

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

**QUESTIONS ON NOTICE
Budget Estimates 2011-2012**

Outcome 5 - Workplace Relations

DEEWR Question No. EW0153_12

Senator Fisher provided in writing.

Question

Introduction of Change

1. Can the department please conduct a qualitative and quantitative analysis of issues dealt with in each of the following clauses (numbered below) in the attached agreement, with any agreement approved by the Fair Work Australia (FWA) in comparable sectors or industries?

2.2.1 Before the Employer makes a final decision to introduce changes in production, programming, organization, structure or technology, that are likely to have a significant effect on Employees the Employer shall notify the Employees who may be affected by the proposed changes and the Union.

Answer

Under the *Fair Work Act 2009* (FW Act), all agreements approved by Fair Work Australia must contain a consultation term which meets the requirements set out in s205 of the FW Act, which states:

205 Enterprise agreements to include a consultation term etc.

Consultation term must be included in an enterprise agreement

- (1) An enterprise agreement must include a term (a **consultation term**) that:
- (a) requires the employer or employers to which the agreement applies to consult the employees to whom the agreement applies about major workplace changes that are likely to have a significant effect on the employees; and
 - (b) allows for the representation of those employees for the purposes of that consultation.

Model consultation term

- (2) If an enterprise agreement does not include a consultation term, the model consultation term is taken to be a term of the agreement.
- (3) The regulations must prescribe the **model consultation term** for enterprise agreements.

It is not feasible to provide a quantitative analysis of issues dealt with in these clauses as the Department's Workplace Agreements Database (WAD) does not contain information about the scope of consultation provisions.

Enterprise agreements are made at an enterprise level between employers and employees to address the needs and contexts of individual workplaces. Undertaking

a meaningful qualitative analysis comparing particular clauses in individual agreements is not feasible in the absence of an understanding of the particular circumstances and contexts facing the parties entering into those agreements. It would be extremely resource intensive to obtain sufficient information to support a meaningful analysis.