

Question on Notice

No. 114

Asked on 25 February 2021

MR T NICHOLLS ASKED MINISTER FOR EDUCATION, MINISTER FOR INDUSTRIAL RELATIONS AND MINISTER FOR RACING (HON G GRACE)

QUESTION:

Will the Minister advise, between 2015 and 2021 to date, (a) the number of times the State Government has intervened in legal proceedings between a matter involving the Australian Building and Construction Commission and a union (reported separately by year and union), (b) the outcome of each decision and (c) the total amount of costs awarded against the State?

ANSWER:

- (a) The State Government has intervened in a matter involving the Australian Building and Construction Commission (ABCC) on one occasion between 2015 and 2021 to date:

Year	Union	Details
2018–2019	Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU)	Court: Federal Court of Australia Case No: QUD238/2018 Intervener: Minister for Education and the Minister for Industrial Relations for the State of Queensland Date of hearing: 24 October 2018 Date of judgment: 23 October 2019

The State Government intervened in the proceedings, under section 569A of the *Fair Work Act 2009* (Cth) (FW Act), as it raised questions of law regarding the application of Queensland's *Work Health and Safety Act 2011* (WHS Act). The State Government's intervention was confined to assisting the Court in interpreting relevant provisions in the WHS Act.

In the Full Federal Court of Australia appeal of the above matter, the State was not an intervener, but was named as the Second Respondent (Case No: QUD712/2019). This was due to the operation of section 569A(2) of the FW Act, which provides: 'If the Minister of a State or Territory who has responsibility for workplace relations matters intervenes, he or she is taken to be a party to the proceedings for the purposes of instituting an appeal from a judgment given in the proceedings'.

The Full Federal Court of Australia dismissed the appeal, finding in favour of the ABCC. In December 2020, the CFMMEU lodged an application for special leave to appeal the decision to the High Court of Australia. As the Minister was a party to the appeal below, the Minister is also a party to the special leave application. The special leave application is pending.

- (b) In relation to QUD238/2018, the Federal Court found in favour of the ABCC. In relation to QUD712/2019, which was an appeal from QUD238/2018, the CFMMEU's appeal was dismissed by the Full Federal Court. This matter is now subject to an application before the High Court of Australia for special leave by the CFMMEU.
- (c) No costs were awarded against the State.