

**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**

**QUESTION 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: W611-06**

**Question:**

Senator Marshall asked in writing:

Will those covered by 'transitional agreements' (i.e. ex-State awards and agreements) lose their entitlement to public holidays, rest breaks, allowances, penalty rates and overtime loadings if they enter into an AWA with an 'all up' rate that does not expressly draw attention to the fact they are to lose such entitlements?

**Answer:**

On the commencement of the legislation, the content of former State awards and agreements will remain the same with the exception of terms prohibited under the Bill.

However, employees on former State agreements or awards can enter into a new federal agreement (individual or collective) at any time during the three year transitional period.

The proposed legislation provides that an agreement can only modify or remove 'protected award conditions' by including an express term/s to this effect. 'Protected award conditions' are those relating to: public holidays; rest breaks (including meal breaks); incentive-based payments and bonuses; annual leave loadings; allowances; penalty rates and shift/overtime loadings.

In the absence of explicit terms in the agreement which expressly exclude or modify those protected award conditions that would (but for the agreement) have applied in relation to the employment of that person, those conditions will be taken to be included in the workplace agreement and will continue to apply to that person.