

**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: W1217-07

Question:

Senator Wong asked in writing:

Pay and conditions scales According to DEWR's website disclaimer demonstrated compliance with the details published in these pay scale summaries by an employer bound to observe the provisions of the equivalent preserved Australian Pay and Classification Scale (APCS) will be deemed by the office of Workplace Services (OWS) as satisfying the employer's obligations under the APCS, provided that the employee is correctly classified and paid for each hour worked in accordance with the APCS. Does this imply that the APCSs published may not be correct or maybe subject to corrections? If so, how are employers and employees supposed to treat the publications of these APCSs as a reliable source of information? If DEWR makes a mistake with an APCS and publishes a pay rate lower than what it should be, does this mean that employees covered by this APCS will bear the cost of this mistake? Will these employees be able to apply for the difference between the wages that they should have been paid and those published on DEWR's website? Will DEWR be liable for these underpayments?

Answer:

The Department has published summaries of several hundred Australian Pay and Classification Scales (Pay Scale summaries) on the WorkChoices website. These documents summarise key minimum wages and associated provisions derived from pre-reform awards and State minimum wage legislation, as those wages have been increased by the Australian Fair Pay Commission.

The published Pay Scale Summaries are provided as information for employers and employees. The summaries are not legal instruments. While the disclaimer to the Pay Scale summaries makes it clear that OWS will not prosecute an employer to the extent that the employer acts in reliance on such a summary, it does not affect any right of action an employee may have for underpayment of wages.

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.