

**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: W613-06

Question:

Senator Marshall asked in writing:

What protection will there be to stop a corporate restructure being undertaken for the purpose of removing award conditions?

Answer:

Part 11 of the renumbered and consolidated *Workplace Relations Act 1996* (WR Act) deals with transmission of business rules and the application of industrial instruments including awards.

Section 595, Division 5 and section 580, Division 2, Part 11 are the relevant provisions. Section 580 is a mirror of pre-reform section 149 of the legislation, which was repealed upon commencement of the reforms.

Section 149 had ensured that regular corporate events, such as restructures, did not result in employees losing award coverage. Section 580 continues to serve this function, ensuring that corporate restructures and like events do not result in employees losing award coverage.

The WorkChoices reforms however provide additional protection for employees in circumstances where a corporate restructure has occurred. Section 581 of the WR Act does this by defining a transferring employee to include an employee employed by the old employer:

- immediately before the time of transmission and employed by the new employer within two months of the transmission; or
- at any time within the period of one month before the time of transmission who is terminated for genuine operational reasons, or reasons including genuine

operational reasons, and employed by the new employer within two months of the transmission.