

**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: W037-04**

**Question:**

Senator Wong asked at *Hansard* page 39:

Regarding the issue of 170VW damages, is it the case that in *Gorgevksi* there was a substantial payment for the employee in question?

**Answer:**

*Bostik (Australia) Pty Ltd v Gorgevski* (1992) 36 FCR 20 involved the issue of a term of an award being incorporated into a common law contract, and a breach of that term. It does not concern the issue of a breach of statute. Where there is a breach by a party of a clause in an AWA, and there was loss or damage suffered as a result, then that loss or damage is recovered pursuant to a statutory remedy, namely section 170VW of the *Workplace Relations Act 1996*. The two issues are not directly comparable.

Damages of \$195,000 were awarded in the case of *Bostik (Australia) Pty Ltd v Gorgevski* (1992) 36 FCR 20.