

**From:** [REDACTED]  
**Sent:** Monday, 15 November 2021 12:51 PM  
**To:** Education, Employment and Training Committee; [REDACTED]  
**Cc:**  
**Subject:** RE: Public hearing 15 November 2021 - Inquiry into the Small Business Commissioner Bill 2021 [SEC=OFFICIAL]

## OFFICIAL

Good afternoon,

Thank you for facilitating ASBFEO's contribution to the Committee's deliberations this morning.

In response to Deputy Chair's James Listers MP's question about the definition of small business and ASIC's definition, I answered that we also operated under an eligible small business annual turnover cap of \$5 million and an employee 'head count' of 100.

I'm confirming my follow-up call to the Secretariat that a more precise answer would have been 100 employee 'effective full-time equivalent'.

For absolute clarity, the relevant section of the ASBFEO legislation is included below:

### 5 Meaning of *small business*

- (1) A business is a ***small business*** at a particular time in a financial year (the ***current year***) if:
  - (a) it has fewer than 100 employees at that time; or
  - (b) either:
    - (i) its revenue for the previous financial year is \$5,000,000 or less; or
    - (ii) if there was no time in the previous financial year when the business was carried on—its revenue for the current year is \$5,000,000 or less.
- (2) For the purposes of this section, business includes an enterprise, activity, project, undertaking or arrangement.
- (3) In counting employees for the purposes of the definition of ***small business*** in subsection (1), take part-time employees into account as an appropriate fraction of a full-time equivalent.
- (4) Revenue is to be calculated for the purposes of this section in accordance with accounting standards in force at the relevant time.

### 6 Meaning of *family enterprise*

A small business operated as a family enterprise is a ***family enterprise*** for the purposes of this Act.

Please pass on this more complete advice to Committee chair Kim Richards MP and Committee members so as to avoid any misunderstanding about the exact nature of my Office's enabling legislation my answer may have created and my apologies for any inconvenience.

Kind regards,

Bruce

The. Hon Bruce Billson  
Ombudsman  
Australian Small Business and Family Enterprise Ombudsman  
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