

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

**2006-2007 ADDITIONAL SENATE ESTIMATES HEARING  
15 FEBRUARY 2007  
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 2.1.2: Workplace relations legislation development**

**Question Number: W1178-07**

**Question:**

Senator Wong asked in writing:

**Work Choices amendments** What is meant by the term 'deals with' in relation to whether a pre-reform agreement 'deals with' the Standard?

- (a) If a pre-reform agreement includes 5 days personal leave does it deal with the Standard so that the new rule does not have effect?
- (b) If a pre-reform agreement deals with maternity leave but not parental leave or adoption leave does it deal with the Standard so that the new rule does not have effect?
- (c) Does this amendment represent a change in government policy? Wasn't it the case that pre-reform workplace agreements were never intended to comply with the Standard?

**Answer:**

Whether a particular pre-reform agreement 'deals with' one of the matters in subsection 171(2) of the *Workplace Relations Act 1996* is a question of fact.

As noted in the Supplementary Explanatory Memorandum, the agreement would need to deal with the matter in a substantive way for the Standard not to apply. The instrument would not necessarily have to deal with a matter as comprehensively as the Standard. For example, a pre-reform agreement would be considered to have dealt with annual leave if it provides, for example, for payment in lieu of annual leave.

The Standard does not apply to a pre-reform agreement to the extent that it deals with a matter. The amendment clarifies that the Standard operates to fill any gaps where an agreement does not deal with some or all of the matters covered by the Standard.

**Estimated cost:** Based on the FOI calculator it has taken approximately 2 hours and 15 minutes at an estimated cost of \$44 to prepare this answer.