Division 26: Registrar, Western Australian Industrial Relations Commission, $9 137 000 -

Mr A.J. Dean, Chairman.

Mr J.C. Kobelke, Minister for Consumer and Employment Protection.

Mr J. Spurling, Chief Executive Officer.

Mr A. Watt, Director Corporate Services.

Mrs C.L. EDWARDES: I refer to output performance measures and major achievements for 2002-03, which deal with a management system for registration of employer-employee agreements. I ask the minister to develop the current process that is being undertaken. There is a deal of concern about the process that occurs between agreements being lodged and registered; for instance, when an agreement is refused because the award summary given to the employee was not an authorised summary. Yet, when asked for an authorised summary from the commission, the commission says that it does not yet have one and it will get around to producing it but it could take another six months. A small businessperson, therefore, who has between four and eight employees cannot lodge an EEA. That small businessperson may believe that he has done everything correctly but does not get assistance from the commission to lodge a summary of the award in a timely fashion.

Mr J.C. KOBELKE: The registrar of the commission has the role of registering agreements, which is primarily a statutory responsibility. His or her role is not primarily one of education, advice or assistance. However, I understand that the staff at the commission have sought to provide a reasonable amount of assistance to people, although clearly that is not their role. We have run advertisements and seminars, offered assistance through the labour relations division of the Department of Consumer and Employment Protection and run programs with DOCEP staff working with the Small Business Development Corporation to provide advice. That is clearly the way it should be run. I have taken up just one element of the role of the registry and the staff that the member spoke about; that is, they are to provide a service and to help employees and employers if they can, but not to help develop the employer-employee agreements.

Mrs C.L. EDWARDES: However, the registrar must approve the summaries for the awards.

Mr J.C. KOBELKE: I am coming to that. I just picked up on the point about their role and I will ask Mr Spurling to give more detail on that. However, the issue is that none of the employer organisations has helped employers because they do not want to push employer-employee agreements. That has therefore left a small number of employers who have sought to use employer-employee agreements without the support they have needed. We have sought to give that support through other means. However, many employers have rolled up to the WAIRC with workplace agreements that had the word "workplace" crossed out and "employer-employee" inserted. Many employers have gone beyond that and done some work on them, but they have still not come up to the standard required.

The member asked specifically about the requirement in the Labour Relations Reform Act to provide the employee with either a copy of the award or a recognised formal summary of the award. Work on that has been under way for some time now. I will ask Mr Spurling to comment on what is envisaged and how that work is going.

Mr SPURLING: It has been quite difficult for us to construct award summaries but we acknowledge the need for that work. We have endeavoured to work with the Department of Consumer and Employment Protection, which displays on its web site for its own purpose summaries of awards. Those summaries are, in my view, inadequate for EEA registration. However, in consultation with the department, we are now developing the award summaries for the 60 most current awards to a standard that the registrar can approve for EEA registration, which I think are almost finished.

Mrs C.L. EDWARDES: The 60 most current awards?

Mr SPURLING: The current and most-used awards. It is hard to get an award summary that is other than the award. Everything that is in an award must be mentioned in the summary, otherwise an employee may be unaware of some aspect of the award. We must make sure that every clause in the award is mentioned somewhere in the summary so that employers and employees know that clauses deal with strange matters that may not apply to them but nevertheless are contained in the award. The short answer to the member's question is that we have recognised the need to give greater assistance to those people dealing in the award summary area and we have done our best to improve existing material to a standard that is available to employers to give to employees as an approved summary.

Mrs C.L. EDWARDES: Those summaries, therefore, should be approved shortly by the registrar. Are we talking about a month or two months?

Mr SPURLING: I had advice from the Department of Consumer and Employment Protection last week that it was almost ready to give them to me. I imagine that by the end of this week or next week I will have gone through them and approved them. I want to make sure that everything in the award summary makes reference to everything that is in the award, obviously in an abbreviated form, but it must ensure that employers and employees are aware of everything that is possible in an award.

Mrs C.L. EDWARDES: Will the minister provide the number of EEAs lodged, the number registered, the number refused and the number of employees and employers involved in those lodged agreements?

Mr J.C. KOBELKE: I can provide the member with the number of employer-employee applications that have been received. Up to the end of April, 440 applications were received, 28 of which were withdrawn; 355 applications were lodged for registration under section 97UY; and at that date 12 applications had been registered and 91 refused.

Mrs C.L. EDWARDES: What was the first figure of 440?

Mr J.C. KOBELKE: I will ask Mr Spurling to make sure that is clear, because quite technical definitions are involved and I do not want to refer to them in a misleading way.

Mr SPURLING: In the figures given by the minister, employers and employees who thought they were lodging applications for an EEA made 440 applications. Some were so far from being acceptable for lodgment that we had to reject them, further correspond with the applicants and do further work on them. In effect, we were able to accept only 195 as lodged for registration in accordance with the provisions of the Act.

[2.50 pm]

Mr P.B. WATSON: The first dot point on page 426 refers to the commission experimenting with processes to try to reduce the turnaround time for unfair dismissal applications. What are these experiments and how successful have they been?

Mr J.C. KOBELKE: Unfair dismissals take up over half the work of the commission. The issue is how we can streamline that work and get greater efficiencies. The primary reason is that if people are stuck in the system for a long time with an unfair dismissal, they may be denied justice by the fact that they have been there too long. We therefore need to deal with it as efficiently as possible. The changes made under the Industrial Relations Reform Act provided some administrative capability so that those matters could be dealt with more effectively by deputy registrars. That potential was already in the Act. Mr Spurling might like to explain a little about the procedures and how that experiment is progressing. It still is an experiment, because at the end of the day the whole system must work. It depends how many cases can be resolved without having to go through to a commissioner. There seems to be some promise that it is delivering.

Mr SPURLING: The commission is very conscious of the turnaround time delay between the date of application and getting it before the commission. Justice delayed is justice denied. The chief commissioner and the registrar have been doing a number of things over the years to try to reduce that time delay, including selecting certain deputy registrars to do some of the preliminary interviewing work with the parties to see whether questions can be resolved. That has proved reasonably successful merely as a result of the action of getting two parties together in the same room and talking to each other. As for a settlement rate, parties go away and reach agreement in about 75 per cent plus cases. That was seen as a useful move, so the Government in its labour relations reform program enacted legislation that delegated further authority to the deputy registrars to take on that role in a more formal way. About two months ago the chief commissioner was required to issue certain regulations. He has done that. As a consequence I have recruited three additional people to be deputy registrars just doing that work alone, with the specific aim in mind of drastically reducing the delays between the date of application and the date of getting the matter before the commission. I hope that those three new deputy registrars will start work in the next few weeks, which will make about seven deputy registrars in all. We will measure the effect over time to see whether this has had an impact.

Mrs C.L. EDWARDES: On page 429 one of the output performance measures is unfair dismissal and/or contractual benefit applications. Some 1 800 applications were budgeted for the year 2002-03 and it was estimated that by the end of this year only 1 550 would be processed, but the target for 2003-04 is back up to 1 800 applications. I thought that the legislation the minister put through last year aimed to reduce the number of unfair dismissal applications to one-third, from memory. However, it would appear that it is taking time to get through them. That is the reason the estimated number for 2002-03 is lower than that budgeted for, which is why the target figure has been put back up. It would appear therefore that the legislation will not have the impact that the minister was anticipating.

Mr J.C. KOBELKE: I believe the figures show a trend in part. In 2001-02 there were just over 2 000 unfair dismissal and/or contractual benefit applications. The budgeted number for the current year was 1 800. We now anticipate that the number will be less at 1 550. We are therefore seeing it reduced to three-quarters.

Mrs C.L. EDWARDES: Why put the figure back up for 2003-04, unless, as Mr Spurling said, the reason is that three extra people will be employed to get through that number?

Mr J.C. KOBELKE: Mr Spurling may be able to give more detail, but one must bear in mind that a major management issue in the implementation of the Labour Relations Reform Act is that it requires the commission to undertake extra duties, both in the short and long term. In the short term there are a whole range of regulations and adjustments because of the fact that the employer-employee agreements must be dealt with by the commission. Therefore, major changes were taking place within the management of the department and it was necessary to reallocate resources, some just in the short term, to get things up and running. That may have a small effect on the delay. Mr Spurling can comment on that. It may indicate a build-up, or other factors could be involved. One can see clearly from 2001-02 and what was budgeted for and anticipated this year that unfair dismissal and/or contractual benefit applications have decreased by a substantial amount, which is what we are suggesting. However, the member must keep in mind that contractual benefit applications are caught up in those figures, not just unfair dismissal applications.

Mrs C.L. EDWARDES: Perhaps Mr Spurling in response could identify not just the number but what the number represents - lodgments or applications dealt with - and give us the cumulative figure at 1 July compared with what was thought to be the position at 30 June and those being carried over?

Mr SPURLING: The figures in the budget papers are for applications lodged. The member's earlier question related to the numbers going down and apparently being estimated to go up. All of us have looked at the trends of unfair dismissal lodgments over time to try to see either a period of months or particular reasons for their being up or down. Apart from a large rise in 1997 as a result of a federal change, we cannot see a discernible pattern. We therefore tend to take the view that there will be about 1 800 every year until a trend shows us that there will not be. In 2002-03 a number of changes were made to the legislation; for example, the fee went from $5 to $50. The Industrial Relations Reform Act moved back to the commission unfair dismissals formerly dealt with by the industrial magistrate through workplace agreements. There are therefore some distortions in the data. We believe that it is wiser to stay with the figure of 1 800 as an estimate of our planning rather than to believe that trend, until we see better evidence that the trend is correct. I do not have the figures on hand. The budget figures simply report lodgments.

Mrs C.L. EDWARDES: Could the minister provide that information? I am not sure what the system provides for being able to document the average time for an unfair dismissal application to be heard. I suppose a significant issue would be dealt with under three months. How many of those 1 800 applications would take under three months and therefore be impacted upon by the legislation?

Mr J.C. KOBELKE: I am also interested in that issue. In the next reform package for the administration of the commission we will make sure that we have some ability to make requests for the information that should be collected and therefore publicly available, so we have some measure of how things are going. Our current collection system is not as efficient or comprehensive as that. It does not mean that we cannot give the figures but I am willing by way of supplementary information to provide the information that is fairly easily at hand. The information will indicate how many cases are outstanding at a certain period - whether three months or six months. I will provide that by way of supplementary information.

[*Supplementary Information No A16.*]

[3.00 pm]

Mrs C.L. EDWARDES: I refer the minister to page 429 and the complex electronic management system for the employer-employee agreements. I note that the computer programs have been rewritten in-house and moneys were provided in previous years to update hardware. Obviously it would be an accountability measure to make information publicly available. The commission proposes to make EEAs publicly available on lodgment for registration, which would provide some indication of progress.

Mr SPURLING: The register of the EEAs is a public register that can be inspected. It contains only EEAs that are registered. The legislation provides for certain protected information such as names and addresses of employees not to be disclosed on the register. It is not my intention to have that on the web site. I see a difference between publishing it on the web site and making it available publicly. The community is adequately served by making it publicly available. However, perhaps after consultation with the minister, if there were a need to publish it on the web site, we could do that. We are hoping to use the complex electronic management system to manage the unfair dismissal issues. It has been written in house, although it proved to be more difficult than we thought it would be. All the detailed information on who touches an EEA, how long it has been and how many days between X and Y can be extracted. I do that as part of my own management of progress. Whether that information is available for the unfair dismissal site as well is initially the chief commissioner's decision. That information should be more readily available. The EEA is largely a public process but not

necessarily one that should be published on the Internet. We had a discussion with the Electoral Commissioner about whether the electoral roll should be published on the Internet. We see some differences between making it publicly available, which is what we are required to do, and putting it out for anyone to see. The EEA register is a public document, but it is not on the web site.

Mrs C.L. EDWARDES: I raised with the minister the issue of putting public EBAs on the web site. Perhaps there is a public interest issue in not just the EEAs and unfair dismissal cases being on the web site but also EBAs. If we reflect on the legislation, EEAs are important. If 60 awards and EEAs were being encouraged, the information could be kept private so that it was non-identifiable. Commissioner Coleman registered about 149 EBAs in the commission the other week. The industry knew of about 10 of them. The important information is the contentious and non-contentious issues. Under the legislation, some of those issues could have a flow-on effect. In contesting the contentious issues it is important for the industry, regardless of which industry is involved, to be aware of what is happening.

Mr J.C. KOBELKE: The member suggested that 149 EBAs, which is a sizeable number, are not available on the Internet. There is a different issue at the heart of that from what Mr Spurling was talking about. That issue largely involves economics. We are requiring the commission, along with all other departments, to prioritise matters and get maximum value for the taxpayers' dollar. There is very little demand for them, but they are available if anyone wants to look at them at the commission. Broader issues were involved in the other matters that Mr Spurling mentioned, and it was seen as cost saving given the low-level demand. If someone wanted to see the register, they could view it.

The other issue alluded to in the member's question was the availability of the EEAs. The actual approval has been very slow for a range of reasons, which I will not go into now. Once a few of them are available in various industries, they will be available with names and addresses missing so that people can pick up a standard model.

Mrs C.L. EDWARDES: On the web site?

Mr J.C. KOBELKE: They are not now, but there is no reason that they could not be, if there was demand for them. Some advocates might want quick access to them so that they can help employees complete them. They will want quick access so that they can see whether a registered EEA, which is in exactly the same industry sector, fits the needs of the employer they might be seeking to help, or an employee might seek a registered EEA that is applicable to his situation, which he could borrow and use. We have no objection to that. There are a number of reasons for the slow start. The key issue is that no existing models have been registered. The numbers apply to the end of April and a few more have been registered since then. We must get them across a number of industry sectors so that people can access examples and make their own judgment.

Mrs C.L. EDWARDES: Particularly when the minister estimated last year there would be 3 600. It must be a bit disappointing for the minister.

Mr J.C. KOBELKE: We acknowledge that it is well short of that.

Mrs C.L. EDWARDES: I understand the point in terms of cost. It is a small agency. However, if employees were to lodge the EEA in electronic form, would that not reduce costs? It would be in an appropriate format and put on the web site.

Mr SPURLING: To some extent the member is correct. If we receive an electronic copy, the job is easier. However, the refinement process requires alterations to the documents - sometimes reformatting and other things, depending on what we receive - so the work must be done in chambers on alterations to make or retain a copy or obtain another electronic copy for publishing. That is a fair amount of work for a very limited audience. If we received an electronic copy and no work needed to be done to it because it was acceptable to the party and it was a registered document, that would be easier. However, I have been told that that is rarely the case. In some instances we do not receive an electronic copy and someone must type it. That is a fair amount of work sometimes. In making them electronic and putting them on the web they must be converted to our format. We do not see the purpose of doing that for such a small audience, but they are available at the commission. They are documents that can be inspected. With respect to the union accreditation - the minister will have to assist me, I cannot point him to a budget item for accredited -

[3.10 pm]

Mr J.C. KOBELKE: It is on page 429.

Mrs C.L. EDWARDES: Would the minister advise us of the process officials must undertake to be accredited for right of entry?

Mr J.C. KOBELKE: I will call on Mr Spurling to do that. He has provided me with some statistics on this matter. Some 310 accreditations were approved, five were cancelled and there have been 12 applications for

revocation. Only one application for revocation has been dealt with, which was rejected. Mr Spurling will answer the member's question regarding the process for registration for the right of entry.

Mr SPURLING: The short answer is that there is no specific process. The Act requires that the registrar must register a name if it is put forward by the relevant union secretary, which is done provided a relevant photograph and information are available.

Mrs C.L. EDWARDES: What is the process and what information is required?

Mr SPURLING: We require information from the secretary of the union indicating which union the person who is nominated has a right to appear for and also a photograph of that person that has been endorsed by the secretary of the union confirming that it is the person. Initially we request a card - for example, a drivers licence - based on that information, which is made available on the Internet. We thought that employers would be interested to know that they can confirm the validity of a person who tells them he is registered. The employers can look up that information on the Internet.

Mrs C.L. EDWARDES: Was the right of entry authorisation cancelled for five accredited persons because they changed employment, or did the union secretary no longer endorse them?

Mr SPURLING: I guess they left the union. The union secretary wrote to me and asked me to take them off the list.

Mrs C.L. EDWARDES: I again refer to output performance measures on page 429. Will the minister identify what "All Other Applications" are? The budget provides for 1 800 in 2002-03, the estimated figure for 2002-03 is 1 550 and the target for 2003-04 is again 1 800.

Mr J.C. KOBELKE: All other applications include dismissal and contractual benefits.

Mrs C.L. EDWARDES: No, that is the first dot point. I refer to the third line down, all other applications. The first line is unfair dismissal, the second line is employer-employee agreements and the third line is all other applications.

Mr J.C. KOBELKE: It is not easy to detect a trend; therefore, in the current year we targeted 1 800. We are providing the same number next year because the figures tend to jump around. There is not a big difference between the years; it is only a small difference.

Mr SPURLING: The short answer is that all other applications are applications to register agreements, awards, strikes and compulsory conference applications. They are the range of industrial relations activities with which the commission usually deals.

Mrs C.L. EDWARDES: Does that incorporate the awards that are presently being consolidated?

Mr SPURLING: We are not actively consolidating; we are drawing a lot of material to the attention of other parties who may seek consolidation. If they seek consolidation, we do it. We conduct consolidations in concert with other persons. If after discussing a matter with us someone from either the employer or the employee's side produces a new award and lodges it, that is an "other application". The term covers an application for new agreements, new awards, the replacement of awards and variations to awards etc. That is the standard industrial material the commission has always dealt with.

The appropriation was recommended.

Sitting suspended from 3.16 to 4.00 pm