

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

2003-2004 BUDGET ESTIMATES HEARING – 2 JUNE 2003

OFFICE OF THE EMPLOYMENT ADVOCATE

QUESTIONS ON NOTICE

Outcome: 2 Higher productivity, higher pay workplace

Output Group: 2.2 Workplace Relations Implementation

Outputs: 2.2.3 Assistance to the Employment Advocate

Question Number: W002-04

Question:

Senator Carr asked in writing:

The NBCIA provides for redundancy payments where the employment is terminated for any reason (except misconduct or refusal of duty). It provides for redundancy pay for less than 12 months service, and the accrual of redundancy entitlements is higher than the standard TCR. If that is the case how do you justify an AWA with a redundancy clause based on the standard TCR meeting the no-disadvantage test?

Answer:

The no-disadvantage test (NDT) is a global test which compares the terms and conditions of an Australian workplace agreement (AWA) with the terms and conditions enjoyed by the employee under the relevant, or designated, award, and relevant laws. It is possible - indeed, common - for some AWA conditions to be less beneficial, and others more beneficial, when compared to the corresponding award conditions. As long as the AWA does not disadvantage the employee *overall*, the NDT is passed.