

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into the 2023–24 Budget Estimates

Melbourne – Friday 2 June 2023

MEMBERS

Sarah Connolly – Chair

Nicholas McGowan – Deputy Chair

Michael Galea

Paul Hamer

Mathew Hilakari

Lauren Kathage

Bev McArthur

Danny O’Brien

Ellen Sandell

WITNESSES

Mr Tim Pallas MP, Minister for Industrial Relations, and

Mr Matt O'Connor, Deputy Secretary, Industrial Relations Victoria, Department of Premier and Cabinet.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee. I ask that mobile telephones please be turned to silent.

On behalf of the Parliament the committee is conducting this Inquiry into the 2023–24 Budget Estimates. The committee's aim is to scrutinise public administration and finance to improve outcomes for the Victorian community.

I advise that all evidence taken by the committee is protected by parliamentary privilege; however, comments repeated outside this hearing may not be protected by this privilege.

As Chair I expect that committee members will be respectful towards witnesses, the Victorian community joining the hearing via the live stream and other committee members.

Witnesses will be provided with a proof version of the transcript to check. Verified transcripts, presentations and handouts will be placed on the committee's website.

I welcome the Treasurer for the portfolio of Industrial Relations, the Honourable Tim Pallas, and officers from the Department of Industrial Relations Victoria – and I had the Department of Premier and Cabinet. Yes. Treasurer, I would invite you to make an opening statement presentation of 5 minutes in length, and this will be followed by questions from the committee. Thank you.

Tim PALLAS: Thank you, Chair, and thank you, committee members, and thanks for the opportunity to present on the portfolio of industrial relations this year and to highlight key areas of work for the coming financial year, work that will continue to be led by IRV which is based in the Department of Premier and Cabinet.

IRV continues to lead a suite of work to implement the government's industrial relations agenda in both the public and private sectors. IRV have enjoyed some great success over the last year, including developing a new wages policy to underpin public sector bargaining; assisting with public sector bargaining and dispute resolution under existing enterprise agreements; launching Australia's first and only dedicated service for on-demand workers, the gig economy support service, on 1 May 2023 and commenced responding to inquiries; finalising the Fair Conduct and Accountability Standards, which will operate as a best practice model until the standards are enshrined in legislation next year; working to develop a new women-in-construction strategy and continue implementation of the building equality policy to promote gender equity in the construction sector; and preparing a submission to the Fair Work Commission annual wage review 2022–23.

The industrial relations portfolio more broadly has recorded some significant achievements for Victorian workers. Wage Inspectorate Victoria has conducted its nation-leading work in the wage theft space and marked many achievements in its role regulating child employment, long service leave and owner-drivers over the 2022–23 financial year. The wage inspectorate has issued 14 prosecutions into breaches of laws within its remit, issued 5900 child employment permits and recovered \$1.1 million in underpaid long service leave for Victorian workers. The Portable Long Service Authority continues to exceed expectations, registering 270,000 workers this year. Over \$289 million of funds are invested with the Victorian Funds Management Authority, and between investment returns and employer levies the scheme is now entirely self-funding.

Meanwhile the Labour Hire Authority now manages over 5200 licences for labour hire providers in this state, over 700 of which have been granted in this last year. It continues working to stamp out exploitative practices, having cancelled 534 licences since the scheme's commencement for the suspected contravention of relevant laws and non-compliance with the *Labour Hire Licensing Act*. The work being done by these agencies really does demonstrate the government's commitment to protecting workers and helping them to get access to their lawful entitlements.

Our key priorities for the coming year are to continue providing direct support to insecure workers, especially those in the gig economy; ensure compliance with our wage theft laws; and promote equality in Victorian workplaces, particularly in traditionally male-dominated industries.

The government remains committed to addressing concerns about the wages and conditions of people performing in the on-demand or gig economy and implementing the recommendations of the Inquiry into the Victorian On-Demand Workforce to continue building on previous investments in this area. In the 2023–24 budget there is \$9 million of funding that has been allocated over the next two financial years to continue implementing key gig worker reforms, including to resource a gig worker support service, which commenced operating on 1 May 2023; to develop a legislative enforcement model for the Fair Conduct and Accountability Standards; and to continue engagement with the Commonwealth government around national minimum standards for gig workers.

The government also remains committed to stamping out wage theft and other exploitative practices. We have committed another \$6.7 million to the wage inspectorate to continue its nation-leading work enforcing Victoria's wage theft laws. In the last year alone the inspectorate has responded to 716 wage theft inquiries and assessed 388 reports of wage theft. It has launched the first criminal prosecution for alleged breaches of wage theft laws in any Australian jurisdiction.

We understand our unique position to create a more gender-inclusive sector; that is why we are modelling best practice to drive genuine, lasting behavioural and structural change. Since 2018 we have invested almost \$5.66 million to diversify Australia's most male-dominated industry through the development of a women in construction strategy that is focused on the recruitment and retention of women workers in the implementation of our building equality policy, which through government procurement is able to set targets for the engagement of women in onsite roles.

The CHAIR: Thank you, Treasurer. Mrs McArthur, you have the next 8 minutes of questions for the witnesses.

Bev McARTHUR: Thank you, Chair. Mr O'Connor, I refer to budget paper 3, page 94, 'Wage theft laws compliance and enforcement'. It was reported on 22 March 2023 that a company known as Rehmat and Mehar Pty Ltd had commenced proceedings in the High Court challenging the constitutional validity of Victoria's wage theft laws. Can you please advise what is the status of this matter?

Matt O'CONNOR: Yes. Thanks for the question, Ms McArthur. The matter is in the High Court, and there are preliminary steps being undertaken to bring the matter to a hearing sometime possibly later this year. I am not clear whether it will be before the end of this year or into next year.

Bev McARTHUR: Okay. Is there a real risk that the government's wage theft laws will be found unconstitutional and invalid?

Matt O'CONNOR: That is obviously a matter for the court, Ms McArthur.

Bev McARTHUR: What is your legal advice?

Matt O'CONNOR: Our legal advice when we were developing the laws was that they were on a sound constitutional basis – they are criminal laws – and that is the basis on which we will obviously defend the action in the High Court.

Bev McARTHUR: Good. So you are living in hope in that regard. That is excellent. How much in legal fees has been spent by the wage inspectorate in relation to this matter?

Matt O'CONNOR: I will have to take that on notice, I am sorry, Ms McArthur. I am not sure whether we have had a bill yet.

Bev McARTHUR: Perfect. Thank you very much. Just continuing on. Budget paper 2, page 65 – the government will double its public sector wage policy from 1.5 per cent to 3 per cent. How much in additional employee expenses will this cost the budget? And how much, on average, will the additional 'limited cash payment' cost per employee?

Matt O'CONNOR: I do not have those figures, Ms McArthur, to hand. I am not sure that they are readily available. I would have to probably inquire with Treasury around those.

Bev McARTHUR: Okay. We are very happy for you to take it on notice. We will get them, hopefully, at the end of the session. Further on the compliance function – budget paper 3, page 94 – the recent full Federal Court decision in *Conroy's Smallgoods v. Australasian Meat Industry Employees Union*, which the inspectorate intervened in, found the inspectorate was wrong in relation to its interpretation of laws concerning long service leave entitlements. Do you accept the government's own wage inspectorate got the law wrong?

Matt O'CONNOR: It was obviously basing its interpretation of the laws on previous advice and decisions. That case has altered that position, that is right.

Bev McARTHUR: So you got it wrong?

Matt O'CONNOR: Whether a regulator gets something wrong in relation to court decisions is a matter for opinion, I suppose, Ms McArthur, but obviously sometimes you do need the direction of the courts to interpret what can sometimes be quite complicated provisions.

Bev McARTHUR: How much in legal fees was spent by the inspectorate in relation to that full court appeal?

Matt O'CONNOR: Again I would need to take that on notice.

Bev McARTHUR: We will look forward to that response. Was the inspectorate ordered to pay any legal costs in this proceeding, and if so, how much?

Matt O'CONNOR: Again I will take that on notice.

Bev McARTHUR: Okay. Has the decision caused any other investigations or proceedings of the inspectorate to be withdrawn, and if so, how many?

Matt O'CONNOR: I cannot say whether there have been any proceedings withdrawn. What I can say, Ms McArthur, is obviously the authority is reviewing its current investigations in light of the decision.

Bev McARTHUR: Will you take that on notice too?

Matt O'CONNOR: I can give you the numbers if there are any, but it may be zero.

Bev McARTHUR: Okay. Budget paper 3, page 93, has \$6.7 million in funding for the wage inspectorate's compliance in 2023–24 but no funding in the forward estimates. Is wage theft no longer a priority for the government?

Tim PALLAS: Who are you directing the question to?

Bev McARTHUR: Mr O'Connor.

Matt O'CONNOR: Well, all I can say, Ms McArthur, is it has been funded for next year. Obviously future funding for the inspectorate will be a matter for future budgets.

Bev McARTHUR: So we do not have it in the budget papers.

Matt O'CONNOR: What you have got in the budget is \$6.7 million for next financial year.

Bev McARTHUR: Budget paper 3, page 93, has \$9 million over the forward estimates for gig worker support services. What services are being offered, and who will be providing these services?

Tim PALLAS: Once again, Ms McArthur, is that question directed to me or –

Bev McARTHUR: To Mr O'Connor. Thank you, Treasurer.

Matt O'CONNOR: Ms McArthur, the gig worker support service commenced operation on 1 May this year, so it has obviously been up and running now for a little less than a month – or, I suppose, a month today. At the moment it is an online and phone service for gig workers and indeed platforms should they seek advice. It is intended to and does provide urgently needed support and information for gig workers to understand their rights and obligations under relevant workplace laws. And it also will administer the voluntary standards, which were introduced –

Bev McARTHUR: So who is providing these services?

Matt O'CONNOR: These are employees of the gig worker support service within Industrial Relations Victoria.

Bev McARTHUR: Can you table the information you are referring to?

Matt O'CONNOR: Table?

Bev McARTHUR: Yes.

Matt O'CONNOR: The answer I am giving you is that they are employees employed in my department.

Bev McARTHUR: Will there be an open tender process to provide these services?

Matt O'CONNOR: No, no, these are being provided by public servants within Industrial Relations Victoria.

Bev McARTHUR: Budget paper 3, page 93, there is \$10 million in funding over the forward estimates for industrial relations attraction and retention policies, Mr O'Connor. How is this funding allocated?

Matt O'CONNOR: It has not been allocated as yet. We are in the process of having discussions with departments and the Victorian Public Sector Commission around how those funds could be distributed.

Bev McARTHUR: Can unions and employer organisations apply for this funding?

Matt O'CONNOR: That would not be the intent of it I would not have thought, no. But we have not obviously finalised that yet.

Bev McARTHUR: When will you finalise it?

Matt O'CONNOR: I would say over the coming month or two months we will have an initial position around that.

Bev McARTHUR: Budget paper 3, pages 297 and 298, contains a number of performance measures for the wage inspectorate. How much in penalties has been ordered since the inception of the wage inspectorate, and how much has actually been paid or recovered?

Matt O'CONNOR: If you give me one second, I can give you that.

Bev McARTHUR: Mr O'Connor.

Matt O'CONNOR: Yes, sorry, Ms McArthur, if you give me one moment, I can give you an answer to that.

Bev McARTHUR: Perhaps you can give it to us on notice by the end of the session.

Tim PALLAS: The session ends very shortly.

Bev McARTHUR: Yes, well, he can find it by then.

Matt O'CONNOR: I have got it. I have got it here.

Bev McARTHUR: He has got it here, good.

Matt O'CONNOR: Apologies. As the Minister for Industrial Relations outlined in his initial presentation, the inspectorate recovered \$1.1 million for Victorian workers during this financial year under –

Bev McARTHUR: Are you obliged to publish an annual report about this?

Matt O'CONNOR: That is an excellent question, Ms McArthur.

Bev McARTHUR: We will look forward to getting the answer.

Matt O'CONNOR: The inspectorate became a statutory authority –

Bev McARTHUR: We cannot wait for the answer.

The CHAIR: Thank you, Ms McArthur. Your time has expired. We are going to go to Mr Hamer for the next 11 minutes. Thank you.

Paul HAMER: Thank you, Chair. Thank you, Treasurer, and thank you, Mr O'Connor. Treasurer, you ran through the presentation about the general investments in the industrial relations portfolio, and I was wondering if you could just maybe elaborate a little bit on particularly what the government is doing to assist vulnerable workers in this budget.

Tim PALLAS: Sorry, gig workers?

Paul HAMER: Vulnerable workers.

Tim PALLAS: Okay. Sorry. It must be getting late in the day. It is not your fault, it is my fault. One of the obvious areas that the government has taken a particular interest and effort in has been how we deal with the problems that gig workers encounter. Of course they fall into a very obvious vulnerable workers category. May I start by saying that government is taking very real action in terms of our gig workers and gig worker economy. Gig workers are some of the most vulnerable workers in our community. Quite frankly for far too long they have been in a hiatus area where they are not necessarily adequately – well, they are definitely not adequately regulated, either at state or federal levels. Might I say, it is really good to see that the federal government also sees a role for itself in this place. I believe if we both work in cooperation we will get to a comprehensive system by which these workers can be given surety, albeit that their work is difficult to define in employee–employer terms, that government has put in place adequate regulation to adequately acquit what fairness in the workplace looks like for them.

I am really pleased to say that the budget allocates \$4.5 million in 2023–24 and another \$4.5 million in 2024–25 to support Victoria's on-demand workforce. This funding is provided to continue the implementation of Victoria's response to the Inquiry into the Victorian On-Demand Workforce, including the establishment of a gig worker support service, to which both I and Mr O'Connor have made reference in this hearing, aimed at providing support services to on-demand workers. It is basically aimed at giving them the confidence if they have some query about what their entitlement is – and quite often those queries are about what their work status is. Often gig workers just have no reference point to understand whether they are employees, whether they are contractors or whether they are pieceworkers. I cannot overestimate exactly how profoundly that can have an impact upon people's sense of security as they effectively do not know whether they are employed, retained or essentially taking up work as it is presented to them.

Those initiatives I think give you a background on the report into the Victorian on-demand workforce, which was published in July 2020. That report recommended some 20 actions to deliver genuine choice, fairness and certainty into the on-demand areas of retention and to provide certainty not just for workers but also for businesses. It is I think a compelling argument to say that there are many platform providers who believe that they are being disadvantaged by doing the right thing, against others who do not do the right thing. Putting in place a fair and level playing field about what constitutes appropriate minimum standards is I think not only fair to the workers themselves but it is also fair to the companies that are doing the right thing, and so many of them do the right thing.

On 13 May 2021 the then Minister for Industrial Relations announced the Victorian government's support for all of those 20 recommendations in principle. During that inquiry what we found was many platforms engaging non-employee workers expressed a strong desire to establish fair standards, including in relation to consulting

workers on aspects of the work arrangements, implementing dispute resolution procedures and improving benefits for workers. In December 2021 the government released the fair conduct and accountability standards consultation paper, which included the proposed text of the standards. The paper invited Victorians to share their views on the reform. So the government has been on a long journey seeking out the community's and industry's views about these standards. Having received those submissions, a process of consultation began in March 2022, and in October 2022 the government announced the establishment of the gig worker support service and approved the release of the Victorian voluntary fair conduct and accountability standards for on-demand platforms engaging non-employee workers. The establishment of a support service really does mark the completion of the first stage of the government's road map, setting out how it is going to progress these important reforms.

As part of the second phase of the work that we are doing, the government intends to introduce a legislative model to support compliance with standards. And while that legislation is being developed the voluntary standards will be in place, and the gig worker support service will publish and promote them. The funding in the 2023–24 budget will support this work. It will allow the gig worker support service to operate, to accept inquiries from gig workers and platforms and to monitor take-up of compliance with the standards, and it will provide for the development of a legislative model. That support service will help gig workers get clarity and certainty in a space where there is far too often no clarity or support and quite often a lack of information on their working arrangements or indeed no means to challenge unfair practices.

Platform businesses that engage non-employee workers in Victoria or that operate in Victoria are expected to adopt and implement the standards, and the standards apply to workers who are engaged ostensibly as independent contractors. These non-employee, on-demand workers generally do not receive the same entitlements and protections under work law that employees too. The standards aim to increase the fairness and might I say the transparency of arrangements between platforms and non-employee workers.

I think it is important that we understand that there is constitutional work to do here. The Commonwealth generally has responsibility for interstate industrial disputes and employee and employer matters, but where there are cracks starting to emerge in that system is what happens if you are not of an employee status. And can I say I see generally in the long term the responsibility for these areas predominantly falling to the Commonwealth, but the state is going to take up its share of the work to ensure that there are no holes in the architecture of the protections that we put in place for these workers – because if you are not an employee, if it is not employer–employee relations, then of course the state has a regulatory capacity in this area. Also the Commonwealth has other additional constitutional powers that it can apply, so if we work together, we can give certainty, transparency and accessibility to the information of the employment status that individual employees want. I note that the federal government is now talking about employee-like arrangements being incorporated into their statutory scheme. I fully applaud that. I think it is long overdue that we get to a position where we can give certainty to workers, regardless of their retention status; that there are minimum standards that they can expect and enjoy; and that they can be assured that governments will be there to continue to provide them.

The standards aim to increase the fairness and transparency of arrangements between platforms and non-employee workers. The gig worker support service and the standards are expected to result in benefits for platforms and workers, and they will provide things like fair paying conditions; improved worker security; improving the attractiveness of being a platform worker; increased competition between platforms; and improved transparency, reputation and customer satisfaction for platforms. The extent to which platforms take up the standards voluntarily and modify their practices accordingly will be considered by the government as we develop a legislative model beyond that. So initially it will be in a voluntary sense; beyond that the government will look to see exactly what processes need to be put in place both in terms of our legislative framework and indeed our ongoing engagement with the Commonwealth.

So that is the long version, but I just reiterate that the government is taking real action to protect gig economy workers. I think it is important that it supports vulnerable Victorians, and I am really pleased that in this budget we are continuing to get that job done.

Paul HAMER: Thank you, Treasurer. That was a very elaborate response. You mentioned at the beginning cooperation with the federal government, just in the beginning of your response, and I was wondering if you could just elaborate a little bit further on what those areas are.

Tim PALLAS: Sure. Well, of course with the federal government I think there is no doubt that they see – and I have spoken to the federal minister for industrial relations about this matter – that we need to work cooperatively on that. I might say that there are parts of the IR portfolio where I see that the state has a more relevant and appropriate constitutional capacity to lead in an area, but I think there is also in this case a pretty compelling argument that the Commonwealth has a leadership role to play.

The CHAIR: Thank you, Treasurer. The time has expired. I am going to hand over to Ms Sandell. You have 3 minutes.

Ellen SANDELL: Thank you, Chair. Hi, Treasurer. The government has committed to reducing spending on consultancy and labour hire in this budget. Treasurer, how much was spent specifically on using PwC as consultants over the last financial year, and how much do you anticipate will be spent over the coming financial year?

Tim PALLAS: Well, I am not sure that that falls into the industrial relations portfolio. Are you asking from an IRV point of view?

Ellen SANDELL: Yes. In terms of its relation to public service and public service jobs and reliance on consultancy, I would consider it does.

Tim PALLAS: Well, I will defer to the IRV on what work, if any, they have had PwC do, but if you wanted to ask questions about consultancies, I think you missed your opportunity in the Treasury portfolio presentation.

Danny O'BRIEN: We can reopen it again if you want, Treasurer.

Tim PALLAS: See you next year.

Ellen SANDELL: Given what is happening federally and with the scandal plaguing PwC and with other institutions such as AustralianSuper freezing contracts with PwC, will the government commit to freezing any future contracts with PwC?

Tim PALLAS: Well, I do not want to waste your time, so I will try and answer the question as fairly as I can. The government sees the allegations that have been made with regard to PwC as quite serious, and we will be looking at the behaviour – and I might say in terms of our contractual arrangements behaviour is taken into account when any such contracts are entered into. So it will be a consideration into the future, and we will be looking for assurances that the preservation and confidentiality of information that is being garnered is not being used for anything other than the basis under which it is being put together under retention for the state.

Ellen SANDELL: Thank you. Regarding the sick pay guarantee for casuals, has the government considered expanding the trial in future to other industries, particularly those who are most severely impacted by insecure work, such as arts workers?

Tim PALLAS: Well, we have indicated that we see the provision of these protections as being vitally important. When the Premier and I originally announced this – gosh, I think it might have been two years ago, maybe three years ago now – we made the point that we saw it as a trial but also a trial that could be done in multiple parts, where we would look at which industries were, first, most disposed to being utilised to provide the safeguards that the trial would provide and then progressively, where we had capacity, expand it within the budgetary remit. So yes, we are looking to see how we can expand that trial consistent with the amount of capacity that is left in the fund that has been allocated to it.

The CHAIR: Thank you, Treasurer. The time has expired. Treasurer and Mr O'Connor, thank you very much for appearing before the committee today. The committee will follow up on any questions taken on notice in writing, and responses are required within five working days of the committee's request.

The committee is now going to take a 56-minute break before beginning its consideration of the portfolio of Premier and Cabinet.

I declare this hearing adjourned.

Witnesses withdrew.