

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Budget Estimates 2010-2011**

**Agency - Fair Work Ombudsman**

**DEEWR Question No.EW0258\_11**

**Senator Abetz asked on 1/06/2010, Hansard page 56.**

**Question**

**FWO EMAIL TO PAYROLLNEWS.COM.AU**

Senator ABETZ—Can you advise whether somebody in the Fair Work Ombudsman emailed the editor of payrollnews.com.au, under the subject ‘Ask an expert’: ‘We are hoping someone is able to provide some interpretation on Easter Tuesday in Tasmania. I’ve included the relevant clause from our collective agreement’, and then there is a whole host of things added. There are questions about alternative readings. It says ‘if we take “observed generally” to mean “by a cross-section of the community”’ and, ‘It would be appreciated if some advice could be provided.’ It finishes with ‘Regards’ et cetera. Mr Wilson—Are you reading from an email from a staff member? Senator ABETZ—I will not mention their name. It is from the assistant director of the payroll and entitlement section. Mr Wilson—In the Fair Work Ombudsman’s office? Senator ABETZ—Yes. That is what I have been provided with. I cannot vouch for it, of course. But this sort of behaviour does not engender confidence in the small business community that the Fair Work Ombudsman has a handle on some of the things that might potentially lead to requirements for back pay or even the application of penalties. The Fair Work Ombudsman cannot get assistance internally and seems to be scratching around all over the place for a source, if the information I have here is correct. Mr Wilson—It is entirely possible that someone may have decided that was the best way to obtain advice for a particular question they had. We will find that out for you, but I will put it in the context that we are an organisation now of around 860 staff, we have a payroll section and they may have had a question that they were not sure about the answer to. It would be a bit of an unusual step to go outside of the organisation, but it is entirely possible that it happened. Senator ABETZ—It does not say much about Mr Johns’s section in the Fair Work Ombudsman for them to go broadcasting to the outside world rather than seeking the specialist advice of Mr Johns. I am sure they did not intend such a reflection, and I am sure that the advice Mr Johns’s section provides is high-class advice. It unfortunately adds to the impression that the Fair Work Ombudsman—and I do not mean this in a derogatory sense; it is tough to come to grips with a new regime—is still scratching around to come to terms with what various awards and other provisions mean. If you guys, with your huge legal team, have that sort of difficulty, I invite you to spare a thought for the cafe owner who may have never gone past grade 10. Mr Wilson—We will take a look at that matter—and I certainly do spare a thought.

## **Answer**

*The Fair Work Ombudsman provided the following response.*

An Assistant Director in the Payroll and Entitlements team emailed an external body to seek advice about whether the Tuesday after Easter was a recognised holiday in Tasmania. The Payroll and Entitlements team are part of the Fair Work Ombudsman's Human Resources area responsible for preparing the payroll for Fair Work Ombudsman employees.

The query arose during the period when the Tasmanian Government referred its workplace relations powers to the Commonwealth. The matter related to the provision of advice about the entitlements of employees that had been previously employed by the Tasmanian Government and were subsequently employed by the Commonwealth Government following the referral of powers.

It is unusual for a Payroll and Entitlements team-member to seek advice from outside the Agency as expert services exist internally to provide such advice. Nonetheless, the Fair Work Ombudsman is supportive of its employees conducting thorough and comprehensive research when undertaking their duties.