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7 December 2018

Senator the Hon. Scott Ryan  
President of the Senate  
Parliament House  
CANBERRA ACT 2600

Dear Mr President

**Quarterly Report by the Commonwealth Ombudsman  
under s 712F(6) of the *Fair Work Act 2009***

Pursuant to standing order 166, relating to the presentation of documents when the Senate is not sitting, I present to you my quarterly report under s 712F(6) of the *Fair Work Act 2009* (the Act), covering the period 15 September to 31 December 2017.<sup>1</sup>

**Fair Work Ombudsman powers**

On 15 September 2017, the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017* amended the Act to provide the Fair Work Ombudsman (FWO) with compulsory evidence gathering powers to assist with investigations into non-compliance with Australian workplace laws.

Under s 712AA(1) of the Act, the FWO can apply to the Administrative Appeals Tribunal for a 'Fair Work Ombudsman Notice' if they reasonably believe a person or business has information or documents that will assist an investigation.

A FWO notice may require its recipient to:

- give information to the FWO or a specified member of the staff of the FWO
- produce documents to the FWO or a specified member of the staff of the FWO, or
- attend before the FWO, or a specified member of the staff of the FWO who is an SES employee or an acting SES employee, and answer questions relevant to the investigation (referred to as an examination).

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<sup>1</sup> Schedule 1 of the *Fair Work Act 2009* sets out the transitional provisions relating to amendments of the Act. Section 21 of the Schedule states that 'sections 712A to 712F of the amended Act apply in relation to a Fair Work Ombudsman notice given after this Part commences, whether the investigation to which the notice relates is begun before or after the commencement of this Part'. Therefore, this first report will cover the three month period commencing from the date the amendments came into effect, being 15 September 2017.

### **Ombudsman's review role**

The Act requires the FWO to notify my Office as soon as practicable after a notice is issued and provide copies of relevant documents. Under s 712F(3)(a) of the Act, my Office is required to review the exercise of these powers.

Under s 712F(6) I must prepare and present a report to Parliament as soon as practicable after the end of each quarter of each financial year (beginning on 15 September 2017) about examinations conducted during that quarter. The report must also include the results of the reviews my Office conducted during that quarter.

### **Report on examinations and reviews conducted from 15 September to 31 December 2017**

During the period 15 September to 31 December 2017 the FWO did not advise my Office of any FWO notices that had been issued. Therefore, no examinations were conducted by the FWO and my Office did not conduct any reviews within the period.

As the Act does not specify any formal requirements for my report and no examinations were conducted, I have provided this report in the form of a letter.

As I report directly to Parliament under s 712F(6) of the Act, this report does not require Ministerial approval prior to tabling. I request this report be presented to the Senate in accordance with s 712F(6) of the Act.

If you would like to speak with me about this report, please contact me directly on 02 6276 3707. If your staff members have any questions, they should contact Senior Assistant Ombudsman, Autumn O'Keeffe, on 02 6198 9416.

Yours sincerely



Jaala Hinchcliffe  
Acting Commonwealth Ombudsman

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