

## Senate Standing Committee on Education and Employment

### QUESTIONS ON NOTICE Additional Estimates 2016 - 2017

#### Agency - Fair Work Commission

Department of Employment Question No. EMSQ17-001477

Senator Hinch asked on 02 March 2017 on proof Hansard page 30

#### Question

##### FWC - McDonalds penalty rates

Senator HINCH: Speaking of fast food outlets, can you confirm that in an EBA overseen by Bill Shorten that 100,000 McDonald's employees forfeited penalty rates from Sundays to improve conditions elsewhere in their contract?

Ms O'Neill: I would have to take that on notice because I do not know about Mr Shorten's involvement or otherwise. As I was indicating—

#### Answer

Under the *Fair Work Act 2009* (FW Act) the following McDonald's agreements have been approved:

- McDonald's Australia Enterprise Agreement 2009 – approved by a Full Bench on 22 June 2010. The parties to the enterprise agreement were McDonald's Australia and the Shop, Distribute and Allied Employees Association. Supporting documentation provided by the employer indicates that the enterprise agreement covered 80,000 employees. The Bench determined that the requirements of the FW Act were met, including the 'no-disadvantage test' which applied at the time the agreement was lodged for approval. The decision to approve this agreement can be accessed here: [www.fwc.gov.au/documents/decisionssigned/html/2010fwafb4602.htm](http://www.fwc.gov.au/documents/decisionssigned/html/2010fwafb4602.htm)
- McDonald's Australia Enterprise Agreement 2013 – approved by Commissioner Bull on 24 July 2013 (the nominal expiry date is 24 June 2017). The parties to the enterprise agreement were McDonald's Australia and the Shop, Distribute and Allied Employees Association. Supporting documentation provided by the employer indicates that the enterprise agreement covers 89,704 employees. The Commissioner determined that the requirements of the FW Act were met, including the 'better off overall test'. The decision to approve this agreement can be accessed here: [www.fwc.gov.au/documents/decisionssigned/html/2013fwca5001.htm](http://www.fwc.gov.au/documents/decisionssigned/html/2013fwca5001.htm)

Clause 27.2 of both enterprise agreements states that ordinary hours may be worked any time Monday to Sunday.

Fair Work Commission (Commission) records indicate that Mr Shorten resigned from his position as National Secretary of The Australian Workers' Union on 26 November 2007. There is no information on Commission files to indicate that Mr Shorten had any involvement in the making of either of the above McDonald's Australia enterprise agreements.