



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

Ms Nicole Lawder MLA (Chair), Ms Suzanne Orr MLA (Deputy Chair),

Mr Johnathan Davis MLA

Standing Committee on Economy and Gender and Economic Equality

Inquiries into Annual and Financial Reports 2019–2020 and
ACT Budget 2020–2021

Responses to **questions taken on notice** at public hearing of 23 February 2021

Industrial Relations and Workplace Safety portfolio

ACT Standing Committee on Economy and Gender and Economic Equality

Inquiries into Annual and Financial reports 2019–20 and ACT Budget 2020–21

Index QToN—Public hearing—23 February 2021

Industrial Relations and Workplace Safety portfolio

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| 1 | 23 Feb 21 | Lawder | Executive Champions of Change—to drive implementation of healthy minds/healthy workplaces—can a list of the (14) executive champions be provided? | Minister for Industrial Relations and Workplace Safety | 2 March 21 |
| 2 | 23 Feb 21 | Lawder | Executive Champions of Change—date when the program started? | Minister for Industrial Relations and Workplace Safety | 2 March 21 |
| 3 | 23 Feb 21 | Cain | WH&S inspections—reporting in annual report on each of the three types of notices issued—can the data be better reflected to show where worksites may be issued with multiple notices on a single visit/inspection? [pp. 308–309, CMTEDD 2019–20 Annual report] | Minister for Industrial Relations and Workplace Safety | 4 March 21 |
| 4 | 23 Feb 21 | Lawder | ACT Worksafe visit to Denman Prospect week beginning Monday 15 Feb 21—confirmation re whether any of the 77 notices issued were repeat notices? | Minister for Industrial Relations and Workplace Safety | 2 March 21 |
| 5 | 23 Feb 21 | Lawder | WH&S inspections—reporting in annual report on each of the three types of notices issued—can information be provided re how many notices of each type were issued by number of locations? [pp. 308–309, CMTEDD 2019–20 Annual report] | Minister for Industrial Relations and Workplace Safety | 2 March 21 |
| 6 | 23 Feb 21 | Cain | Exemption requests under the portable long service leave scheme legislation—confirm numbers of exemption requests for 2019–20? | Minister for Industrial Relations and Workplace Safety | 2 March 21 |
| 7 | 23 Feb 21 | Cain | Request for exemption review rights—review rights of Ministerial decision to determine specific employers to be outside the portable LSL scheme—does the <i>Administrative Decisions (Judicial Review) Act 1989</i> apply? | Minister for Industrial Relations and Workplace Safety | 2 March 21 |



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QTON No. 1

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

Inquiries into Annual and Financial Reports 2019–20 and ACT Budget 2020–21
ANSWER TO QUESTION TAKEN ON NOTICE
23 February 2021

Asked by NICOLE LAWDER MLA on 23 February 2021: Mr Young took on notice the following question:

Ref: Hansard Transcript EGEE – 23-02-2021 – page 174

In relation to: Workplace Healthy Minds Executive Champions

Mr Young: I do have those names of the executive champions.

THE CHAIR: Perhaps you could send them through to the committee secretariat, in the interests of time. How many are there?

Mr Young: There are 14.

THE CHAIR: Send them through. That would be great; thank you.

RACHEL STEPHEN-SMITH MLA: The answer to the Member's question is as follows:–

The Mental Health Champions for the ACT Public Service are currently:

- Laura Thomas (ACT Audit Office)
- Elizabeth Moore (ACT Health Directorate)
- Kate Chambers (ACT Health Directorate)
- Janine Hammat (Canberra Health Services)
- Stephen Miners (CMTEDD)
- Kareen Arthy (CMTEDD)
- Daniel Bailey (CMTEDD)
- Robyn Calder (Community Services Directorate)
- Mark Huxley (Education Directorate)
- Georgina Whelan (Emergency Services Agency)
- Craig Simmons (EPSDD)
- Ashley Cahif (Major Projects Canberra)



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QTON No. 1

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

- Nicholas Holt (Suburban Land Agency)
- Anthony Wickens (TCCS)

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature:

A handwritten signature in blue ink, appearing to be "R. Stephen-Smith", written over a horizontal line.

Date:

2/3/21

By the Acting Minister for Industrial Relations and Workplace Safety, Rachel Stephen-Smith MLA



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QTON No. 2

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

Inquiries into Annual and Financial Reports 2019–20 and ACT Budget 2020–21
ANSWER TO QUESTION TAKEN ON NOTICE
23 February 2021

Asked by NICOLE LAWDER MLA 23 February 2021: Mr Young took on notice the following question:

Ref: Hansard Transcript EGEE – 23-02-2021 – page 172

In relation to: Executive Champions of Change commencement

Mr Miners: I have two more things to add very quickly. One of the key things about the strategy is that it does focus on mental health in terms of everyone. It does not just look at one part of the spectrum; it looks at mental health right across the spectrum in terms of the five in five, rather than the one in five who will suffer severe mental health problems.

It is about making sure that it is something that everyone is aware of and reducing that stigma, as Michael said, so that these issues are talked about. Those things can be very hard to measure. In a lot of ways, it is what does not show up that is what we are really looking to measure. It really is about making sure that people can address the mental health issues, that people are aware of it, and that we can deal with the issues before they actually become issues and make sure everyone has a very positive, supportive workplace to work in.

Mr Young: I will provide that date for you before the end of this session.

THE CHAIR: When, physically, did this program start?

RACHEL STEPHEN-SMITH MLA: The answer to the Member's question is as follows:–

The ACTPS Mental Health strategy *Heathy Minds, Thriving Workplaces* was launched in October 2019.

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature:

Date: 21/3/21

By the Acting Minister for Industrial Relations and Workplace Safety, Rachel Stephen-Smith MLA



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QTON No. 3

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY
Ms NICOLE LAWDER MLA (CHAIR), Ms SUZANNE ORR MLA (DEPUTY CHAIR), Mr JOHNATHAN DAVIS MLA

Inquiries into Annual and Financial Reports 2019–20 and ACT Budget 2020–21
ANSWER TO QUESTION TAKEN ON NOTICE
23 February 2021

Asked by PETER CAIN MLA on 23 February 2021: Ms Agius took on notice the following question;

Ref: Hansard Transcript 23 February 2021 – Page 179 - 180

In relation to: Workplace visits

Ms Agius: So in 2019 there were 1,629 workplace visits. Is that the figure you are referring to?

THE CHAIR: Yes.

MR CAIN: I had. Thank you.

Ms Agius: Thank you. Sorry, just to confirm. So what you are referring to there is the improvement notices, prohibition notices and infringement notices. Some of those may be repeat notices. So they may not be in relation to the same workplace. So they will not necessarily mean that they are separate notices that have been issued at every one of those sites. It could be one site that has 10 notices for instance.

MR CAIN: Is there a way that that can be made clearer? Perhaps I will do a QON on that but—

Ms Agius: I am happy to take that on notice. Part of the issue is that we have started to collate some really good data now at WorkSafe ACT because we have implemented some new ICT systems and whilst I can say going forward we can absolutely do that, but I would need to check whether or not that is available to us.

RACHEL STEPHEN SMITH MLA: The answer to the Member's question is as follows:—

The case management system relied upon by the Office of the Work Health and Safety Commissioner (WorkSafe ACT) during 2019-2020 does not allow for any further breakdown of the data, particularly the issuing of multiple notices on a single Person Conducting a Business or Undertaking (PCBU).

WorkSafe ACT has implemented a new case management system which allows for greater clarity in the data it collects and reports – particularly in regard to workplace visits and notices issued as a result. From 2020-2021 onward WorkSafe ACT will report in detail on its compliance activities in line with its *Compliance and Enforcement Policy*, particularly the issuing of notices and the use of other enforcement tools.



LEGISLATIVE ASSEMBLY
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QTON No. 3

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature:

A handwritten signature in black ink, appearing to read "RSSH", followed by a long horizontal flourish.

Date:

3/3/21

By the Acting Minister for Industrial Relations and Workplace Safety, Rachel Stephen-Smith MLA



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QTON No. 4

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

Inquiries into Annual and Financial Reports 2019–20 and ACT Budget 2020–21
ANSWER TO QUESTION TAKEN ON NOTICE
23 February 2021

Asked by NICOLE LAWDER MLA: Ms Agius took on notice the following question:

Ref: Hansard Transcript 23 February 2021 – page 183

In relation to: Workplace inspections repeat notices and repeat infringements

THE CHAIR: When we started off, Mr Cain asked you about the 1,629 workplace inspections and you said that some of them maybe repeat notices and repeat infringements?

Ms Agius: In the same workplace. So there could be one worksite that might, for instance, have improvement prohibition infringements. So whilst the figures, if you added them all up looks like we have only got a 24 per cent of compliance, it is actually one workplace might have 10 or 20 of those notices.

In relation to repeat employers one of the things that we have found in the residential construction strategy operation safe prospect is we are not seeing a lot of repeat non-compliance. So when we are revisiting sites generally if we have been to a site before that site will now be compliant so that when we are out there issuing, you know, we issued 77 last week.

I think none of those—but I am happy to confirm that and take it on notice—I don't think any of those were repeat offenders; if I can use that term.

RACHEL STEPHEN SMITH MLA: The answer to the Member's question is as follows:—

The recent Operation Safe Prospect audit of Denman Prospect conducted on 17 February 2021 detected 14 non-compliant PCBU's out of 26 construction sites inspected. The 14 PCBU's had previously been subjected to regulatory sanctions by WorkSafe ACT. The 14 PCBU's (builders) were subsequently issued further notices for the non-compliances detected by WorkSafe ACT inspectors.

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature:

Date: 21/3/21

By the Acting Minister for Industrial Relations and Workplace Safety, Rachel Stephen-Smith MLA



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QTON No. 5

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY
MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

Inquiries into Annual and Financial Reports 2019–20 and ACT Budget 2020–21
ANSWER TO QUESTION TAKEN ON NOTICE
23 February 2021

Asked by NICOLE LAWDER MLA: Ms Agius took on notice the following question:

Ref: Hansard Transcript 23 February 2021 – Page 184

In relation to: Inspections by location

THE CHAIR: So in effect, the 1,629 inspections, how many notices—are you able to provide how many notices of each type by number of locations to the committee, so is that, you know, 600 locations and they had this many of, you know, your infringement types—

Ms Agius: I can take that on notice.

RACHEL STEPHEN SMITH MLA: The answer to the Member's question is as follows:—

Unfortunately, WorkSafe ACT reports that the data base utilised for this reporting period does not provide location in a report format.

With the implementation of the new case management system at WorkSafe ACT the location and amount of notices issues will be easily accurately reported on in an efficient manner moving forward.

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature:

Date:

2/3/21

By the Acting Minister for Industrial Relations and Workplace Safety, Rachel Stephen-Smith MLA



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QTON No. 6

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY
MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

Inquiries into Annual and Financial Reports 2019–20 and ACT Budget 2020–21
ANSWER TO QUESTION TAKEN ON NOTICE
23 February 2021

Asked by Mr Cain MLA, on 23 February 2021: Minister Gentleman took on notice the following question:

Ref: Hansard Transcript EGEE – 23-02-2021 – page 185

In relation to:

MR CAIN: This question is to the minister. I believe it will be on a topic that is extremely fresh in both our minds. It relates to exemption requests under the portable long service leave legislation. Minister, how many such requests have been received in the 2020-21 financial year?

RACHEL STEPHEN-SMITH MLA: The answer to the Member's question is as follows:–

Four requests for exemption under section 13 of the *Long Service Leave (Portable Schemes) Act 2009* have been received since 1 January 2019.

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature:

A handwritten signature in blue ink, appearing to be "R. Stephen-Smith".

Date:

2/3/21

By the Acting Minister for Industrial Relations and Workplace Safety, Rachel Stephen-Smith MLA



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QTON No. 7

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

MS NICOLE LAWDER MLA (CHAIR), MS SUZANNE ORR MLA (DEPUTY CHAIR), MR JOHNATHAN DAVIS MLA

Inquiries into Annual and Financial Reports 2019–20 and ACT Budget 2020–21
ANSWER TO QUESTION TAKEN ON NOTICE
23 February 2021

Asked by Mr Cain MLA, on 23 February 2021: Minister Gentleman took on notice the following question:

Ref: Hansard Transcript EGEE – 23-02-21 – page 186

In relation to: Portable Long Service Leave Legislation

MR CAIN: What review rights exist for someone who receives a negative decision—their request is for the exemption and that is denied?

Mr Gentleman: They would have to join the scheme.

Mr Young: There would be none.

MR CAIN: There are no review rights?

Mr Young: It is up to ministerial discretion.

MR CAIN: What about under the Administrative Decisions (Juridical Review) Act?

Mr Young: I do not believe that would apply.

MR CAIN: It is something I will be doing a QON on, but the AD(JR) Act does provide a right to review a government decision, absent a specified review path within the legislation itself. That is my understanding, but I will get some clarity from you on that.

Mr Gentleman: I will take that on notice.

RACHEL STEPHEN-SMITH MLA: The answer to the Member's question is as follows:—

Section 13 of the *Long Service Leave (Portable Schemes) Act 2009* (Portable Schemes Act) allows the Minister to make a statutory instrument declaring the Portable Schemes Act to not apply to a person (or persons), work or activity, limiting the coverage of that Act as currently in force. Such declarations, if made, receive the scrutiny of the Assembly as a disallowable instrument.



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QTON No. 7

STANDING COMMITTEE ON ECONOMY AND GENDER AND ECONOMIC EQUALITY

Ms NICOLE LAWDER MLA (CHAIR), Ms SUZANNE ORR MLA (DEPUTY CHAIR), Mr JOHNATHAN DAVIS MLA

Review under the *Administrative Decisions (Judicial Review) Act 1989* (ACT) (ADJR Act) in relation to section 13 of the Portable Schemes Act would turn upon whether declarations made, or not made, are legislative or administrative in character, which would be a matter for the court to ultimately determine should an application for judicial review under the ADJR Act be made.

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature:

A handwritten signature in blue ink, appearing to read "R. Stephen-Smith".

Date: 2/3/21

By the Acting Minister for Industrial Relations and Workplace Safety, Rachel Stephen-Smith MLA