

**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: W615-06

Question:

Senator Marshall asked in writing:

Certain conditions in current awards will continue to have effect, but cannot be contained in a 'new award' (eg long service leave). Will that prevent a roping-in award binding a new employer in respect of those conditions?

Answer:

Section 540, Division 4, Part 10 of the renumbered and consolidated *Workplace Relations Act 1996* (WR Act) provides that the Australian Industrial Relations Commission (the Commission) must not make an award other than in a rationalisation context (as under section 539).

Section 528, Division 3, Part 10 of the renumbered and consolidated WR Act deals with the treatment of preserved award terms in rationalised awards. The section states that a preserved award term is taken to be included in a rationalised award and that only an employer bound by the preserved award term of the pre-rationalised award will be bound by the corresponding preserved award term in a rationalised award.