

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

FOR THE PERIOD 1 APRIL TO 30 JUNE 2025

Quarterly report by the Commonwealth Ombudsman, Iain Anderson, under Part 5-2 of Chapter 5 of the Fair Work Act 2009

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Commonwealth Ombudsman
GPO BOX 442
Canberra ACT 2601
Tel: 1300 362 072

Email: ombudsman@ombudsman.gov.au

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Executive summary

This is the fourth Quarterly Report for 2024–2025 of the Commonwealth Ombudsman (Ombudsman) under s 712F(6) of the *Fair Work Act* (the Act).

Under s 712F(3) of the Act the Ombudsman must review the exercise of certain powers by the Fair Work Ombudsman (FWO) and Fair Work Inspectors.

Under s 712AA of the Act, the FWO may apply to a nominated Administrative Review Tribunal presidential member for a FWO Notice if they reasonably believe a person has information or documents that will assist an investigation into certain suspected contraventions, and the person is capable of giving evidence. The FWO Notice may require its recipient to:

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

Fair Work Inspectors (FWIs) are government officials appointed by the FWO under the Act who can investigate possible contraventions of workplace laws. Under s 711 of the Act, they have the power to require a person to tell them their name and address if the inspector reasonably believes they have contravened a civil remedy provision. During an investigation, s 712 of the Act also enables a Fair Work Inspector to issue a Notice to Produce (NTP), which compels a person to provide records or documents at a specified place and within a specified time.

In May 2025, we inspected the FWO's use of the powers under ss 711 and 712 of the Act. There were no FWO Notices issued in the period for review under s 712AA of the Act. As a result of this inspection and FWOs remedial action taken in response to previous reports, we make no findings or suggestions.



Scope and methodology

The Ombudsman provides independent oversight of the FWO's compliance with the Act and procedural fairness for people subject to the FWO's examination powers.

When conducting our review of the FWO's use of examination powers, we assess its performance against the requirements of the Act, the *Fair Work Regulations 2009* (the Regulations), relevant best practice and the FWO's internal guidelines and training material. We also focus on whether the treatment of examinees is fair and reasonable.

As required under s 8(5) of the *Ombudsman Act 1976*, we provide the FWO an opportunity to review and respond to our findings before finalising this report.

Under s 712F(6) of the Act, as soon as practicable after the end of each quarter of the financial year, the Ombudsman must prepare and present to the Parliament a report about examinations conducted under s 712AA during the quarter. Section 712F(7) enables the Ombudsman to present to the Parliament any other reports about the results of reviews conducted under this section, including the use of powers under ss 711 and 712 of the Act.

Review criteria

We assess FWO Notices, examinations and the use of ss 711 and 712 powers against the following criteria:

1. Was the application for a FWO Notice made in accordance with the requirements of the Act (s 712AA)?
2. Did the FWO Notice comply with the requirements of the Act and the Regulations (ss 712AA, 712AB and 712AC)?
3. Was the FWO Notice served in accordance with the requirements of the Act (s 712AD)?
4. Was the examination conducted in accordance with the requirements of the Act (ss 712AA, 712AE and 712C), the Regulations, relevant best practice and the FWO's internal guidelines?
5. Does the FWO have an effective framework to support Fair Work Inspectors (FWI) exercising powers under s 711 and s 712 of the Act?
6. Are there adequate systems in place to record when a FWI exercises a power under ss 711 and 712 of the Act?



7. Has the FWO appropriately exercised its use of powers under ss 711 and 712 of the Act?

Our findings

FWO Notice (s712AA)

There were no FWO Notices issued in the period for review under s 712AA of the Act. We made no findings in relation to the FWO's use of these powers.

Powers to Request Name and Address (s 711) and to Produce Documents (s 712)

We focussed our inspection on how FWIs used the powers under ss 711 and 712 of the Act between the 1 January to 31 March 2025 (relevant period). Our inspection included:

- monitoring progress on addressing our previous inspection findings; and
- a review of a small sample of NTPs issued during the relevant period.

Inspection statistics for the period 1 January 2025 to 31 March 2025		
Record type	Number of records made available	Number of records inspected
S 712AA FWO Notice	NIL	NIL
s 711 Power to request name and address	NIL	NIL
s 712 Notice to Produce	162	17



The FWO had not received our report from our third quarterly inspection before this inspection was conducted. We found the NTPs we reviewed in this inspection to be of a high standard. The detail in the NTPs demonstrated that the FWO had implemented suggestions from our previous inspections and responded to the briefing we provided to FWO staff at the end of our 3rd Quarter inspection.

Progress since previous inspections

The FWO had not received the report from our 2024-25 Quarter 3 inspection prior to conducting this inspection. We did not assess the FWO's implementation of previous findings from that inspection.

Our first Quarterly report for 2023-24 was received by the FWO in September 2024. In that report we suggested that the FWO implement training tailored for FWIs to improve consistency when preparing and issuing a NTP, ensuring that the training aligns with the FWOs guidance material. The FWO advised our Office in October 2024 that they accepted this suggestion, and delivery would commence in 2025. During this inspection, we discussed the progress of this training. The FWO advised the training would commence in June 2025.

Shortly after this inspection, the FWO advised the mandatory training had been rolled out to investigators on 12 June 2025. The FWO provided our Office with a copy of the training material and advised that they would provide our Office with an update on the completion statistics for the training.

