and labour hire workers—whether the Workplace Relations Act should be amended to prohibit clauses in agreements or awards that seek to restrict the engagement of independent contractors or labour hire workers or that require them to be afforded certain conditions
- removing independent contractors from the scope of workplace relations laws—whether the Commonwealth should seek to override state workplace relations laws that affect independent contractors, such as unfair contracts provisions and definitions that deem independent contractors to be employees
- ensuring that ‘sham’ arrangements are not legitimised—whether a civil penalty should be introduced applying to hirers who deliberately attempt to avoid employer responsibilities by seeking to establish a false independent contracting arrangement and whether labour hire businesses should be regulated
- protecting independent contractors—whether the proposed Independent Contractors Act should seek to provide a national scheme for unfair contracts.

The department received 63 submissions, which it analysed in order to brief the Minister on the content of the proposed Act.

Running in parallel with the department's consultation process was a parliamentary inquiry into independent contracting and labour hire matters. The department made a submission to the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation and appeared before the committee twice. The committee's report is expected to be released in August 2005 and will be taken into account in developing the proposed legislation.

The department also advised on and assisted the Minister in making regulations to:

- clarify prohibitions against the workplace use of asbestos
- provide greater flexibility in plant licensing arrangements in Commonwealth employment
- clarify employers' obligations to keep time and wage records for certain Victorian employees and contract outworkers
- prescribe workplace inspectors as people capable of commencing proceedings seeking a penalty under s. 170MN of the Workplace Relations Act.

In preparation for the commencement of the *Legislative Instruments Act 2003* on 1 January 2005, the Workplace Relations Legal Group coordinated a portfolio-wide review of legislative instruments during 2004. This involved reviewing more than 400 instruments and resulted in the department becoming an exemplar of best practice in relation to legislative instruments. On 5 January 2005 the department also had the honour of being the first portfolio to register an instrument on the new Federal Register of Legislative Instruments. Since then a further 10 instruments have been registered; Appendix 3 provides details.

## Towards a simpler national workplace relations system

In May 2005 the Government announced its intention to work towards a unified national workplace relations system. The guiding principle for these reforms is to develop a system that retains a genuine safety net while encouraging the negotiation conditions of employment at the workplace through agreements. As part of these reforms, the Government announced it would do a number of things:

- establish the Australian Fair Pay Commission to protect minimum and award classification wages
- enshrine minimum conditions in legislation for the first time
- introduce the Australian Fair Pay and Conditions Standard to protect workers in the bargaining process
- simplify the agreement-making process in the workplace
- provide modern award protection for workers not covered by agreements
- ensure an ongoing role for the Australian Industrial Relations Commission
- improve Australia's unfair dismissal laws.

The Workplace Relations Legal Group has a central role in developing the legal policy and legislation that will underpin the proposed reforms.

## Occupational health and safety and workers compensation

The Workplace Relations Legal Group contributed to Australia's occupational health and safety and workers compensation arrangements in four main ways:

- developing legislation—including legislation to establish a stronger, more effective occupational health and safety compliance and enforcement regime in Commonwealth employment

- developing regulations for dangerous goods and 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 amending the Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003 to incorporate the National Occupational Health and Safety Commission's National Standard for Manual Handling, with minor amendments reflecting conditions specific to the maritime industry
- developing regulations to amend Part 4 (Plant) of the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 to, among other things, allow for greater flexibility in the licensing arrangements.

## Australian Industrial Relations Commission and court interventions

The Workplace Relations Legal Group plays an important role in advising the Minister on strategic interventions in court and tribunal proceedings to ensure that public interest considerations and arguments on the appropriate operation of the Workplace Relations Act are put forward.

In 2004–05 the High Court handed down decisions for three appeals that were heard in 2003–04 and in which the Commonwealth had intervened. Two of these appeals related to the operation of the transmission of business provisions of the Workplace Relations Act. The third appeal sought to clarify whether protected industrial action can be taken in support of matters that do not pertain to the employment relationship—such as bargaining agent fees. In addition, the High Court's decision dealt with the question of whether such matters may be validly included in Certified Agreements. After the High Court handed down its decision, the Commonwealth intervened in a number of proceedings, in both the commission and the Federal Court, to clarify the application of the principles established by the High Court.

The following are examples of other matters dealt with in interventions:

- the interaction of union right of entry provisions in the Workplace Relations Act with the operation of state right of entry laws and the operation of union right of entry provisions where the employer is not bound to apply the terms and conditions of a federal award
- the scope of orders the Australian Industrial Relations Commission can make when resolving a dispute about the operation of the right of entry provisions in the Workplace Relations Act
- the scope of the commission's powers to make directions to parties involved in bargaining under the Workplace Relations Act.

Appendix 12 provides details of these and other interventions.

CASE  
STUDY***Minister for Employment and Workplace Relations v Gribbles Radiology Pty Ltd; Gribbles* [2005] HCA 9 (9 March 2005)**

In the *Gribbles Case* the High Court upheld an appeal against a decision of the Full Court of the Federal Court and found that Gribbles was not a successor to the business (or part of the business) of the Melbourne Diagnostics Imaging Group.

The Minister intervened in support of Gribbles' appeal to the High Court. The High Court held that, for the purposes of s. 149(1)(d) of the *Workplace Relations Act 1996*, there will not necessarily be a transmission of business from one employer to another simply because the new employer carries on the same kind of business as its predecessor. For the transmission rules to apply, the new employer must acquire a part of the business of the former employer.

The decision extends the current test for determining whether a transmission of business has occurred. This test was set out in *PP Consultants v FSU* (1999) 93IR64, as follows:

- Identify the core character of the business of the first employer.
- Identify the core character of the business of the second employer that has taken over the business activities and/or assets of the first employer.
- Compare and contrast the first employer's business with the second employer's business, which now includes the transferred business activities and/or assets. If, in substance, the businesses have the same character, it will usually be the case that the second employer has succeeded to the business or part of the business of the first employer.

The High court stated that in some circumstances it will also be necessary to identify:

- the business of part of the business of the former employer
- that part of the business of the former employer that is now enjoyed by the new employer.

The High Court said that identifying the employer's business will usually require defining the particular activity that is transferred as well as the tangible and intangible assets. In this case, Gribbles did not enjoy any tangible or intangible assets—such as equipment, premises, licences or goodwill—of the former employer.

CASE  
STUDY***Amcor Limited v Construction, Forestry, Mining and Energy Union; Minister for Employment and Workplace Relations* [2005] HCA 10 (9 March 2005)**

In a decision that highlights the importance of carefully drafting industrial instruments, the High Court found that Amcor Ltd was not obliged to pay redundancy benefits to employees who were transferred to a subsidiary of Amcor.

In 1998 Amcor sold several of its businesses and associated plant and equipment to a wholly owned subsidiary, Paper Australia Pty Ltd. The employees working in the businesses remained the employees of Amcor. Subsequently, Amcor went through a demerger, in which its paper manufacturing business (which had been run by Paper Australia) was transferred to another Amcor subsidiary, PaperlinX. Amcor gave notice terminating the employment of the employees in the business sold to PaperlinX. At the same time PaperlinX made a written offer of employment to each of those employees, offering employment on the same terms and conditions and recognising the employees' continuity of service.

The central question for the High Court was the interpretation of an ambiguous redundancy provision in Amcor's Certified Agreement—specifically, whether the word 'position' meant a position with the particular employer (as argued by the union) or a position in a business as conducted by an employer from time to time (as argued by Amcor and the Minister). The High Court largely accepted the submissions of the Minister and Amcor and overturned the decision of the Full Federal Court, which had previously held that the employees were entitled to redundancy payments under the Certified Agreement.

The High Court's decision turns largely on the specific wording of the redundancy clause in the Amcor agreement. The court took a 'purposive' approach in construing the meaning of the clause, confirming that, where an industrial instrument is ambiguous, greater weight will be given to the nature and context of the instrument to resolve that ambiguity.

## Legislation development

### **Acts introduced into Parliament in 2004–05 and enacted in 2004–05**

The *Workplace Relations Amendment (Agreement Validation) Act 2004* was introduced into Parliament during 2004–05 and enacted during 2004–05.

The Act commenced on 15 December 2004 and provides the Government's response to the 2 September 2004 High Court decision in *Electrolux Home Products Pty Ltd v AWU and Others* [2004] HCA 40. In *Electrolux*, the High Court found that agreements can contain only matters that pertain to the employment relationship or that are incidental, ancillary or machinery provisions.

The Act provides that all agreements certified, varied or approved on or before 2 September 2004 are valid, even if they contain matters that do not pertain to the employment relationship. The Act does not validate those matters contained in agreements that do not pertain to the employment relationship. Therefore, agreement clauses dealing with non-pertaining matters will not be enforceable.

CASE  
STUDY

## The *Workplace Relations Amendment (Agreement Validation) Act 2004* and the High Court decision in *Electrolux*

On 2 September 2004 the High Court delivered its judgment in *Electrolux*. The case concerned industrial action in 2001. The unions involved considered the industrial action to be protected. In response, Electrolux took action against the unions in the Federal Court.

Electrolux argued that the Commission can certify agreements only where each and every clause pertains to the employment relationship. On this basis, since the unions' claim for a bargaining agent fee did not pertain to the employment, it cannot be included in a Certified Agreement. Industrial action in support of such a claim is thus not 'in respect of a proposed agreement' and cannot be protected.

In November 2001 Justice Merkel heard the case in the Federal Court and found that every 'substantive, discrete and significant' provision in an agreement needed to pertain for an agreement to be certified. Only necessary, incidental, ancillary or machinery provisions relating to a matter that does pertain are able to pertain. The unions appealed to the Full Federal Court. On 21 June 2002 the Full Federal Court overturned Justice Merkel's decision.

Electrolux then appealed to the High Court, and on 2 September 2004 the High Court handed down its decision. The majority (6:1) reinstated Justice Merkel's decision, overturning the Full Federal Court's decision. Justice Kirby disagreed, supporting the Full Federal Court's approach.

The *Workplace Relations Amendment (Agreement Validation) Act 2004* is the Government's response to the High Court decision in *Electrolux*. The Act provides that all agreements certified, varied or approved on or before the date of the *Electrolux* decision are valid. It applies to both Certified Agreements and Australian Workplace Agreements. However, the Act validates agreements only to the extent that they contain matters pertaining to the employment relationship, matters that are machinery provisions, or matters incidental or ancillary to matters pertaining to the employment relationship. Non-pertaining matters remain invalid.

The Act also validates industrial action taken on or before the date of the *Electrolux* decision, which would have been protected action but for the *Electrolux* decision.

## Acts introduced into Parliament before 2004–05 but passed in 2004–05

The following Acts were introduced into Parliament before 2004–05 but were passed during 2004–05:

- the *Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Act 2004*
- the *Workplace Relations (Codifying Contempt Offences) Act 2004*.

The Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Act commenced on 13 September 2004. The Act makes significant changes to the penalty provisions of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* and institutes a stronger, more effective occupational health and safety compliance and enforcement regime in Commonwealth employment. Dual civil and criminal penalty regimes for occupational health and safety breaches now operate, and all Commonwealth employers are liable to the full range of civil penalties and remedies. The Act also introduced an innovative range of measures to prevent accidents and injuries—for example, injunctions, remedial orders and enforceable undertakings.

The Workplace Relations (Codifying Contempt Offences) Act received Royal Assent on 13 July 2004. It contained a number of schedules with varying commencement dates. The Act amends the Workplace Relations Act in relation to the giving of evidence to the Australian Industrial Relations Commission, compliance powers in connection with the building industry, the quantum of penalties, disqualification from holding office in a registered organisation, and ‘whistleblower’ protections for members, officials and employees of registered organisations.

## Bills introduced in 2004–05 and remaining before Parliament

The following Bills were introduced into Parliament during 2004–05 and remain before Parliament:

- Asbestos-related Claims (Management of Commonwealth Liabilities) Bill 2005
- Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Bill 2005
- Building and Construction Industry Improvement Bill 2005
- Building and Construction Industry Improvement (Consequential and Transitional) Bill 2005
- Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005
- Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005
- Workplace Relations Amendment (Better Bargaining) Bill 2005
- Workplace Relations Amendment (Extended Prohibition of Compulsory Union Fees) Bill 2005
- Workplace Relations Amendment (Fair Dismissal Reform) Bill 2004
- Workplace Relations Amendment (Right of Entry) Bill 2004
- Workplace Relations Amendment (Small Business Employment Protection) Bill 2004.

The Asbestos-related Claims (Management of Commonwealth Liabilities) Bill would centralise the management of asbestos-related claims brought at common law within Comcare by transferring the liability for asbestos-related common law claims from the Commonwealth and Commonwealth authorities to Comcare. The Bill was introduced into the House of Representatives on 25 May 2005 and passed the House on 1 June 2005. It was introduced into the Senate on 14 June 2005.

The Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Bill will, among other things, repeal certain stevedoring legislation—the *Stevedoring Industry Finance Committee Act 1977*, the *Stevedoring Industry Act 1977* and the *Stevedoring Industry Levy Collection Act 1977*. The Bill was introduced into the House of Representatives on 25 May 2005 and passed the House on 1 June 2005. It was introduced into the Senate on 14 June 2005.

The Building and Construction Industry Improvement Bill and the Building and Construction Industry Improvement (Consequential and Transitional) Bill are part of the Government's legislative response to the workplace relations recommendations of the Royal Commission into the Building and Construction Industry. The Bills were introduced into the House of Representatives on 9 March 2005 and referred to the Senate Employment, Workplace Relations and Education Committee on 16 March 2005. The committee reported on 10 May 2005.

The Building and Construction Industry Improvement Bill would establish an improved workplace relations framework and culture in the building industry. The Building and Construction Industry Improvement (Consequential and Transitional) Bill would make consequential and technical amendments to various Acts and provides application, saving and transitional provisions.

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 introduced into the House of Representatives on 23 June 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 the 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 introduced into the House of Representatives on 9 March 2005.

The Workplace Relations Amendment (Better Bargaining) Bill was introduced into the House of Representatives on 9 March 2005. It proposes amendments to the Workplace Relations Act for the following purposes:

- to ensure that industrial action cannot be taken from the time an agreement comes into operation until the nominal expiry date of the agreement has passed

- to allow the suspension of a bargaining period to provide for a cooling-off period during the negotiations for a Certified Agreement
- to allow the suspension of a bargaining period on application of a directly affected third party where industrial action is threatening to cause them significant harm
- to clarify that paragraph 170LB(2)(b) does not apply with respect to industrial action by or directed against the employer
- to clarify that, where parties negotiating a Certified Agreement take industrial action in concert with parties outside the agreement, this is not protected action.

The Workplace Relations Amendment (Extended Prohibition of Compulsory Union Fees) Bill proposes to amend the freedom of association provisions of the Workplace Relations Act, to extend the prohibition on bargaining services fee clauses to state employment agreements to which a constitutional corporation is a party. The Bill was introduced into the House of Representatives on 9 February 2005 and passed the House on 11 May 2005. It was introduced into the Senate on 12 May 2005.

The Workplace Relations Amendment (Fair Dismissal Reform) Bill seeks to protect small businesses from the costs and administrative burden of unfair dismissal claims by exempting businesses with fewer than 20 employees from the unfair dismissal provisions in the Workplace Relations Act. The Bill was introduced into the House of Representatives on 2 December 2004 and referred to the Senate Employment, Workplace Relations and Education Committee on 17 March 2005. The committee reported on 21 June 2005.

The Workplace Relations Amendment (Right of Entry) Bill proposes to amend the Workplace Relations Act to enhance the right of entry system to clearly spell out parties' rights and responsibilities and limit scope for state law to be used to circumvent federal requirements. The Bill was introduced into the House of Representatives on 2 December 2004. It was referred to the Senate Employment, Workplace Relations and Education Committee on 8 December 2004, and the committee reported on 14 March 2005. On 14 March 2005 the Bill was passed by the House of Representatives. It was then introduced into the Senate on 15 March 2005.

The Workplace Relations Amendment (Small Business Employment Protection) Bill would amend the *Workplace Relations Act 1996* to restore the exemption for small business from redundancy pay obligations. It would overturn the recent decision of the Australian Industrial Relations Commission to impose redundancy pay obligations on small business. The Bill was introduced into the House of Representatives on 8 December 2004 and was referred to the Senate Employment, Workplace Relations and Education Committee on 9 December 2004. The committee reported on 14 March 2005.

### **Bills introduced before 2004–05 and lapsed when Parliament was prorogued**

The following Bills were introduced before 2004–05 and lapsed when Parliament was prorogued:

- Building and Construction Industry Improvement Bill 2003
- Building and Construction Industry Improvement (Consequential and Transitional) Bill 2003

- Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2004
- Workplace Relations Amendment (Better Bargaining) Bill 2003
- Workplace Relations Amendment (Fair Dismissal) Bill 2002
- Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2]
- Workplace Relations Amendment (Fair Dismissal) Bill 2004
- Workplace Relations Amendment (Simplifying Agreement-making) Bill 2004
- Workplace Relations Amendment (Award Simplification) Bill 2002
- Workplace Relations Amendment (Choice in Award Coverage) Bill 2004
- Workplace Relations Amendment (Protecting Small Business Employment) Bill 2004
- Workplace Relations Amendment (Protecting the Low Paid) Bill 2003
- Workplace Relations Amendment (Extended Prohibition of Compulsory Union Fees) Bill 2004.

## Outlook for 2005–06: Output Group 2.1

- The department will continue to provide policy advice about wages and employment conditions in relation to the development of legislation containing the Government's further workplace relations reforms and subsequent implementation of those reforms. These reforms include the development of legislation related to reform of the building and construction industry, labour hire and independent contractor arrangements, occupational health and safety arrangements, and broader workplace relations reforms.
- The department will support the successful passage of legislation by preparing accompanying material such as Regulation Impact Statements, second reading speeches, explanatory documents for stakeholders, and information to assist the Minister in parliamentary debate.
- As part of the Employer Demand Strategy element of the Welfare to Work reforms, the department will develop and oversee two industry partnership projects in 2005–06. The projects will involve working with employers to determine the flexible work needs for employees, examine the business case for flexible working arrangements, identify potential barriers to the arrangements' implementation, and highlight innovative arrangements and best practice.
- The Australian Industrial Relations Commission is expected to hand down its decision in the *Family Provisions Case*, where the Commonwealth opposed the Australian Council of Trade Unions claims to extend parental leave to two years and grant employees a right to request part-time work after parental leave, among other claims, on the grounds that agreement making provides the best means of negotiating such conditions.

- The National Work and Family Awards will be presented by the Minister for Employment and Workplace Relations in November 2005. Following the 2005 event, the awards will be reviewed as they move to a biennial schedule. In 2006 the work–family practices of the winners of the 2005 awards will be extensively promoted, to increase the uptake of flexible working conditions across the business community more generally.
- The department will continue to do research on work–family issues. In September 2005 it will make a presentation on transitions in and out of the workforce to the annual HILDA (Household, Income and Labour Dynamics in Australia Survey) conference.
- The department will continue to participate in the Australian Telework Advisory Committee; a report to the Government is due in February 2006, providing recommendations on how government can help increase the adoption of telework in Australia.
- The Employee Share Ownership Development Unit will primarily focus on evaluation. It will scrutinise the effectiveness of the Employee Share Plans: Getting Started project, as well as evaluating the broader role and objectives of the unit.
- The High Court is 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 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.
- The department will continue advising on further applications for declarations for eligibility to self-insure under the *Safety, Rehabilitation and Compensation Act 1988* by private companies.
- The department’s policy role in the management of asbestos-related common law claims against the Government will be consolidated.
- There will be continued strategic engagement by the department in international labour activities—particularly in the Asia–Pacific region and with the International Labour Organization.

## 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

Three 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* financing arrangements.

Output  
2.2.1

## Advocacy

**Output 2.2.1 involves responsibility for presenting high-quality submissions on behalf of the Government and the Minister before industrial tribunals and advising on developments in the industrial tribunals relevant to the successful implementation of the Government’s workplace relations policy. The Advocacy Team also provides services to other Commonwealth departments and agencies in connection with workplace relations matters.**

Additionally, the team provides advice to and support for other output elements on matters within its area of expertise—including the options for handling relevant Australian Industrial Relations Commission matters. Further, the team contributes to the preparation of briefs and advice to the Minister.

### Highlights

- In 2004–05 the main case in which the Advocacy Team provided representation for the Minister was the *Family Provisions Case*, which concerns applications pursuant to s. 113 of the Workplace Relations Act to vary awards to incorporate a range of work–family provisions.

TABLE  
2.21

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.1, Advocacy**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of Minister with advocacy services <sup>a</sup>	Effective or above	7 briefs submitted, with an average rating of 4.1 (target met)
<b>Price<sup>b</sup></b>	\$0.777m	\$0.836m

- 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 (excellent).
- b Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Stakeholder feedback

The Minister and other departments and agencies that have engaged the Advocacy Team continue to be satisfied with the services provided. Satisfaction is demonstrated by feedback from other output groups about the Minister's satisfaction with briefs and advice to which the team made a contribution and by the incidence of repeat business and direct feedback from other departments and agencies.

## Commentary

Interventions in the public interest on behalf of the Minister and the Government in significant cases before the Australian Industrial Relations Commission covered matters such as the following:

- the program of hearings on the Australian Council of Trade Unions claim for increased award rates of pay—the *Safety Net Review—Wages 2005 Case*
- the *Family Provisions Case*—re s. 113 applications to vary awards to incorporate a range of work–family provisions
- the Australian Government's application to be heard in the case before the Queensland Industrial Relations Commission regarding a claim by the Construction, Forestry, Mining and Energy Union to vary the Queensland building industry award to reflect rates of pay in pattern bargaining agreements.

Advice and/or representations for Australian government departments and agencies were also provided in a number of cases—including dispute notifications, award applications, witness subpoenas, unfair dismissal cases, and applications for the conciliation, certification and termination of agreements.

From 1 July 2005 the Advocacy Team merges with Output 2.1.1, Workplace relations policy advice.

# Industry and Australian government employment advice

## The building and construction industry

The Building Industry Branch provides policy advice on workplace reform in the building and construction industry and is responsible for overseeing implementation of the Government's response to the Royal Commission into the Building and Construction Industry.

## Private sector industries

The Industries Branch provides 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). It promotes workplace reform and agreement making in these industries, engaging in and building relationships with companies and industry representatives. The branch also represents the department's interests in relation to the Government's Industry Action Agendas.

## Australian government employment

The Public Sector Employment Branch provides advice to government and Australian public sector employers in relation to the following:

- 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.

The department represents the Government's interests as the employer in matters before the Defence Force Remuneration Tribunal.

## Highlights

- In 2004–05 the department consulted stakeholders and provided policy advice during the development of the Building and Construction Industry Improvement Bill 2005. The Bill was introduced on 9 March 2005 in response to union demands for employers to renegotiate existing agreements well in advance of the agreements' expiry dates.
- Guidelines governing the use of new compliance powers for the Building Industry Taskforce were agreed to by the Senate on 22 June 2005. The *Workplace Relations Amendment (Codifying Contempt Offences) Act 2004* conferred the new compliance powers on the Secretary of the department.
- The department conducted a series of information sessions on application of 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 in order to help industry and agencies meet their obligations under the code and the guidelines. The department provided training to Australian government employees to enable them to meet their obligations under the code and the guidelines.
- The department advised the Government on a review of the guidelines, aimed at further strengthening them and ensuring that they remain contemporary and continue to act as a catalyst for reform in the building and construction industry.
- The department introduced the Construction Online Date Entry Application (E-Code) to allow departments and agencies to report on construction activity and the application of the National Code of Practice and the guidelines.
- The department worked in conjunction with the Department of Industry, Tourism and Resources to identify progress with workplace relations reform and productivity improvements in the automotive industry. This involved analysis of Certified Agreements and a series of visits to automotive assembly and component companies to discuss reforms and productivity.
- The department continued to build constructive relationships in specific industries through a range of forums—including visits to employers.
- Thirty-three Australian Public Service Certified Agreements—covering about a third of all APS employees—were renegotiated, assessed against the Policy Parameters for Agreement Making in the APS and certified during the year.
- The department provided advice on a number of machinery of government changes, leading to successful implementation of 36 such changes during the year.

TABLE  
2.22

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.2, Industry and Australian government employment advice**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of the Minister and agencies with the provision of policy advice <sup>a</sup>	Effective or above	112 briefs submitted, with an average rating of 4.2 (target met)
<b>Price<sup>b</sup></b>	\$8.861m	\$9.317m
<b>Administered funds</b>		
<i>Coal Mining Industry (Long Service Leave Funding) Act 1992</i>	\$79.704m	\$84.613m (6.2% more than budget). The variation is a result of employment growth in the industry

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 (excellent).

b Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

**Commentary: Building industry reform****Activities of the Building Industry Branch**

The Building Industry Branch continued its work to implement the recommendations of the Royal Commission into the Building and Construction Industry. There were three priorities:

- contributing from a policy perspective to the development of legislation arising from the royal commission
- promoting, among other agencies, industry participants, and the states and territories, a better understanding of the government's response to the royal commission's report
- working closely with the Building Industry Taskforce to enforce the law.

The branch continued to provide to the Government advice about workplace relations developments in the building and construction industry.

In addition, the branch delivered information and education activities relating to the National Code of Practice for the Construction Industry and the Implementation Guidelines for employer associations and government agencies.

CASE  
STUDY

## Implementing the recommendations of the Royal Commission into the Building and Construction Industry

Since the tabling of the final report of the Royal Commission into the Building and Construction Industry in March 2003, the department has been involved in implementing the Australian Government's response to the Royal Commission's 212 recommendations for reform.

The department provided advice and support for the development of the Building and Construction Industry Improvement Bill 2005. The Government introduced the unlawful industrial action and ancillary provisions of the Bill on 9 March 2005, in response to union demands for employers to renegotiate existing agreements well in advance of their expiry dates.

Once the Bill is passed, parties taking unprotected industrial action from 9 March 2005 may be liable to financial penalties of up to \$110 000 for a body corporate or \$22 000 in other cases and orders to pay substantial (uncapped) compensation to people affected by the unlawful action. Additional amendments to the Bill will be moved as soon as possible after 1 July 2005, in order to pursue further elements of the 2003 version of the Bill, including the establishment of the Australian Building and Construction Commission.

The department assisted with the development of the new *Workplace Relations (Codifying Contempt Offences) Act 2004*. Guidelines governing the use of the new compliance powers for the Building Industry Taskforce were passed by the Senate on 22 June 2005. The new powers enable the taskforce to compel people to provide information, produce documents, or attend and answer questions if it considers they have information relevant to an investigation.

The Act provides significant new powers for the Building Industry Taskforce to gather information and evidence from witnesses more effectively and increased penalties for breaches of the *Workplace Relations Act 1996*.

## Changing the culture of the building industry: the National Code of Practice

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 express a commitment by the Australian Government to deal only with organisations and personnel in the building and construction industry 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 undertaken for or on behalf of Australian government authorities and 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 the reporting year the department helped several government agencies develop agreements to provide funding 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 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 Australian and South Australian Governments agreed on Joint Implementation Guidelines for AusLink-funded land transport projects in South Australia. The Victorian Government agreed to apply the National Code of Practice and the guidelines to all construction activity meeting the financial thresholds set in the code and guidelines.

The department continues to promote rigorous application of the code and the guidelines to Australian government construction projects, chair meetings of the Code Monitoring Group, and provide ongoing advice to agencies and industry about application of the code and the guidelines. The Code Monitoring Group met twice during 2004–05.

The department developed and began implementing an information strategy to help agencies and industry comply with the code and the guidelines. It ran information sessions and workshops for agencies involved in major construction projects. Further workshops are planned.

Additionally, the department was invited to present information on the code and the guidelines to industry associations—including the Master Builders Association, the Master Plumbers and Mechanical Services Association of Australia and the Civil Contractors Federation. A range of material on the application of the code and the guidelines is available on the Australian Workplace website <[www.workplace.gov.au/building](http://www.workplace.gov.au/building)>.

The department also advised the Government on a review of the guidelines, aimed at further strengthening the guidelines and ensuring that they remain contemporary and continue to act as a catalyst for reform in the building and construction industry.

An online reporting tool for Australian government departments and agencies was introduced during 2004–05. Called the Construction Online Data Entry Application (E-Code), it allows departments and agencies to report on construction activity and the application of the code and guidelines. The department has run training sessions for other departments and agencies, to assist them in using this tool.

## Occupational health and safety in the building industry

During 2004–05 responsibility for implementing the royal commission’s findings in relation to occupational health and safety in the building industry was transferred to Output 2.2.10, Office of the Federal Safety Commissioner.

### **Commentary: 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 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 available under the Workplace Relations Act to introduce tailored and flexible work arrangements. These interactions with business also afforded opportunities for the department to seek industry views on the Government's workplace relations reforms.

The department also liaised with employers in order to identify instances of unprotected industrial action for the purpose of investigating non-compliance with Australian Industrial Relations Commission or court orders.

As part of its ongoing responsibilities associated with the coal mining industry, the department continued to administer the *Coal Mining Industry (Long Service Leave Funding) Act 1992* during the reporting year. 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 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 and food and facilities management agendas.

## **Commentary: Australian government employment**

### **Agreement making in Australian government employment**

At 30 June 2005 all 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 2005, 11 823 AWAs were operating in the Australian Public Service; this compares with about 9500 at 30 June 2004.

The department provided strategic policy advice to the Minister, agency heads and senior Australian Public Service managers on a range of workplace relations matters related to agreement making. This advice was complemented by day-to-day policy advice and information provided to Australian government employers in connection with agreement making.

## The 2004 Australian Public Service remuneration survey

The department commissioned a combined survey of Senior Executive Service and non-SES remuneration. Forty-seven agencies participated in the survey, the reports of which were made available in July 2005 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 in developing and refining their remuneration strategies and policies.

### Machinery of government

The department provides to the Minister and agencies advice about 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 36 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 \$337 965 in 2004–05.

## 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. POP services were moved to a full cost recovery basis in 2004–05. During the year 381 people participated in 72 training courses, generating \$359 877 in revenue from subscription 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.

## Education

Throughout 2004–05 the department liaised with the Department of Education, Science and Training to develop the workplace reform aspects of the following education funding programmes:

- the Higher Education Workplace Relations Requirements—the *Higher Education Support Act 2003* will be amended to reflect the new requirements, which the Government announced on 29 April 2005
- the Workplace Productivity Programme
- the Skilling Australia's Workforce Bill 2005
- the establishment of Australian technical colleges.

Output  
2.2.3

# Assistance to the Employment Advocate

**The Office of the Employment Advocate provides to employers and employees assistance and advice on the Workplace Relations Act, Australian Workplace Agreements, and freedom of association provisions.**

The Employment Advocate must have special regard to the needs of workers in a disadvantaged bargaining position—including women, people of culturally and linguistically diverse background, young people, apprentices, trainees and outworkers—and must help workers to balance work and family demands and promote better work and management practices through AWAs.

The Office of the Employment Advocate is 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.

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 2.23.

TABLE  
2.23

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.3, Assistance to the Employment Advocate**

Performance indicator	Target	Result
<b>Quality:</b> level of client satisfaction with advice and assistance provided by the Office of the Employment Advocate	80% of clients find advice and assistance timely and helpful	89% of clients found advice and assistance timely and helpful
<b>Quality:</b> conformance of activities of the OEA with internal guidelines and benchmarks	95% of instances of Australian Workplace Agreements (AWAs) and compliance activities measured by internal quality reviews conform with OEA procedures	95% target met, as measured by internal quality reviews
<b>Quantity:</b> percentage of AWA applications finalised within 20 working days	80% of AWA applications finalised within 20 working days	73% of all filed AWAs finalised within 20 working days
<b>Price<sup>a</sup></b>	\$20.898m	\$21.204m

a Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

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

Output  
2.2.4

# Workplace relations services

## The Office of Workplace Services

**The Office of Workplace Services is the department's principal source of federal workplace relations information, education and compliance services. It contributes to Outcome 2 by helping employees and employers better understand and exercise their rights and obligations under the federal workplace relations system. It also helps employers and employees make use of the flexibilities and choices available in the system—particularly agreement making.**

The office provides for clients information about their rights, obligations and choices through online information (WageNet at <[www.wagenet.gov.au](http://www.wagenet.gov.au)>), via its free telephone inquiry service (WageLine), and by responding to direct and written inquiries. Through its Workplace Advisory Service, the office provides to employers and employees advice on the flexibilities and options available under the federal workplace relations system by means of publications, seminars and workplace visits.

The office seeks compliance with obligations under federal awards, Certified Agreements, and the Workplace Relations Act and regulations by investigating claims of alleged breaches. It also conducts education and compliance campaigns in selected industries.

## Trades Recognition Australia

**Trades Recognition Australia is a designated assessing authority that conducts trade skills assessments for both international and domestic applicants.**

The international stream assesses the trade skills of potential migrants to Australia. A positive assessment by Trades Recognition Australia allows a person to apply to the Department of Immigration and Multicultural and Indigenous Affairs for migration under Australia's Skilled Migration Program. The domestic stream assesses Australian residents' trade skills in the electrical and metal trades under the *Tradesmen's Rights Regulation Act 1946*. A positive 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—for example, through significant work experience or Australian Defence Force training.

## Highlights

- In 2004–05 the Office of Workplace Services handled over 645 000 telephone inquiries about workplace relations matters and resolved over 6500 claims of breaches of workplace relations laws, recovering over \$6 million in employment entitlements. Approximately 94 per cent of claims where a breach was established were resolved without the need for litigation.
- There were about 3 million inquiries and visits to the Office of Workplace Services WageNet website.
- Education and compliance campaigns were successfully conducted in the fast food, security, building and construction, motel, hospitality, and textile, clothing and footwear industries.
- Compared to last year, the Workplace Advisory Service conducted 50 per cent more seminars, which attracted over 30 per cent more participants. In addition, it provided over 2000 employers and employees with one on one advice and information on the flexibilities and options under the federal workplace relations system, to help them improve their productivity.
- Common rule awards were introduced in Victoria.

TABLE  
2.24

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.4, Workplace relations services**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of the Minister with the provision of policy advice <sup>a</sup>	Effective or above	35 briefs submitted, with an average rating of 4.3 (target met)
<b>Quality:</b> level of satisfaction of clients with liaison, information, education and compliance services	Satisfactory or above	89% of surveyed clients are at least satisfied (target met)
<b>Quality:</b> timeliness of departmental responses to client requests	WageLine inquiries—90% responded to within three minutes	88% of enquiries responded to within three minutes (target not met)
	Written inquiries—90% completed within five working days	94% completed within five working days (target met)
	Client satisfaction with advisory and compliance services—80% of surveyed clients are satisfied	89% of surveyed clients are at least satisfied (target met)
	Complaints about breaches of Certified Agreements or awards—80% completed within 90 days	81% completed within 90 days (target met)
	Trade skills assessment applications—95% of applications finalised within 90 days	76% of applications finalised within 90 days (target not met)
<b>Price<sup>b</sup></b>	\$26.636m	\$24.931m

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

b Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

**Commentary: Office of Workplace Services**

Compared with 2003–04, the Office of Workplace Services achieved a significantly higher level of performance against its compliance services performance benchmark in 2004–05 (see Table 2.25). However, the increase in telephone calls and written queries, and in their complexity, resulted in a slight decline in performance in those areas.

**TABLE  
2.25****Office of Workplace Services: performance, 2002–03 to 2003–04**

<b>Performance target</b>	<b>2002–03 (number)</b>	<b>Per cent achieved</b>	<b>2003–04 (number)</b>	<b>Per cent achieved</b>	<b>2004–05 (number)</b>	<b>Per cent achieved</b>
WageLine inquiries—90% responded to within three minutes	616 628	93	583 187	95	645 361	88
Written inquiries—90% completed within five working days	13 820	99	12 192	99	17 936	94
Complaints about breaches of Certified Agreements or awards—80% completed within 90 days <sup>a</sup>	6 453	75	6 852	74	6 584	81

a In recent years performance target was 70% completed within 90 days.

Activity levels in Office of Workplace Services increased in 2004–05. The office responded to over 3.5 million requests from employees and employers for information about the federal workplace relations system. It also answered a greater number of telephone calls and emails than in 2003–04. Some of the increase in client inquiries is linked to the introduction of common rule awards in Victoria from 1 January 2005. The number of WageNet user sessions increased by 30 per cent compared with 2003–04, rising to 2.5 million sessions in the reporting year.

Client surveys show a significant majority of the Office of Workplace Services clients gave a satisfactory or higher rating for the services and professionalism of the office's staff.

Tables 2.26 and 2.27 provide data on inquiry and compliance activity in relation to federal awards, Certified Agreements and aspects of the Act.

**TABLE 2.26****Inquiry and compliance activity, 2004–05**

State	Compliance activity Cases finalised (number) <sup>a</sup>	Inquiries		
		Telephone	Counter	Written <sup>b</sup>
New South Wales (incl. Australian Capital Territory)	2 196	104 270	1 301	3 514
Victoria	3 185	475 292	2 827	11 894
Northern Territory	215	8 140	435	451
<i>Total Office of Workplace Services</i>	5 596	587 702	4 563	15 859
Queensland	560	31 270	551	981
South Australia	181	9 143	289	406
Western Australia	142	10 405	100	338
Tasmania	105	6 841	41	352
<i>Total contract</i>	988	57 659	981	2 077
<b>Grand total</b>	<b>6 584</b>	<b>645 361</b>	<b>5 544</b>	<b>17 936</b>

a Includes targeted investigation activities.

b Includes claims that were finalised as correspondence.

Notes: The delivery of federal workplace relations advisory and compliance services was contracted to State government departments in Western Australia and Queensland from 1 July 1998, in South Australia from 1 October 1998, and in Tasmania from 8 December 1999. Victorian figures include activity in relation to industry sectors under Schedule 1A of the *Workplace Relations Act 1996*.

In recent years the performance target was 70% completed within 90 days.

**TABLE 2.27****Finalised compliance cases where breaches were established, 2004–05**

State	Cases (number)	Claimants receiving payment (number)	Payments <sup>a</sup> (\$)
Victoria	2 067	1 958	2 982 752
Northern Territory	168	159	260 048
<i>Total Office of Workplace Services</i>	3 476	3 024	4 909 761
Queensland	295	258	569 416
South Australia	101	98	192 883
Western Australia	109	105	206 420
Tasmania	92	188	163 194
<i>Total contract</i>	597	649	1 131 913
<b>Grand total</b>	<b>4 073</b>	<b>3 673</b>	<b>6 041 474</b>

a Includes payments to other employees where, as a result of a claim, other breaches were established.

Note: Includes targeted investigation activities.

Of those claims not resolved voluntarily, 261 litigation actions were recommended, comprising 252 employee-initiated small claims actions with departmental assistance and nine department-initiated litigations. The violations mainly involved underpayment of wage, leave and penalties and breaches of time and wages records and payslips regulations. As a result of its compliance activity during 2004–05, the Office of Workplace Services recovered \$6.04 million on behalf of employees; this compares with \$6.34 million in 2003–04.

During 2004–05 the office had 150 full-time-equivalent staff in the Australian Capital Territory, New South Wales, Victoria and the Northern Territory, of whom 104 were appointed as inspectors. The office contracts the delivery of its inquiry and compliance services to the state governments in Queensland, Western Australia, South Australia and Tasmania. The state government contracts provide employees and employers in those states with a one-stop shop for lodging inquiries and complaints about state and federal workplace relations matters. Most state inspectors in those states are also cross-appointed federal inspectors.

The Workplace Advisory Service held over 300 seminars in metropolitan and regional centres across Australia in 2004–05; they were attended by almost 10 000 participants. Advice was provided on such topics as workplace relations options for small business and innovative business solutions that can be achieved through individual and Certified Agreements.

In 2004–05 the office funded the delivery of federal workplace relations services by Working Women’s Centres in Sydney, Brisbane, Adelaide, Hobart and Darwin.

The office also investigated cases of non-compliance with Australian Industrial Relations Commission decisions: at 30 June 2005, 15 investigations were in progress.

## The introduction of common rule awards in Victoria

The introduction of common rule awards in Victoria in January 2005 marked a significant change in the workplace relations system for many employers and employees. Employees whose minimum terms and conditions of employment were previously provided by Part XV and Schedule 1A of the Workplace Relations Act moved to federal awards for the first time. This resulted in a big increase in demand for information and education services provided by the Office of Workplace Services in 2004–05—particularly WageLine telephone inquiries, WageNet email inquiries and educational seminars.

The office took a pro-active approach to informing the community about the introduction of common rule awards. The Workplace Advisory Service held over 60 seminars throughout 2004–05 in metropolitan and regional Victoria, attracting over 5300 participants. These seminars afforded an opportunity to explain the changes as well as to work with the Office of the Employment Advocate to highlight the options available to employers and employees through agreement making.

Employers were kept up to date with developments throughout the year via the *Workplace News* email newsletter. *Workplace News* proved a cost- and time-efficient medium for communicating with a large number of employers and employees.

The peak demand for information services coincided with the onset of the changes early in 2005. Inquiries to the WageLine service during early 2005 increased by almost 50 per cent; those to WageNet increased by over 100 per cent on 2003–04. There has also been a large increase in visitors to the office’s WageNet site.

## Commentary: Trades Recognition Australia

The upward trend in international applications for trades recognition experienced in 2003–04 continued in 2004–05, with an increase of 42.3 per cent on 2003–04. In 2004–05 the number of trade skills assessment applications received by Trades Recognition Australia increased by 38.8 per cent on 2003–04, from 11 054 to 15 338 applications. This is the highest number of applications received in any year since Trades Recognition Australia was established.

The trend coincided with a further increase in international applicants seeking ‘priority assessment’ of their applications—70 per cent in 2004–05 compared with 64 per cent in 2003–04—and the advent of revised selection criteria, effective from 1 July 2005.

The re-engineering of Trades Recognition Australia’s international business processes in 2004–05 laid a firm foundation for continued performance improvements. A full upgrade of the current IT system was launched in September 2004; information provided to clients has been simplified; a personalised telephone feedback service for applicants and their agents is now operating; and new assessment processes are in operation through the Uniform Assessment Criteria, to improve application turnaround time while maintaining the high standard of audit and fraud control.

These re-engineering initiatives have delivered benefits to Trades Recognition Australia and its clients. Processing times have been greatly reduced: by the end of 2004–05, 90 per cent of international applications were being finalised within 60 days, compared with 120 days in 2003–04. Trades Recognition Australia’s output is also increasing: the number of applications finalised was up 43.1 per cent on 2003–04, with the overall success rate of applications finalised being 62.2 per cent, compared with a rate of 64.9 per cent in 2003–04.

Trades Recognition Australia worked closely with key stakeholders to ensure broad awareness and understanding of its policies, procedures and requirements; this included upgrading the online and hard-copy information provided to applicants and their agents. With the Department of Immigration and Multicultural and Indigenous Affairs, it also participated in regular briefings, meetings and presentations to migration agent organisations, training providers and employer bodies.

TABLE  
2.28

**Trades skill assessment applications, 2004–05 and 2003–04**

Applications	Pre-migration (international service)			Australian residents (domestic service)			Total applications		
	2004–05	2003–04	Percent	2004–05	2003–04	Percent	2004–05	2003–04	Percent
	(number)			(number)			(number)		
Received <sup>a</sup>	14 198	9 979	+42.3	1 140	1 075	+6.0	15 338	11 054	+38.8
Finalised	13 657	9 345	+46.1	1 109	972	+14.1	14 766	10 317	+43.1
Successful	8 374	5 886	+42.3	812	807	+0.6	9 186	6 693	+37.3

a Some applicants submitted multiple applications.

## International assessment

Of the international, or 'pre-migration', applications received, 13 679 were applications for assessment and 507 were review applications.

The main source countries of trade training for international applications remain the United Kingdom, India, China, South Africa and the Republic of Korea. Australia was also an important source country of trade training for international applicants. The Australian Quality Training Framework produced a significant increase in temporary resident applicants to TRA with Australian Quality Framework qualifications at the Certificate 3 level or higher.

TABLE  
2.29

**Pre-migration applications: main source countries of trade training, 2004-05 and 2003-04**

Source country	New applications <sup>a</sup>	
	2004-05	2003-04
United Kingdom	3 710	2 799
India	3 212	2 032
Australia	2 551	1 062
China	530	442
South Africa	378	340
Republic of Korea	314	269
Philippines	380	254
Sri Lanka	348	246
Fiji	259	243
Singapore	230	163

a Some applicants submitted multiple applications.

Note: Applications are also received from a range of other countries.

## Australian residents

In 2004-05 Trades Recognition Australia received 1140 applications for an Australian Recognised Trade Certificate from Australian residents; this is 6 per cent more than in 2003-04. A recent decision by the Central (Joint) Trades Committee, the body established under the Tradesmen's Rights Regulation Act, expanded the classes of people eligible to receive an Australian Recognised Trade Certificate to include visa-eligible temporary residents. Domestic application rates are expected to rise slightly as a result of this decision, as well as because of increases in the skilled migration program. Of those applications for an Australian Recognised Trade Certificate that were finalised in 2004-05, 812 (about 71 per cent) were successful in achieving national recognition of their trade skills.

**TABLE  
2.30****Australian resident applications categories**

Category	New applications <sup>a</sup>			Finalised applications			Percentage of successful applications <sup>b</sup>	
	2004–05	2003–04	Percent	2004–05	2003–04	Percent	2004–05	2003–04
	(number)	(number)		(number)	(number)			
Selected migrants	542	510	+6.3	520	494	+5.3	88	90
Non-selected migrants	416	368	+13.0	374	327	+14.4	71	77
Australian civilians	182	197	+1.1	215	151	+52.5	72	78
<b>Total</b>	<b>1 140</b>	<b>1 075</b>	<b>+6.0</b>	<b>1 109</b>	<b>972</b>	<b>+14.1</b>	<b>79</b>	<b>Av. 82</b>

a Some applicants submitted multiple applications.

b Relates to finalised applications.

**Output  
2.2.5**

## Employee entitlements safety net schemes

**The General Employee Entitlements and Redundancy Scheme is a publicly funded basic payments scheme that covers certain employee entitlements lost upon business insolvency. While employers remain responsible for paying employee entitlements, GEERS provides assistance to employees who have lost their job as a result of their employer's insolvency and have not received their legal entitlements.**

GEERS covers unpaid legal entitlements for wages, accrued annual leave and long-service leave, payment in lieu of notice, and up to eight weeks redundancy pay. It is available to eligible employees whose employment has terminated after 12 September 2001 as a result of their employer's insolvency. Payments made under GEERS are subject to an annually indexed income cap; for 2004–05 the cap was \$90 400.

GEERS replaced the Employee Entitlements Support Scheme in September 2001. EESS applied to people whose employment was terminated because of insolvency between 1 January 2000 and 11 September 2001. Action will be taken in 2005–06 to finalise and close down EESS.

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 arrangement for former employees of the Ansett Group following its collapse on 12 September 2001. It provides the same level of assistance as GEERS, without the income cap.

## Highlights

- In 2004–05, over 12 900 claims for GEERS assistance were processed, resulting in \$66.7 million in GEERS payments to Australian workers who lost their entitlements as a result of their employer’s insolvency. This brings the total assistance paid since the introduction of the entitlements schemes in 2000 to over \$647 million, providing assistance to more than 52 000 Australian workers.
- Eighty-four per cent of eligible claimants received all their outstanding entitlements for unpaid wages, accrued annual leave, accrued long-service leave, payment in lieu of notice, and redundancy covered by the General Employee Entitlements and Redundancy Scheme.
- Over \$12 million advanced in the Employee Entitlements Support Scheme and the General Employee Entitlements and Redundancy Scheme funds were recovered during 2004–05. This compares with \$5.2 million in 2002–03 and \$5.1 million in 2003–04.
- Of all claims processed in June 2005, 98.6 per cent were finalised within 16 weeks of receipt; for the final quarter of 2004–05 the figure was 95 per cent; and for the full year the figure was 80 per cent. This compares with 64 per cent within 16 weeks of receipt in 2003–04.
- In 2004–05 the department completed implementation of the GEERS Online IT system, which helps with the processing and management of claims for assistance. The system is designed to streamline GEERS business processes and provide a more efficient and accurate means of assessing requests for assistance under GEERS.
- During 2004–05 the department made available to the Ansett administrators an additional \$40.5 million for distribution to former Ansett employees. This takes the total advanced under Special Employee Entitlements Scheme for Ansett Group Employees to \$381.8 million since the scheme began.
- In 2004–05 the Ansett administrators made available an additional \$80.4 million as recoveries against SEESA advances made to date. This takes the total recovered under SEESA to \$253 million since the inception of the scheme. All the funds recovered have been used to meet the costs of payments for the scheme, as provided for in s. 22(3) of the *Air Passenger Ticket Levy (Collection) Act 2001*.

TABLE  
2.31

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.5, Employee entitlements safety net schemes**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of the Minister with the provision of policy advice <sup>a</sup>	Effective or above	25 briefs submitted, with an average rating of 4.1 (target met)
<b>Quality:</b> level of satisfaction of stakeholders with the management of the employee entitlements safety net schemes	Satisfactory or above	97.2% reported they were satisfied or very satisfied (target met) This compares with 100% satisfied or more than satisfied in 2003–04
<b>Quality:</b> timeliness of processing of claims	80% of claims processed within 16 weeks of receipt 97% of claims processed within 4 weeks of receipt of verified entitlements data	79.9% (target met) This compares with 64% in 2003–04 93.0% (target not met) This compares with 97% in 2003–04
<b>Quality:</b> accuracy of the processing of claims	Greater than 97% of payments are not varied after appeal	99.3% (target met) This compares with 98.3% in 2003–04
<b>Price<sup>b</sup></b>	\$11.278m	\$11.881m
<b>Administered funds</b>		
General Employee Entitlements and Redundancy Scheme	\$60.957m	\$66.676m (9.4% over budget). GEERS is a demand-driven scheme, and the expenditure reflects the number of eligible claims received
Special Employee Entitlements Scheme for Ansett Group Employees	\$80.449m	\$84.042m

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 (excellent).

b Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

The processing of claims under the General Employee Entitlements and Redundancy Scheme is done in partnership with insolvency practitioners. The department has worked closely with insolvency practitioners to shorten the time taken to process GEERS claims. As a consequence, the average time taken to process a claim fell to 15 weeks in 2004–05, down from 18 weeks in 2003–04. During the last quarter of 2004–05, 95 per cent of claims were processed within 16 weeks. Additionally, the number of appeals received from GEERS claimants fell from an average of 51 a month in 2003–04 to 28 a month in 2004–05.

Funds paid under the Government's employee entitlements schemes are treated as an advance under the *Corporations Act 2001* and the *Bankruptcy Act 1966*. This requires that money be repaid from the sale of assets of the insolvent business or from recovered debts. During 2004–05 more than \$12 million was recovered from businesses whose former employees had received assistance under GEERS and EESS. This is more than double the amount recovered in 2003–04.

Employers are, and must remain, responsible for the provision of entitlements to their employees. Consequently, in 2004–05 the department referred six matters to the Australian Securities and Investments Commission; two concerned insolvent trading, three involved attempts to avoid employee entitlements, and one concerned a director who had provided inconsistent information to ASIC. Additionally, the department referred six matters concerning false claims to its internal Fraud Investigation Unit.

More than 35 500 calls were received on the department's employee entitlements hotline during 2004–05.

**TABLE**  
2.32

### Employee entitlement schemes: payments, 2004–05

	GEERS	EESS	SEESA
Amount paid (\$)	66 659 194	17 205	40 545 021
Recipients (number)	9 329	5	<sup>a</sup>
Insolvent businesses paid (number)	568	5	Ansett Group Companies
Recoveries (\$)	12 053 589 <sup>b</sup>		80 419 912

a During 2004–05, \$2.56m was paid to 49 new recipients and \$8.76m was paid to 2002 past recipients for additional funds in respect of variation to previous claims. In addition, in December 2004 the Government and the administrators agreed to an adjustment of \$29.21m for pay in lieu of notice. A total of 13 054 Ansett Group employees have received payments.

b Includes recoveries under EESS.

**CASE**  
**STUDY**

### The Walter Construction Group

On 1 February 2005 one of Australia's largest mining and construction companies, the Walter Construction Group, was put into the hands of administrators because of the failure of its German parent. By 30 March 2005 the company had been placed into liquidation. The mining arm of the company remained profitable and the liquidator stated the operation would be sold as a going concern. About 350 Walter employees involved in construction were, however, made redundant.

GEERS was called on to provide assistance for outstanding entitlements owed to the construction workers whose employment had been terminated. To 30 June 2005, over 340 former Walter Construction Group employees have applied for GEERS assistance, and the Commonwealth has advanced more than \$8.7 million to cover the loss of basic entitlements.

All GEERS advances to redundant Walter Construction Group employees were made well within the 16-week target specified in the Portfolio Budget Statements. Some GEERS advances were made to the insolvency practitioner within three weeks of the claim being received. The first GEERS advance for former Walter employees was advanced to the insolvency practitioner within 10 days of receipt of verified data. This is well within the 28-day target specified in the Portfolio Budget Statements.

## The Outcome 2 Project Office

Recognising the challenges of implementing new and existing policy and programmes, the department is attaching increased emphasis to project management practices for supporting the achievement of its business objectives, especially for projects involving IT investments. A Project Office has been established to support the planning and implementation of Outcome 2 initiatives and to ensure that projects are delivered on time and on budget and are directly linked to business priorities.

Output  
2.2.6

# 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 Review of Other Ranks remuneration structure was completed.
- The ADF Remuneration Reform Project received continuing consideration.
- A major review of Flying Allowance was begun.

TABLE  
2.33

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.6, Defence Force Remuneration Tribunal**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of Defence Force Remuneration Tribunal President with the quality and timeliness of secretariat services to the tribunal <sup>a</sup>	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
<b>Price<sup>b</sup></b>	\$1.003m	\$1.098m

- a The Department of Employment and Workplace Relations Portfolio Additional Estimates Statements 2004-05 incorrectly showed the Defence Force Remuneration Tribunal's performance indicator as 'Level of satisfaction of the Minister with activities of the Defence Force Remuneration Tribunal in administering legislation'.
- b Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004-05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## 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, 19 determinations were prepared to formally implement the tribunal's decisions.

During 2004-05 the tribunal finalised reviews of the Other Ranks remuneration structure, the Specialist Operations Allowance and the Navy Medical Grade 4 Allowance. A new structure to accommodate the introduction of the Special Forces Direct Recruiting Scheme was also introduced.

Considerable progress was made with 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. This project is expected to conclude in December 2005.

The tribunal also began a major review of Flying Allowance; the review is expected to conclude in December 2005.

A summary of each of the matters considered by the Defence Force Remuneration Tribunal is provided in its annual report for 2004-05. The report includes commentary on the output and on achievements for the year.

Output  
2.2.7

# 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.
- The tribunal also reviewed the Principal Executive Office structure.

TABLE  
2.34

### PERFORMANCE RESULTS

Performance indicators and actual performance:

#### Output 2.2.7, Secretariat to the Remuneration Tribunal

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of Remuneration Tribunal President with the quality and timeliness of services to the tribunal	Effective or above	The tribunal's President, Mr John Conde AO, reported a high level of satisfaction with the secretariat's performance
<b>Price<sup>a</sup></b>	\$1.698m	\$1.862m

<sup>a</sup> Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

The Secretariat to the Remuneration Tribunal researched and analysed a range of matters and provided 125 briefing papers to the tribunal. In addition, 20 tribunal determinations—often with accompanying explanatory statements—were prepared in order to formally implement the tribunal's decisions.

In May 2005 the tribunal determined an increase of 4.1 per cent, effective from 1 July 2005, in remuneration for full-time offices and the fees of part-time offices. The tribunal subsequently determined the same increase in remuneration for other offices within its jurisdiction.

A significant part of the secretariat's work during the year was to support the tribunal in its review of the Principal Executive Office, or PEO, structure. Over ninety offices have been declared PEOs since the establishment of the current arrangements in December 1999, and the tribunal considered it timely to conduct a review. All PEOs and their respective employing bodies were invited to make submissions. It is expected that the review will be completed early in 2005–06.

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.

Output  
2.2.8

## Building Industry Taskforce

**The Interim Building Industry Taskforce began operations in October 2002 and became a permanent body on 25 March 2004. The taskforce's role is to secure lawful conduct throughout the building and construction industry. Under the Workplace Relations Act, taskforce officers have the powers of 'inspectors' and 'authorised officers' to enter premises, inspect documents and interview people of interest.**

The taskforce provides a national service and has offices in Sydney, Melbourne, Brisbane, Perth, Adelaide and Hobart. It has prime responsibility for the following matters:

- requests for assistance from parties associated with building and construction industry workplaces and construction sites
- the application of provisions in the Workplace Relations Act relating to freedom of association, coercion in agreement making, right of entry and strike pay
- investigations of breaches of the Workplace Relations Act
- workplace relations provisions of the National Code of Practice for the Building and Construction Industry
- advice and assistance on the application of the Workplace Relations Act, federal awards, agreements and related legislation as they pertain to the industry
- assessing matters and, if appropriate, referring them to relevant Australian government or state and territory bodies.

### Highlights

- In 2004–05 the Building Industry Taskforce received 1180 telephone calls, including 603 reports of complaint, mainly on the 1800 003 338 hotline; conducted 703 site visits and issued 163 notices to produce documents; and investigated 206 matters, involving the continuation of 85 investigations from 2003–04 and the initiation of 121 investigations.

- The most common acts of conduct investigated by the taskforce were coercion, intimidation, violence, threatening behaviour, disregard for freedom of association, and hindering and obstructing building personnel.
- As a result of taskforce investigations, 17 matters appeared before the courts; this involved the continuation of 10 matters filed in 2003–04 and the filing of seven new matters.
- Five matters were finalised by the courts, with four successful outcomes.
- The taskforce website <www.buildingtaskforce.gov.au> recorded a consistent increase in activity, with an average of 1253 visits a week—78 per cent more than in 2003–04. This trend is expected to continue, coinciding with progressions in government reforms in the industry.
- In order to provide better service to its clients, the taskforce continued to conduct its customer relationship survey by contacting clients and seeking feedback on the taskforce’s responses to their concerns (see Table 2.35). The taskforce continued to maintain a high level of customer service: customer satisfaction increased from 89 per cent in 2003–04 to 94 per cent in 2004–05. The number of customers who would endorse the service of the taskforce also increased, by 5 per cent to 99 per cent.
- On 22 June 2005 the Senate passed the Guidelines in Relation to the Exercise of Compliance Powers in the Building and Construction Industry. On 23 June 2005 the Secretary delegated his powers under Part VA of the *Workplace Relations Act 1996* giving the director of the taskforce compliance powers similar to those exercised by the Australian Competition and Consumer Commission. These powers can be used to compel people to provide information, produce documents, and attend and answer questions. They will be exercised by the director of the taskforce from July 2005.

TABLE  
2.35

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.8, Building Industry Taskforce**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of clients with quality and timeliness of advice and assistance provided by the Building Industry Taskforce	Satisfactory or above	Satisfactory Client survey results were that of the 167 people surveyed, 94% said they were satisfied with the way the taskforce handled their matter and 99% said they would contact the taskforce again or recommend the taskforce to others in similar circumstances
<b>Quality:</b> timeliness in bringing actions against breaches of federal awards, agreements and the <i>Workplace Relations Act 1996</i>	Satisfactory or above	17 taskforce matters appeared before the courts; 4 of these matters were concluded successfully and 1 was unsuccessful
<b>Price<sup>a</sup></b>	\$9.212m	\$9.106m

a Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

In 2004–05 the Building Industry Taskforce continued its work in investigating unlawful behaviour and prosecuting breaches of the Workplace Relations Act. Numerous industry stakeholders have said the work done by the taskforce has had a positive impact on cultural behaviour in the industry nationally.

The taskforce's high rate of successful prosecutions continued, in both the volume of matters filed before the courts and the increasing penalties imposed by the courts.

It is expected that the compliance powers granted the taskforce under Part VA of the Workplace Relations Act will have a positive impact on the industry and curtail unlawful activity.

Output  
2.2.9

# Office of the Australian Safety and Compensation Council

**The Office of the Australian Safety and Compensation Council was established in the department to support the work of the Australian Safety and Compensation Council. The council will replace the National Occupational Health and Safety Commission by the end of 2005. The staff of the commission transferred to the department on 7 February 2005 and will provide secretariat and research support for the commission until it is replaced by the Australian Safety and Compensation Council.**

## Highlights

- During 2004–05 consultations were held with states and territories, employers and unions on governance arrangements for the Australian Safety and Compensation Council and national directions for workers compensation. Legislation to repeal the National Occupational Health and Safety Commission Act and to provide legislative power for the Australian Safety and Compensation Council to declare national occupational health and safety standards and codes of practice was developed.
- The triennial review of the National Occupational Health and Safety Strategy 2002–2012 found that much progress has been made in implementing the strategy to date and made a number of recommendations for improving implementation.
- The National Occupational Health and Safety Commission announced a national occupational health and safety standard for the construction industry after more than two years of negotiations. The standard provides a nationally consistent framework for managing safety in the industry.

- The National Occupational Health and Safety Commission announced a revised national code of practice for safe removal of asbestos and a new national code of practice for managing and controlling asbestos in workplaces. The new codes support the Australia-wide ban on new uses of asbestos in workplaces, with the ultimate aim of making workplaces asbestos free.
- The states and territories agreed to align their safety weeks and awards from 2005. The state and territory awards will underpin national safety awards in three categories from 2005–06.
- The states and territories, employers and unions agreed to a national action plan for the prevention of occupational disease.

TABLE  
2.36

## PERFORMANCE RESULTS

## Performance indicators and actual performance:

**Output 2.2.9, Office of the Australian Safety and Compensation Council**

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of the Minister with the provision of advice provided by the Office of the Australian	Effective or above	From February to June 2005, 7 briefs were submitted to the Minister, with an average rating of 4.4 (target met)
<b>Quality:</b> level of satisfaction of the National Occupational Health and Safety Commission CEO with the quality and timeliness of services to the Commission	Satisfactory or above	Rating: high (target met) <sup>p</sup>
<b>Price<sup>c</sup></b>	\$6.816m	\$6.272m

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 (excellent).

b Advice on this rating was received from the previous Acting CEO, Mr Tom Fisher.

c Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

On 7 February 2005 the National Occupational Health and Safety Commission Office became a group within the Department of Employment and Workplace Relations—the Office of the Australian Safety and Compensation Council. A separate annual report has been produced for the commission.

The Australian Safety and Compensation Council is due to begin operations in late 2005 as an advisory body representative of government, employers and employees. It will provide the following:

- leadership and coordination for national efforts to prevent workplace death, injury and disease and to improve workers compensation arrangements and the rehabilitation and return to work of injured employees
- a national forum in which representatives of state and territory governments, employers and employees can consult and participate in the development of policies relating to occupational health and safety and workers compensation

- policy advice to the Workplace Relations Ministers' Council on national workers compensation and occupational health and safety arrangements to deliver nationally consistent frameworks.

Output  
2.2.10

## Office of the Federal Safety Commissioner

**The Australian Government established the Office of the Federal Safety Commissioner administratively to foster improved occupational health and safety performance in the building and construction industry. The office began operations in January 2005.**

### Highlights

- The Office of the Federal Safety Commissioner began operations in January 2005. The Federal Safety Commissioner commenced in June.

TABLE  
2.37

#### PERFORMANCE RESULTS

##### Performance indicators and actual performance:

#### Output 2.2.10, Office of the Federal Safety Commissioner

Performance indicator	Target	Result
<b>Quality:</b> level of satisfaction of the Minister with the advice provided by the Office of the Federal Safety Commissioner <sup>a</sup>	Effective or above	2 briefs submitted to the Minister, with an average rating of 4.0 (target met)
<b>Quality:</b> 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	Satisfactory or above	Not assessed <sup>b</sup>
<b>Price<sup>c</sup></b>	\$0.864m	\$0.828m

- 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 (excellent).
- b These activities will commence in the 2005–06 financial year, as the development of the OHS accreditation scheme progresses.
- c Target figure includes the impact of all departmental funding transfers and internal restructuring associated with AAO changes but excludes expenses incurred by other agencies for the delivery of administered programmes prior to the AAO changes. The target figures previously published in the 2004–05 PBS and PAES did not fully reflect the impact of all of the funding transfers associated with the AAO changes.

## Commentary

The Office of the Federal Safety Commissioner began operations in January 2005, with the appointment of an Acting Federal Safety Commissioner in the department's national office in Canberra. Mr Tom Fisher, formerly Acting Chief Executive Officer of the National Occupational Health and Safety Commission, began his duties as the Federal Safety Commissioner on 6 June 2005. The commissioner's primary role is to foster improved occupational health and safety performance in the building and construction industry, using the Australian Government's leverage as a major construction client.

In March 2005 the office issued a request for tender for the development of an Australian Government Occupational Health and Safety Accreditation Scheme for Australian government building and construction projects. A consultant was selected to develop the key elements of the accreditation scheme. During the second half of 2004–05 the department started developing the administrative component and the information technology platform that make up the other components of the accreditation scheme.

## Outlook for 2005–06: Output Group 2.2

- The department will continue to implement the Government's response to the key recommendations of the Royal Commission into the Building and Construction Industry. Among the initiatives are the following:
  - education and communication with industry and government agencies to ensure continuing rigorous implementation of the National Code of Practice for the Construction Industry
  - implementation of the findings of the review of the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry
  - consulting with stakeholders while settling the amendments to the final Building and Construction Industry Improvement Bill 2005
  - amendments to the Building and Construction Industry Improvement Bill to be moved as soon as possible after 1 July 2005 in order to pursue further elements of the 2003 version of the Bill, including the establishment of the Australian Building and Construction Commission
  - developing and implementing an information and education campaign to support the introduction of amendments to the Building and Construction Industry Improvement Bill 2005
  - implementing the taskforce's new compliance powers.

- The department will continue to implement and promote the Government's workplace relations reforms in private sector industries, with priority industries being in the transport, resources, automotive and manufacturing sectors, as well as in a number of service sectors—particularly banking and finance, retail, and business services.
- The department will continue to meet and liaise with representatives of priority industries. This work will be increasingly important once the Government's workplace relations reform legislation becomes effective, when industry will benefit from being made aware of the new flexibilities and simpler processes available to it.
- In conjunction with the Department of Industry, Tourism and Resources, the department will continue work to advance workplace relations reform and productivity improvements in the automotive industry.
- With the Department of Education, Science and Training and relevant stakeholders, the department will continue to work to ensure ongoing workplace relations reform in the education sector.
- The department will continue to facilitate ongoing workplace relations reform in the public sector through the provision of guidance to public sector agencies on agreement making, machinery of government changes and related workplace relations matters.
- The Office of Workplace Services will play an important role in educating employers, employees and the general public about the changes to workplace relations in Australia.
- Trades Recognition Australia will continue to help skilled migrants enter Australia as quickly as possible by improving processing times—particularly in relation to occupations where skills shortages exist.
- In relation to the employee entitlement safety net schemes, the department will do the following:
  - continue to enhance the GEERS Online information technology system to reflect emerging GEERS policy and business processes
  - complete the design and start development of an extranet for GEERS Online, to help insolvency practitioners and other stakeholders lodge claims for assistance using the system
  - continue to work with insolvency practitioners and others to improve the way GEERS interacts with business practices, while maintaining the intent and purpose of the scheme
  - strengthen the GEERS operational framework
  - conduct an evaluation of the operation and effectiveness of GEERS.
- As noted, staff of the National Occupational Health and Safety Commission transferred to the Office of the Australian Safety and Compensation Council during 2004–05. The commission will continue to exist, with support from staff of the council, until the *National Occupational Health and Safety Commission Act 1985* is repealed. That Act is expected to be repealed in late 2005, at which time the Australian Safety and Compensation Council will begin operations.

- The Office of the Australian Safety and Compensation Council will establish and support the Australian Safety and Compensation Council in leading and coordinating national efforts to improve occupational health and safety and workers compensation arrangements.
- During 2005–06 the Office of the Federal Safety Commissioner will introduce the Australian government Occupational Health and Safety Accreditation Scheme for the building and construction industry and start assessing major contractors under the scheme.
- The Federal Safety Commissioner will consult widely with the industry generally (including occupational health and safety authorities and industry bodies), monitor contractors' compliance with the occupational health and safety aspects of the new Australian Government Building Code, and improve agencies' and contractors' consideration of safe design so as to reduce, if not eliminate, occupational health and safety risk at the design stage—that is, before construction work begins.



