

Queensland Clothing Manufacturing Audit Program 2011-2012

Final report – April 2013

A report by the Fair Work Ombudsman under the Fair Work Act 2009

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Summary

In recent years the clothing manufacturing industry (the industry) has been subject to increased international competition and significant changes to workplace laws, including the introduction of the *Textile, Clothing and Footwear and Associated Industries Award 2010* (Modern Award).

Some industry workers are considered to be vulnerable and there have been allegations of exploitation. For these reasons, the Fair Work Ombudsman (FWO) considered it important to run a pilot audit program in the industry.

The aim of the program was to educate employers on the Modern Award and assess compliance with workplace laws. Further, to gain intelligence on the number of industry outworkers and source information to aid the planning of a future national clothing outworker campaign.

Of the 171 businesses audited, we found 121 (71%) were compliant and 50 (29%) were in contravention of workplace laws.

Of the businesses in contravention:

- 30 (60%) had underpayment contraventions
- 17 (34%) had record-keeping/pay slip contraventions
- 3 (6%) had both underpayment and record-keeping/pay slip contraventions
- \$50,526 was recovered for 84 employees

Only 11 (6%) of the businesses audited were found to have engaged outworkers, of which 7 (64%) had contravened the Modern Award. However we readily acknowledge that the actual number of Australian clothing manufacturing outworkers is unknown. The complex and unclear supply chain structures which exist mean that outworkers are sometimes hidden workers.

The program provided valuable insight into the industry. It also provided a greater awareness of the strategy FWO needs to design and deliver in a future clothing outworker campaign.

Introduction

Since the 1970s, the clothing manufacturing industry has seen major changes through increased international competition, industry restructuring and changes to legislation including, more recently, the introduction of the *Fair Work Act 2009* (the Act), *Fair Work Regulations 2009* (the Regulations) and the Modern Award.

Industry workers are believed to be mainly female and many are from diverse cultural backgrounds with poor English skills and limited understanding of Australian workplace laws. The nature of the working conditions therefore makes them vulnerable to possible exploitation.

The FWO was concerned the level of non-compliance in the industry was not accurately represented by the number of complaints we receive and we had not undertaken a previous audit program/campaign in this industry. Moreover, we were aware Queensland state government inspectors had recently conducted over 1000 education visits to promote their Mandatory Code of Practice for Clothing Outworkers (later repealed on 9 November

2012). Finally, we sought to gain intelligence from the program that would help us shape a future national campaign.

Through the program we sought to determine the level of compliance with Commonwealth workplace relations laws within the industry and the extent to which outworkers form part of the workforce. We also sought to educate employers on the obligations of the Modern Award.

What we did

In mid-2011, we launched the program by writing to industry stakeholders to inform them about the program and to seek their help to promote it. Stakeholders included:

- the Textile, Clothing and Footwear Union of Australia (TCFUA)
- the Queensland Working Women's Service
- Asian Women at Work
- the Council of Textile and Fashion Industries (TFIA)
- Fairwear

In August 2011, we wrote to the 730 Queensland clothing manufacturing businesses listed on the Australian Business Register to notify them of the program and their selection for audit. The letter also detailed the type of records employers had to prepare for the assessment and mentioned that Inspectors may conduct a field visit during the assessment period.

The assessment undertaken included compliance with record-keeping, pay slip and hourly rate of pay obligations. Businesses were also required to supply details for any outworkers they engaged. Where the business engaged outworkers, Inspectors assessed if the business complied with Schedule F of the Modern Award (for details see the section below on 'Schedule F'). During the site visit, Inspectors provided further information on employer obligations.

Employers found to be compliant were notified of the outcome. Where employers were identified as potentially being in contravention, we sought further information and in some cases used our statutory powers to obtain additional documents. Where no or limited records were provided in relation to an outworker, we visited and spoke with the outworkers.

Where we identified a contravention, we detailed our findings in writing and requested the employer rectify the contravention. Employers with serious contraventions, such as the failure to meet the majority of the obligations imposed by Schedule F, were issued with a Compliance Notice.

The Impact of Compliance Notices

One of the enforcement tools introduced by the Fair Work Act 2009 was the power of Fair Work Inspectors to issue a 'Compliance Notice'.

Compliance notices are similar to the Improvement Notice used by OHS inspectorates in Australia. They may be issued where an inspector reasonably believes that a person has contravened 'an entitlement provision'. They may require a person to either take specified action to remedy the effects of the contravention, and/or produce reasonable evidence of

the person's compliance with the notice within the time specified in the notice (often between 14 – 28 days).

In this audit program, Compliance Notices were issued for a contravention of Schedule F of the Modern Award.

Failure to comply with a Compliance Notice is a contravention of the civil remedy provisions of the Act. As a result the FWO may commence proceedings seeking remedies and penalties for the contravention of the entitlement provision and penalties for the failure to comply with the Compliance Notice.

At the time of the program, the maximum penalty for failure to comply with a Compliance Notice was \$6,600 for an individual and \$33, 000 for a body corporate.

For an example of a Compliance Notice – see Appendix A.

Australia's Clothing Manufacturing Industry

The complexion of the industry has drastically changed since its beginnings in Australia.

In earlier years, it was a large industry that employed numerous factory workers, many of whom were migrant women, with minimal formal education. The Australian Government's trade policies shielded the industry from competing imports. It required overseas firms wanting to access the Australian market to set up manufacturing facilities in Australia (Weller 2007).

According to Weller, in the 1970s, the industry began to restructure amid concerns that Australia's economic growth was lagging behind other nations. By the late 1980s the tariff and quota provisions began to be phased out opening the industry to the global market and competition.

'The opening of markets to imports and the reduction of trade quotas and tariffs created the emergence of a business model based on outsourcing production through global supply chains that require low-cost and flexible labour' (Ramworth 2004, Brotherhood of St Laurence 2007).

With many businesses moving their manufacturing offshore, retailers purchasing a greater number of imported clothing and the impact of Australia's 1991-1993 recession, a number of clothing manufacturing businesses either restructured or went out of business.

In an attempt to reduce operating costs, some businesses contracted out their work to outworkers as opposed to employing workers. In 1986/87 it was estimated that there was 62,900 factory clothing workers. This estimate was reduced to 34,000 by September 1994 (Senate Economics Reference Committee, 1996) and it was clear outsourcing work had become common place.

Outworkers

Clothing outworkers are individuals who sew, cut and make garments from their home or another premise which would not be considered a business premise. They may source work from various businesses and individuals within the industry, including manufacturers, suppliers and retailers. It is not unusual for clothing outworkers to also receive work from other outworkers, especially when they do not have the skills or equipment to complete all tasks required for the construction of a garment.

Outworkers have long featured in the Australian industry. However, as stated by Weller (2007), 'there were various attempts to outlaw it'.

In the 1990s, some redundant factory employees found work with overseas owned firms, working as outworkers.

Today, the actual number of Australian clothing manufacturing outworkers is unknown, as the supply chain structures which exist mean that outworkers are sometimes hidden workers.

Allegations of outworker exploitation

It is generally considered the characteristics of the working conditions of outworkers make them vulnerable to exploitation (Shorten, 2012). Indeed, the non-transparent, fragmented and complex supply chain structure means that some outworkers may not know who their employer is or of their workplace rights.

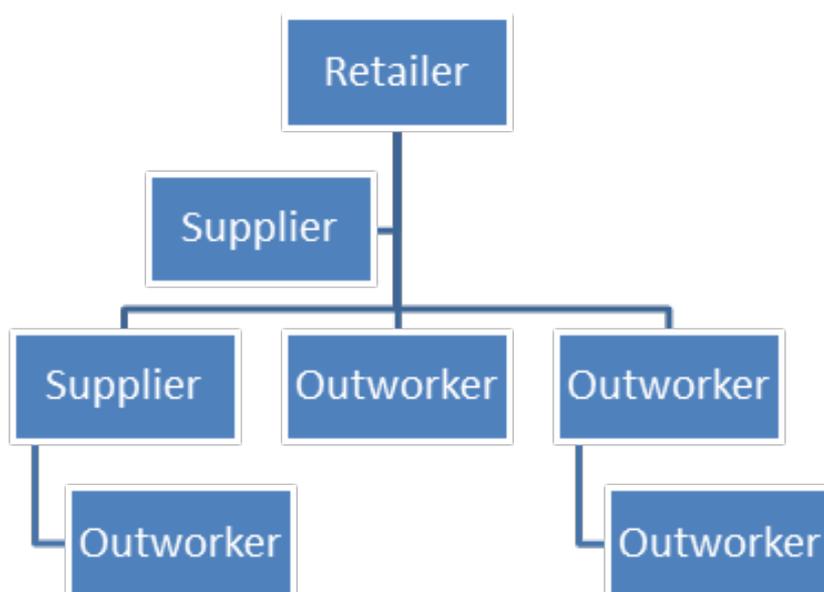
Research conducted by Christine Cregan (2001), found the average rate of pay of the outworkers who participated in her study, was \$3.60 per hour.

More recently, on 18 August 2011, Jack Morel of the Textile Clothing Footwear Union (TCFUA) appeared on the Australian Broadcasting Corporation's *7:30 Report* advising that some outworkers are being paid \$10 to \$11 per hour.

On the other hand there are some outworkers who claim that they are being paid well above the minimum entitlements and that their working arrangements allow them to work flexible hours, manage their own business and care for their young children (Institute of Public Affairs).

The FWO found limited information or research on the public record in relation to the industry.

As outworkers are typically located at the bottom of the supply chain (see diagram below) and pressures exists for low cost manufacturing, FWO is concerned that some outworkers aren't receiving their lawful entitlements.



As stated above, one of the reasons outworkers are considered vulnerable to exploitation is the structure and fragmentation of the supply chain which means some outworkers may not know who their employer is. For instance, it is not uncommon for delivery drivers to drop off and collect goods, acting as an intermediary between the employer and outworker. In these cases it would be difficult for the outworker to know who to approach if they wanted to query their entitlements.

FWO acknowledges that there may be outworkers who aren't willing to query their employment conditions either because they are not aware of their entitlements, speak limited English and/or fear they will lose orders. It is also FWO's experience that some workers from culturally and linguistically diverse backgrounds are reluctant to contact government departments based on their interactions with government in their country of origin.

Many manufacturers who produce fixed style garments moved overseas to take advantage of lower labour costs. Some of the work completed by Australian clothing outworkers is for local designers who have seasonal lines which require a short turnaround time to manufacture (Senate Economics Reference Paper 1996). Quite often, these lines can be detailed and require a considerable amount of work. 'The urgency of orders sometimes means that the outworker's family, even young children must give assistance' (International Employment Relations Association 2002). Outworkers, who participated in Christine Cregan's study, reported that due to the amount and fluctuation of work available, their power to negotiate pay had diminished (Brotherhood of St Laurence 2007).

Further, outworkers have also complained that they may not be paid for an order until several months later and even then, they may not receive their full entitlement if the supplier rejects their work (Senate Economics Reference Committee 1996).

It is understood, exploitation can also occur through contractors underquoting jobs and in turn outworkers not being paid correctly. Compounding the issue further is when the employer and the outworker have only minimal employment records such as a simple invoice or receipt. As will be detailed in this report, FWO's program found some businesses made and kept limited records making it a challenge for Fair Work Inspectors to assess compliance with workplace laws.

Minimum Entitlements

In recent years changes to workplace relations legislation has seen two significant changes impact the industry; the *Fair Work (Textile, Clothing and Footwear) Amendment Act 2012* and the Modern Award.

The Amendment Act

On 15 April 2012, the *Fair Work Amendment (Textile, Clothing and Footwear Industry) Act 2012* (Amendment Act) began operation. The Amendment Act extends most provisions of the *Fair Work Act 2009* to contract outworkers in the industry and deems them to be employees for the purposes of some parts of the *Fair Work Act*.

The Amendment Act also provides a mechanism to enable clothing outworkers to recover unpaid amounts, including from contractors along the supply chain. Further, it extends right of entry rules. As the changes introduced by the Amendment Act occurred during the course of the program, Inspectors were able to educate audit participants about these changes but they didn't assess compliance levels in relation to the changes introduced.

The Modern Award

Prior to the Modern Award taking effect on 1 January 2010, several pre modern awards provided the minimum entitlements for various industry workers across the nation.

The Modern Award aimed to create one award to cover the majority of industry workers and to provide those workers with minimum entitlements which were no less than what they were currently receiving. Also, the Modern Award sought to provide extra safeguards to a group of workers considered to be especially vulnerable.

Specifically, the Modern Award covers;

4.1 'employers throughout Australia in the textile industry, bag making industry, button making industry and allied manufacturing and fabricating industries and their employees engaged in duties covered by the classifications in this award.

4.2 'all outworker entities who are covered by the terms of this award in respect to Schedule F – Outworker and Related Provisions.'

It provides specific employment terms and conditions and is the only modern award to contain outworker related provisions.

The requirements of 'Schedule F' of the Modern Award

Schedule F of the Modern Award imposes a number of obligations on principals. Principals, as per the Modern Award, are people or businesses that enter into arrangements with any person (legal or natural) to have work carried out for them. As well as being required to register with the Board of Reference, they also have other obligations.

Registration with the Board of Reference must be completed annually and businesses must keep a list of the businesses, contractors and/or individuals they have given work to in the previous 3 months. The lists need to be submitted to the Board of Reference within 7 days of the last working day of February, May, August and November. Principals cannot contract work to an unregistered principal.

Importantly, in addition to registering with the Board of Reference, a principal must obtain the consent from the Board of Reference or the TCFUA to make one or more arrangements covered by Schedule F, with more than 10 workers at any one time.

Schedule F also specifies minimum conditions for workers. For instance, a principal must apply the National Employment Standards (NES) to the worker as though the worker is an employee, whether or not the principal is an employer or the worker is an employee.

In addition to the NES, Schedule F also provides for:

- Hours of work
- Work on weekends and public holidays
- Time standards and payment
- Stand down

For each arrangement, a principal is required to make and keep a written record which contains the:

- principal's name, address, ABN/ACN and/or registered business number
- principal's Board of Reference registration number
- name and address of the person to whom the arrangement applies
- address/es where work is to be performed
- time and date for commencement and completion of the work and
- number of garments, articles or materials of each type
- sewing time for the work required on each garment, article or material and
- price to be paid for each garment, article or material
- time and date for the garments to be provided, the time standard applied, the number of working hours, and hours and days within a week, that will be necessary to complete the work, and the amount to be paid to the worker, and
- a description of the work required and garments/articles/material to be worked on

A copy of a work record must be given to the person they have made the arrangement with prior to them commencing the work.

In this audit program we found five businesses that had not made records of the outworkers they engaged, the articles of clothing the outworkers worked on and the rates the outworkers had been paid. A further two businesses had not registered as principals as required by the Modern Award and had not made records specifying the details of their outworkers and the work that their outworkers performed.

How we assessed rates of pay and determined levels of compliance

A constant difficulty for a regulator such as FWO has been estimating how long it takes an outworker to make certain garments and whether the remuneration for that work meets the minimum pay rates.

In this audit program the lack or incompleteness of records by principals made the assessment of outworker wages difficult. Where we were able to contact the contractor/outworker¹ we asked about the items they worked on, the time spent and payment received. Using this information we then conducted a basic assessment.

The many variables which impact on the amount of time it takes to make a garment have been highlighted by industry players and, over time, various 'time standard' reports have been developed to assist manufacturers price labour. Some variables include the complexity of the work, fabric type, the skill level of the worker, machinery used and whether the worker needs to perform tasks, such as sorting prior to making the garment.

During the program, we engaged industry experts Meriel Chamberlin, Jaimie Langton and Fleur Richardson to jointly undertake an independent review of time standards on behalf of FWO. The report, '*A TCF Industry Independent Review of Standard Time Information and Variables*' (the Review) provides details of the time involved to complete each component in the manufacture of a garment.

The Review highlighted the fact that it is not possible to establish a definite standard time for the manufacture of any garment, without specifying every component, construction

¹ These terms are often used interchangeably in the sector

method, machine used and production. Consequently, each garment must be assessed individually to determine its unique 'standard minutes.'

The Review referred to the methodology contained in a paper published by Ethical Clothing Australia, entitled, '*Guide to the Textile, Clothing, Footwear and Associated Industries Award- Helping you meet your legal obligations* (the Guide)'.

To derive a worker's remuneration the Guide explains an employer, first needs to classify the worker at the correct award skill level, determine the wage rate for the particular skill level and then work out the ordinary minute rate.

Next, they need to calculate the minutes taken to perform the work based on the 'time standard', recording any work performed on Saturday, Sunday, public holidays and work performed in excess of the number of weekly hours.

Other factors employers need to consider are whether there is a public holiday during the time they have engaged a worker, and if the outworker does not work on that day, they are to be paid the equivalent of one day's pay with pro-rata payments for part-time workers. Using the above formula, employers are able to calculate a worker's remuneration.

While Fair Work Inspectors were able to use the Review and the Guide to calculate a worker's remuneration, the challenges of determining rates of pay were made difficult by poor record-keeping practices.

For instance, when the Fair Work Inspectors were presented with copies of invoices by contractors/outworkers, it was difficult for them to determine either how many hours it had taken to produce certain garments or how many workers had been engaged in their production.

The case study below highlights how several workers undertake various tasks to complete one garment. It can therefore be difficult for a Fair Work Inspector to determine who is responsible for what part of the production of a garment.

The lack of documentation, such as failure to provide payslips, meant the Fair Work Inspector was unable to determine with any certainty the number of hours worked, the worker's status of employment or classification level.

This audit therefore confirmed the rationale behind the insertion of provisions such as Schedule F in the Modern Award.

Case Study: Contravention chain reaction

ABCD Pty Ltd is a large clothing company which manufactures sport uniforms, employs over 70 employees and contracts various parts of the manufacturing process to other entities.*

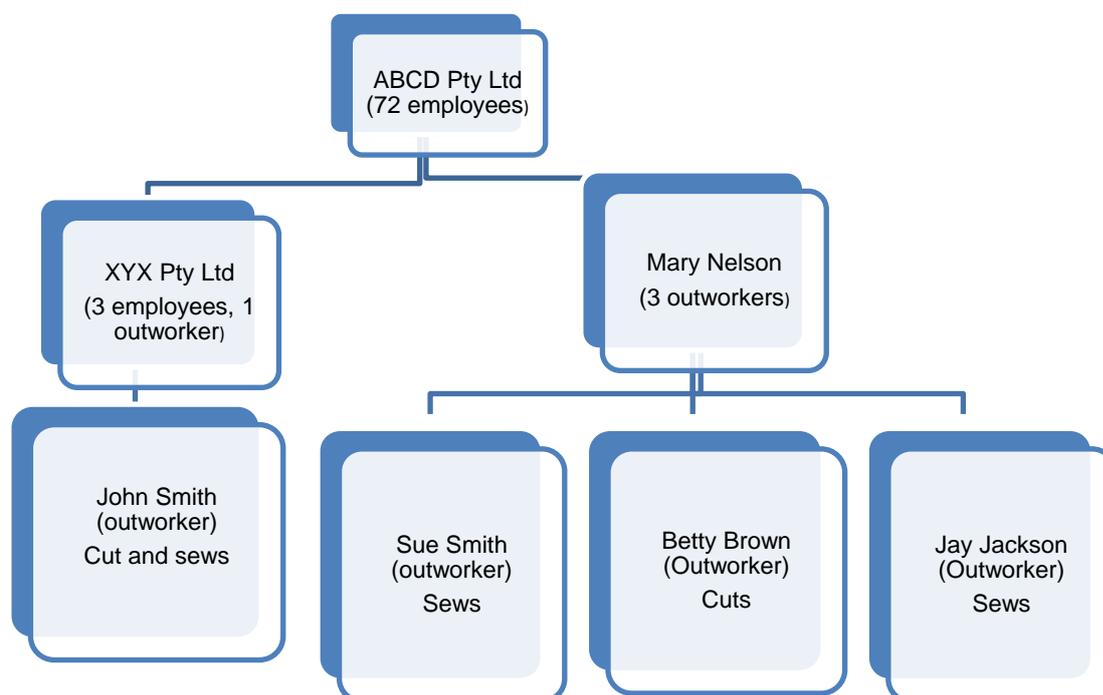
XYX Pty Ltd is engaged by ABCD Pty Ltd to complete cutting and sewing work. XYX Pty Ltd has three employees to perform the work and also outsources work to one outworker.*

ABCD Pty Ltd also outsources work to outworker, Mary Nelson, who in turns outsources the work to three other workers.*

As part of the audit of ABCD Pty Ltd, we also audited XYX Pty Ltd and Mary Nelson. As the businesses kept minimal records for the outworkers the Inspectors interviewed the outworkers themselves to establish whether they were being paid correctly.

The outworkers provided invoices and annual earnings for 2010/2011. Although the Inspectors examined these records and had discussions with the outworkers there was insufficient evidence to determine whether the workers had been paid their lawful entitlements.

In response to poor record keeping by ABCD Pty Ltd, XYX Pty Ltd and Mary Nelson, the Fair Work Inspectors issued all three Compliance Notices (see Appendix A).



**Pseudonyms have been used in this case study*

The Audit Results

In September 2011, we selected 730 industry employers for an audit assessment, however 559 were unable to be audited. The majority (28%) of these had either ceased trading, were unable to be located or contacted (20%) or no longer employed any workers (13 %).

Of the 171 businesses audited we found that 121 (71%) were compliant and 50 (29%) were in contravention of workplace laws. We recovered \$50,526 for 84 employees.

Chart 1: Contravention types

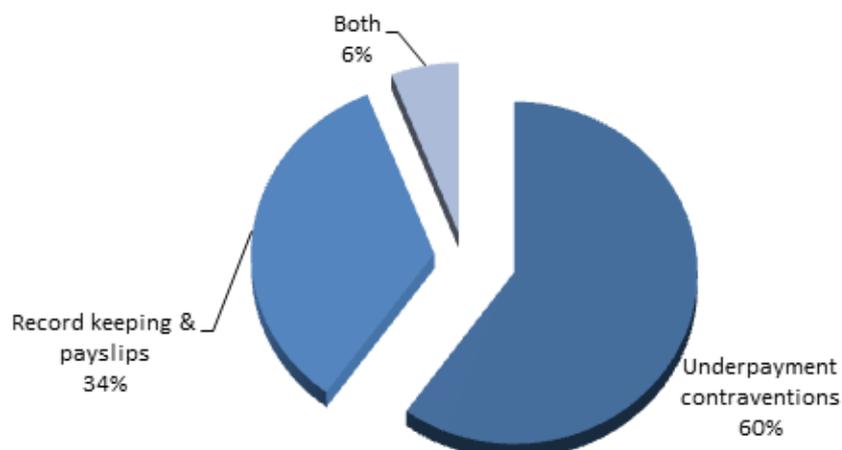


Chart 1 shows that of the businesses found to be in contravention, 30 (60%) had underpayment contraventions, 17 (34%) had record-keeping/pay slip contraventions and 3 (6%) had both underpayment and record-keeping/pay slip contraventions.

In total, 53 individual contraventions were identified. A map detailing the locations where contraventions were identified can be found at Appendix B.

Surprisingly, only 11 (6%) of the businesses audited engaged outworkers. Inspectors found 7 (64%) of the 11 to have contravened Schedule F of the Modern Award. Specifically, five businesses had not made records of the outworkers they engaged, the articles of clothing the outworkers made and the rates the outworkers had been paid.

A further two businesses had not registered as principals and did not have records for their outworkers. To ensure future compliance, Inspectors assisted the principals to complete the relevant Fair Work Commission registration form in addition to issuing them with Compliance Notices.

As previously mentioned, due to a lack of complete records, Inspectors were unable to conduct a comprehensive assessment of outworkers' remuneration.

Other Findings

Several interesting findings emerged from the program.

We found that contraventions identified in businesses not engaging outworkers occurred as a result of one of the following:

- the employer missing the pay increase therefore underpaying employees
- the employer using a superseded award, or
- the employer classifying the employee at the wrong level

Inspectors noted that in some cases, language barriers contributed to employers not understanding their obligations.

Inspectors also found the businesses mainly employed middle aged employees. However, the number of employees from culturally and linguistically diverse backgrounds was not as significant as anticipated. Only a few clothing manufacturers were located outside the metropolitan area and most produced women's clothing, sportswear or uniforms.

Although we expected to find some businesses to either be no longer trading or employing staff, we were surprised to find a significant number could not be located. This possibly reflects the mobile and changing nature of the industry. We assume these businesses had either moved premises and not updated their contact details on Australian Business Register, or simply left the industry.

Based on the estimated numbers of outworkers, we were surprised to find only a small number of businesses engaged outworkers. However, we strongly suspect we may not have identified all outworkers. As acknowledged earlier, outworkers can be a hidden workforce and some manufacturing businesses may not know if outworkers are being used further down in their supply chain. Of the businesses using outworkers, many were not familiar with Schedule F obligations. It was not only small business that were non-compliant, but also the larger enterprises.

One of the businesses audited, advised that while it formerly engaged outworkers, due to the reporting requirements, the business had made a decision to engage their outworkers as employees instead.

Concluding remarks

The program has provided a valuable insight into the industry. The complexity of the supply chain and the seasonality of workflow challenged standard FWO audit methodologies.

The record-keeping and arrangement making requirements for businesses that engage outworkers play a critical role in determining whether outworkers are being paid correctly. Without these records, our ability to assess rates of pay is limited. For instance, where our Fair Work Inspectors visited a particular contractor at a particular site, it was difficult to obtain evidence to show whether the work was being conducted on-site or off site. While there may have been machinery in place that would assist cutting, it was unclear as to whether hemming, for example, was occurring on site. Based on the program findings, further compliance intervention is needed in the industry, including conducting records of interview with the accountants and lawyers of the manufacturers.

Considering the types and causes of the contraventions found, we believe a targeted education strategy could greatly reduce the contravention rate. Therefore prior to undertaking a national outworker's campaign, FWO will develop an industry specific education strategy to inform industry participants of their rights and obligations. Consideration will also be given to developing educational materials in languages other than English. We are also strongly of the view that we need to work closely with other government regulators such as the Australian Taxation Office (superannuation as well as cash in hand concerns) and the Department of Immigration and Citizenship (visa work right concerns).

To ensure the success of a future national campaign in the industry, FWO also recognises the need to work closely with the employee and employer organisations in order to obtain factual and detailed intelligence and also work with the Fair Work Commission, to identify principals and their outworkers.

About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent agency created by the Fair Work Act 2009 on 1 July 2009.

Our vision is fair Australian workplaces, and our mission is to work with Australians to educate, promote fairness and ensure justice in the workplace.

Our education and compliance campaigns target specific industries to assist them achieve compliance with national workplace laws. Our focus is usually industries that need assistance with compliance and employ vulnerable workers.

We like to work with relevant industry associations and unions to deliver our campaigns. We rely upon their 'real world' knowledge and communication channels to design and deliver our education activities and products.

This report covers the background, method and findings of the Queensland Clothing Manufacturing Audit Program 2011-2012.

For further information and media enquiries please contact Ryan Pedler (ryan.pedler@fwo.gov.au).

If you would like further information about the Fair Work Ombudsman's targeted campaigns please contact, Steve Ronson, Executive Director - Dispute Resolution and Compliance (steven.ronson@fwo.gov.au).

Appendix A – Compliance Notice

COMPLIANCE NOTICE

(ISSUED UNDER SECTION 716 OF THE FAIR WORK ACT 2009)

Date of Issue: 30 August 2012

Name of Employer: X

ABN/ACN: X

Director: X

I, Y, being a duly appointed Fair Work Inspector and having conducted an investigation into alleged contravention(s) of Commonwealth workplace laws, have determined that:

- X, is both an employer and an outworker entity within the jurisdiction of the Fair Work Act 2009 (the Act);
- As an employer and an outworker entity, X, is also a principal as defined in Clause F.1.4(a) of Schedule F of the Textile, Clothing, Footwear and Associated Industries Award 2010 (the Modern Award);
- As at 1 January 201 X had already entered into arrangements with the four outworkers to perform work
- The terms and conditions applying to the arrangement between X and each of the four outworkers for the performance of work as outworkers was governed by the Modern Award; and
- Schedule F of the Modern Award imposes, on a principal, obligations in relation to making and retaining written records, and to provide copies of documents, when entering into an arrangement with a person to perform work as an outworker.

I have further determined that X has, in relation to the arrangements entered into with each of the four outworkers, contravened section 45 of the Act by not complying with the terms of the Modern Award. The specific breaches of the Modern Award are as follows:

- Clause F.2.2(a) of Schedule F of the Modern Award by reason of failing to make and retain a written record (called a “work record”) consisting of:
 - (i) The principal's name, address, ABN/ACN and/or registered business number;
 - (ii) The principal's board of reference registration number;
 - (iii) The name and address of the person to whom the arrangement applies;
 - (iv) The address(es) where work is to be performed;
 - (v) The time and date for commencement and completion of the work;
 - (vi) A description of the nature of the work required and the garments, articles or material to be worked on (including diagrams where available and details of the type of garment or article, seam type, fabric type, manner of construction and finishing);
 - (vii) The number of garments, articles or materials of each type;
 - (viii) The sewing time for the work required on each garment, article or material; and
 - (ix) The price to be paid for each garment, article or material;
- Clause F.3.4 of Schedule F of the Modern Award by reason of failing to include in the work record additional information consisting of:

(a) The time and date for the garments, articles or materials to be provided to and picked up from the worker to facilitate commencement and completion of work in accordance with F.2.2(a)(v);

(b) Details of the time standard applied in accordance with clause F.4.4(a) in order to determine the appropriate sewing time for the purposes of clause F.2.2(a)(viii);

(c) The number of working hours that will be necessary to complete the work, calculated by multiplying the number of garments at clause F.2.2(a)(vii) by the sewing time per garment, article or material at clause F.2.2(a)(viii); and

(d) The number of hours and days within the ordinary working week that will be necessary to complete the work in order to determine the appropriate time and date of commencement and completion at clause F.2.2(a)(v), and

(e) The total amount to be paid to the worker for the hours and days at clause F.3.4(c), applying the appropriate rates of pay set out at clause F.4.4(b).

- Clause F.2.2(b) of Schedule F of the Modern Award by reason of failing to provide a copy of the work record under Clause F.2.2(a) to each of the four outworkers; and
- Clause F.3.5 of Schedule F of the Modern Award by reason of failing to provide a copy of Schedule F of the Modern Award to each of the four outworkers, in a language appropriate to each person.

In accordance with the Section 716(2) of the Act, X is now required, within 14 days of the date of this Compliance Notice, to ensure that in all new arrangements that it enters into with any person to perform work as a outworker:

1. X makes and retains a work record that shows:
 - The principal's name, address, ABN/ACN and/or registered business number;
 - The principal's board of reference registration number;
 - The name and address of the person to whom the arrangement applies;
 - The address(es) where work is to be performed;
 - The time and date for commencement and completion of the work;
 - A description of the nature of the work required and the garments, articles or material to be worked on (including diagrams where available and details of the type of garment or article, seam type, fabric type, manner of construction and finishing);
 - The number of garments, articles or materials of each type;
 - The sewing time for the work required on each garment, article or material;
 - The price to be paid for each garment, article or material;
 - The time and date for the garments, articles or materials to be provided to and picked up from the worker to facilitate commencement and completion of work in accordance with F.2.2(a)(v);
 - Details of the time standard applied in accordance with clause F.4.4(a) in order to determine the appropriate sewing time for the purposes of clause F.2.2(a)(viii);
 - The number of working hours that will be necessary to complete the work, calculated by multiplying the number of garments at clause F.2.2(a)(vii) by the sewing time per garment, article or material at clause F.2.2(a)(viii);

- The number of hours and days within the ordinary working week that will be necessary to complete the work in order to determine the appropriate time and date of commencement and completion at clause F.2.2(a)(v); and
 - The total amount to be paid to the worker for the hours and days at clause F.3.4(c), applying the appropriate rates of pay set out at clause F.4.4(b); and
2. X provides a copy of the relevant work record to the outworker; and
 3. X provides a copy of Schedule F of the Modern Award to the outworker, in a language that is appropriate to that person.

Failure to comply with this Notice may contravene a civil remedy provision. If you do not take action to comply with this Notice, the Fair Work Ombudsman may commence legal action to seek civil penalties for non-compliance with this Notice.

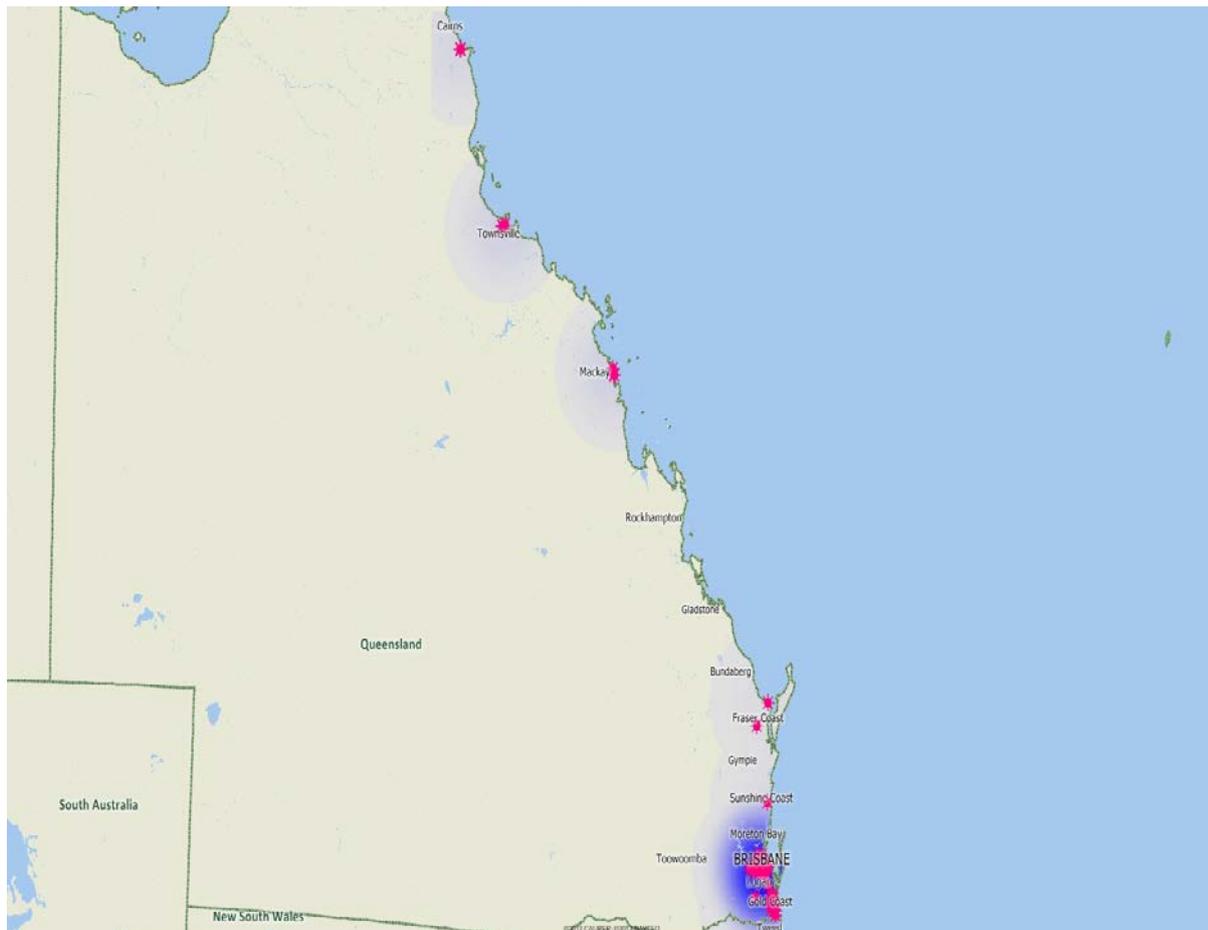
You may apply to the Federal Court, Federal Magistrates Court or eligible State or Territory Court for a review of this Notice if:

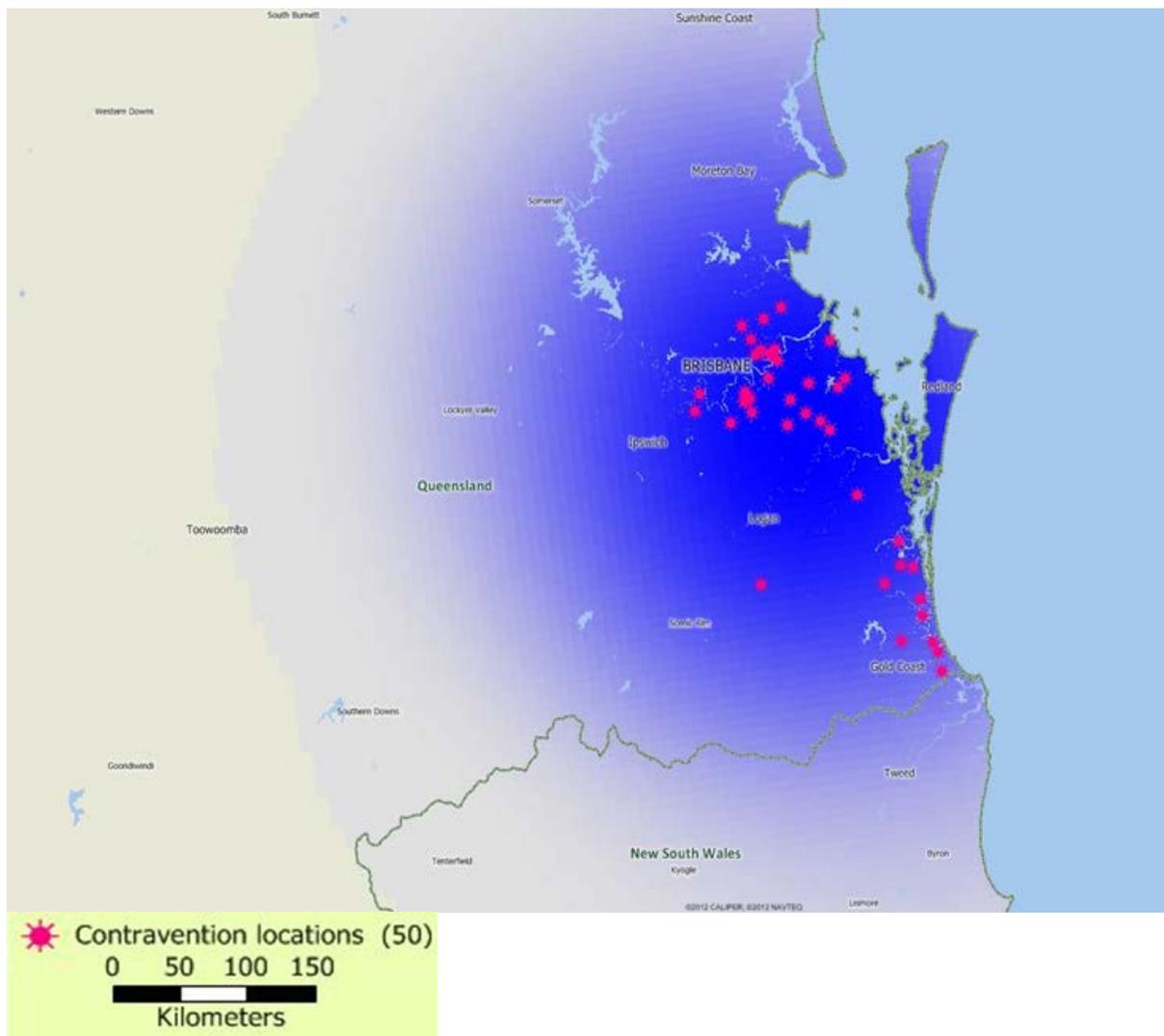
- a) you dispute that you have committed the contravention(s) referred to above; and/or
- b) you dispute that this Notice complies with subsections 716(2) or 716(3) of the Act.

Fair Work Inspector

Fair Work Ombudsman

Appendix B – Contravention Maps





References

Australian Broadcasting Corporation (18 August 2011) 'The Campaign For Outworkers', The 7:30 Report, Australian Broadcasting Association

Asian Women at Work (2012) website, <http://www.awatw.org.au/>, visited 7 January 2013

Chamberlin M, Richardson F, Langton J (2012) 'A TCF Industry Independent Review of Standard Time Information and Variables, unpublished.

Council of Textile and Fashion Industries of Australia (2012), website, <http://www.tfia.com.au>, visited 8 January 2013.

Cregan C. (2001) 'Home Sweat Home', Department of Management, University of Melbourne, Melbourne.

Brotherhood of St Laurence. (2007) 'Ethical Threads: Corporate Social Responsibility in the Australian Garment Industry' Brotherhood of St Laurence, Victoria.

Ethical Clothing Australia (2011) 'Guide to Textile, Clothing, Footwear and Associated Industries Award -Helping You Meet Your Legal Obligations', Ethical Clothing Australia.

Fairwear (2012) 'Inquiry into the Fair Work Amendment (Textile, Clothing & Footwear Industry) Bill 2011, Fairwear, <http://www.senate.aph.gov.au/submissions>, viewed 7 January 2013.

Fairwear (2012) website, <http://www.fairwear.org.au>, viewed 7 January 2013.

Institute of Public Affairs. 'Outworkers Speak Out', Institute of Public Affairs, <http://www.tfia.com.au/about-tfia>, visited 22 January 2013.

International Employment Relations Association (2002) 'International Employment Relations: Focus on the Pacific Rim', University of Western Sydney, Printing Services, Sydney.

Queensland Government (2012), website, <http://www.justice.qld.gov.au>, viewed 8 January 2013.

Ramworth K. (2004) 'Trading Away Our Rights: Women Working in Global Supply Chains', Oxfam, Oxford, UK.

Senate Economics Reference Committee (1996) 'Outworkers in the Garment Industry', Commonwealth of Australia, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=economics_ctte/completed_inquiries/1996-99/outworkers/report/index.htm, viewed 23 January 2013.

Shorten B. (2012) 'Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2012: Second Reading', Commonwealth of Australia, Canberra.

TCFUA (2012), website, <http://tcfua.org.au/outworkers/outworker-campaign>, viewed 7 January 2013.

TCFUA (2008) 'Submission of the TCFUA to the Australian Industrial Relations Commission', TCFUA, Melbourne.

TCFUA (1995) 'The Hidden Cost of Fashion: Report on the National Outwork Information Campaign, TCFUA, Sydney.

Weller S. (2007) 'Regulating Clothing Outworker: A Sceptic's View', *Journal of Industrial Relations*, <http://jirsagepub.com>, viewed 14 January 2013.

Weller S. (2007) 'Retailing, Clothing and Textiles Production in Australia', Centre for Strategic Economic Studies, Victoria University, Melbourne.