

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2005-2006 ADDITIONAL SENATE ESTIMATES HEARING
16 FEBRUARY 2006
EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

QUESTIONS ON NOTICE

Outcome 2: Higher productivity, higher pay workplace

Output Group 2.1: Workplace relations policy and analysis

Output: 2.1.1 Workplace Relations Policy Advice

Question Number: W710-06

Question:

Senator Wong asked in writing:

During the Senate Employment, Workplace Relations and Education Legislative Committee public hearings into the Work Choices bill, the following was said by the Chair, Senator Troeth.

My response to you on that would be that, with the fair pay and conditions standard which guarantees that people will not be paid less than they are now, what you have got you keep. (Hansard, 18/11/05, page 12).

...but if they (workers) are in a collective agreement at the moment there will be no way that they will be forced to make any other arrangements. (Hansard, 18/11/05, page 13).

Does DEWR agree with these statements and endorse their accuracy in relation to the WorkChoices Act?

Answer:

Yes.

Under section 400 of the Workplace Relations Act 1996 as amended it will continue to be unlawful to coerce an employee or groups of employees into making an agreement. Specifically, section states:

- (1) A person must not:
- (a) engage in or organise, or threaten to engage in or organise, any industrial action; or
 - (b) take, or threaten to take, other action; or
 - (c) refrain, or threaten to refrain, from taking any action;

with intent to coerce another person to agree, or not to agree, to make, approve, lodge, vary or terminate a collective agreement.

...

(5) A person must not apply duress to an employer or employee in connection with an AWA.

(6) To avoid doubt, a person does not apply duress for the purposes of subsection (5) merely because the person requires another person to make an AWA as a condition of engagement.

(7) Subsections (1), (3), (4) and (5) are civil remedy provisions.

The penalty for contravention of this section is 60 penalty units.