

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

**2005-2006 SUPPLEMENTARY BUDGET SENATE ESTIMATES HEARING
2 and 3 NOVEMBER 2005**

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

Outcome 2: Higher productivity, higher pay workplace

Output Group 2.1: Workplace relations policy and analysis

Output 2.1.1: Workplace relations policy advice

Question Number: W597-06

Question:

Senator Marshall asked in writing:

At 8.2, *WorkChoices* claims that the AIRC will be able to vary, set aside, or revoke awards, but not vary or adjust non-allowable matters in existing awards.

At 6.2, *WorkChoices* state that allowances will be defined to specify that awards may only contain monetary allowances in particular instances, such as where the allowance reimburses the employee for expenses incurred in the course of employment.

Will monetary allowances which do not reimburse employees be allowable?

- Eg, Metals Award:

- cl.5.9.1(a): leading hand allowance – up to \$48.10 per week
- cl.5.9.2(b): first aid allowance - \$11.50 per week;

- Non-monetary allowances:

cl.5.9.3(n): underground mine work – an electrician working in an underground mine earns 12% extra.

Answer:

The Workplace Relations Amendment (Work Choices) Bill 2005 defines the allowable award matter and allowable transitional award matter for “allowances” as monetary allowances for:

- expenses incurred in the course of employment, or
- responsibilities or skills that are not taken into account in rates of pay for employees, or
- disabilities associated with the performance of particular tasks or work in particular conditions or locations.

Although it is impossible to be definitive, it appears likely that, within the scope of the above definitions, the AIRC will retain most existing award and transitional award allowance provisions. Award clauses requiring employers to provide non-monetary allowances in the form of tools, clothing, meals, accommodation or transport are likely to be deleted, as are monetary allowances that lie outside the scope of the above definition, such as make-up payments.

In terms of the Metals Award, the leading hand, first aid and underground mine work allowances [clauses 5.9.1(a), 5.9.2(b) and 5.9.3(n)] are likely to remain in awards as monetary allowances.

In the new system the AIRC will be able to vary allowances in awards where the variation is essential to the maintenance of minimum safety net entitlements and the following conditions are met:

- the award as varied would not be inconsistent with decisions of the Fair Pay Commission;
- the award as varied would provide only minimum safety net entitlements for employees bound by the award;
- the award as varied would not be inconsistent with the outcomes (if any) of award simplification and rationalisation;
- the making of the variation would not operate as a disincentive to agreement-making at the workplace level; and
- such other requirements as prescribed by regulation (if any).

The AIRC will be able to continue as it does now to vary allowances in transitional awards for the duration of the five year transitional period.