Senate Standing Committee on Education Employment and Workplace Relations

QUESTIONS ON NOTICE
Additional Estimates 2010-2011

Outcome 5 - Workplace Relations

DEEWR Question No.EW1024_11

Senator Fisher asked on 23/02/2011, Hansard page 48.

Question

LEAVE LOADING (FAIR WORK ACT)

Senator FISHER—Prior to your legal advice the award clause stood: no leave loading payable on termination. Now you have your legal advice you are trying to tell everybody about it and you are saying: 'The lawyers have told us the law is now different from what we may well have told you it was before. Now you have to pay leave loading.' Mr Wilson has also said earlier in evidence that this comes with the advent of the Fair Work Act 2009, and the new employment standards and modern awards. Now that we have also established that you can have advice from the Ombudsman saying you do not have to pay and that you can have an award from the industrial umpire saying you do not have to pay, yet employers can now be told today, 'Sorry, that was wrong; you do have to pay backdated to as early as January this year.' Now that we have established that and now that we have established that they risk being prosecuted because of that, during to the passage of the Fair Work Act did the government raise this issue with any of the stakeholders—for example, through the National Labour Consultative Council or through your industrial consultative committee? Did the government raise this issue with any of the stakeholders with whom it was having extensive and confidential discussions? Did the government raise this issue during parliamentary debate? .... Senator Chris Evans—I will have to take that on notice.....

Answer

The issue of the payment of annual leave loading on termination was not discussed during Parliamentary debateby any member or senator and was not raised by any stakeholder during the Senate Inquiry into the Fair Work Bill.

Similarly, the issue was not raised by any participant in consultations regarding the Government's Fair Work reforms.