

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

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

Agency - Fair Work Australia

DEEWR Question No. EW0288_11

Senator Abetz asked on 1/06/2010, Hansard page 111.

Question

AWARD MODERNISATION

A) Senator ABETZ—.....If I may on a final note, because I am sure we have all got a sweet tooth, raise the issue of Haighs Chocolates, they had a substantial delay before their agreement was ultimately approved by Fair Work Australia. I think it went for—I hope I do not do them, or indeed Fair Work Australia, a disservice—some 17 weeks. It was lodged on 22 October 2009. Senator JACINTA COLLINS—Did that one involve undertakings? Senator ABETZ—It was allocated to a second member on the unavailability of the first, then there was a substantial delay before the agreement was ultimately approved. Senator JACINTA COLLINS—It does not say anything about undertakings? Senator ABETZ—No, it does not. If you could possibly give us an indication in relation to the Haighs Chocolates agreement—I understand that it has all been approved and all is well that ends well—what the rationale or reason was for the delays, that would be very helpful.

B) In relation to the award modernisation, did the issue of student workers come up? Indeed, as I understand it, the Pharmacy Guild sought variation and the SDA, during the hearing, suggested that it could be dealt with by IFAs, I am told; is that correct? If nobody has a recollection of that, you could take that on notice. Senator JACINTA COLLINS—Which award is it? Senator ABETZ—Whatever one applies to the pharmacists. Senator JACINTA COLLINS—So it is not the retail one. Senator ABETZ—I think that is a separate one to the Retailers Award. I understand the retailers raised it with a casual clause in the award modernisation process and that the Australian Industrial Relations Commission specifically rejected it. If you could please confirm that on notice for me, I would be much obliged. CHAIR—That is it for questions on notice.

Answer

Fair Work Australia has provided the following response:

A) Consistent with the administrative processes at the time of lodgement, a preliminary examination of the completeness of the application was undertaken. On completion of this examination, over a period of 24 hours, the application was allocated to two Members on the unavailability of the first. The very large increase of applications lodged in the latter part of 2009 resulted in the examination of applications for the approval of agreements taking significantly longer than the 3 to 4 weeks indicated to the applicant in this instance. In addition to the appointment of additional Members, the administrative processes have been streamlined with the aim of reducing the time taken for examination of applications for the approval of

agreements.

B) The following is an extract from the Full Bench decision of 2 February 2010 in matter numbers AM2009/117 and AM2009/126, applications to vary the Pharmacy Industry Award 2010:

[4] The PGA seeks to vary the part-time employment clause to allow engagement of part-time employees for less than the current three hour minimum by agreement of the employee concerned. It states that shorter periods of engagement are justified by the unique needs of pharmacies to open for the purposes of fulfilling prescription obligations, the practice of employing school students after school and the practice of holding staff meetings for training and information purposes.

[5] The SDA and The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) strongly oppose the application. They say that the matter is a re-run of earlier proceedings and discussions leading to agreed variations and the changes are neither necessary nor desirable.

[6] The PGA has not established any changed circumstance since this matter was considered during stage one of the award modernisation process. The three hour minimum engagement is reflected in a number of pre-existing awards and Notional Agreements Preserving State Awards (NAPSAs). Although some pre-existing awards and NAPSAs have lesser minima, in our view the terms of the modern award are not out of step with most of the instruments. We do not approve the variation.