

**SENATE STANDING COMMITTEE ON
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS**

**QUESTIONS ON NOTICE
SUPPLEMENTARY ESTIMATES 2009-10**

Outcome 5

DEEWR Question No. EW0387_10

Senator Xenophon provided in writing.

Question

Award modernisation request

What are all of the Award modernisation requests that the Minister has requested the Australian Industrial Relations Commission (AIRC) reconsider/review?

Answer:

There are 8 variations to the Minister's Award Modernisation Request. The request variations are available at <http://www.airc.gov.au/awardmod/request.htm>

The following is a chronological listing of these variations and the key variations made to the request.

9 November 2009

- The AIRC is to consider including separate classification structures and rates of pay for regional, domestic and overseas airline operations in the Airline Operations – Ground Staff Award 2010.
- The AIRC is to consider some additional factors in relation to the hours of work and rostering arrangements included in the Aircraft Cabin Crew Award 2010. In addition, the AIRC must consider supplementing the unpaid parental leave and transfer to a safe job entitlements under the National Employment Standards (NES) in the Aircraft Cabin Crew Award 2010 for pregnant cabin crew employees.

26 August 2009

- The AIRC is to have regard to the perishable nature of produce and seasonal factors when setting hours of work/ rostering arrangements in the horticulture industry. This includes employers being able to continue to pay piece rates only to casual employees.
- The AIRC should also have regard to hours of work and penalty rates for call centre employees and these entitlements should be substantially based on provisions currently applying to these employees in the industries in which they work.
- The AIRC is to consider hours of work and overtime provisions in retail and similar industries and should not discourage employers from offering additional hours to part-time employees, or from employing part-time employees instead of casuals.

17 August 2009

- Maritime industry variation - when creating an award for the maritime industry, the AIRC should ensure that it covers employers on licensed, permit or majority-Australian crewed ships and their employees.

1 July 2009

- In relation to Victoria, the AIRC should take into account transitional awards, transitional reference awards and common rules currently operating under the WR Act when undertaking modernisation.
- The AIRC must ensure that modern awards do not express to cover employees or employers covered by a State reference public sector modern award or State reference public sector transitional award.

29 May 2009

- The AIRC should create a separate modern award for the restaurant and catering industry, taking into account the operational requirements of the industry in establishing a penalty rate and overtime regime, including the labour intensive nature of the industry and the industry's core trading times.

2 May 2009

- The AIRC is to ensure that employees earning less than \$100 000 should be protected by a full set of basic award conditions.
- The AIRC is to ensure that rostering and annual leave arrangements for work undertaken in remote locations should be retained – particularly in the mining industry.
- Where specific exemptions from redundancy pay currently apply in a specific industry (such as the contract cleaning industry), the AIRC may include such a provision in a modern award.

18 December 2008

- Mainly technical changes, including: to ensure that the request reflects the final version of the NES contained in (what was then) the Fair Work Bill 2008; and to reflect the transitional legislation allowing parties to modernise enterprise awards.

16 June 2008

- Mainly technical changes including: requiring the Commission to create the general award; and revising the mechanisms dealing with the interaction between the NES and modern awards.

Question:

What others are currently under consideration?

Answer:

As at 17 November 2009, there are no further variations to the Award modernisation request under consideration.

Question:

How will the impact of reviewed requests be considered at the 'coalface' to ascertain real impact on various sectors?

Answer:

Fair Work Australia will undertake four yearly reviews of each modern award to maintain a relevant and fair minimum safety net and to ensure that they continue to meet the needs of the community. The first such review is set to take place in 2014, four years after modern awards commence on 1 January 2010.

An interim review of modern awards will take place in 2012, two years after modern awards commence. This review will examine whether modern awards are achieving the modern awards objective and operating effectively, without anomalies or technical problems arising from the award modernisation process.

Awards may also be varied in other limited circumstances (for example, where the variation is necessary to achieve the modern awards' objective of a fair and relevant safety net).

Question:

What consultation is taking place in development of these new awards?

Answer:

The AIRC is required by the Minister's award modernisation request to consult interested parties on modern awards. The Minister's award modernisation request requires the AIRC to adopt a consultative approach to the making of modern awards. This includes publishing exposure drafts of modern awards based on preliminary consultations and undertaking further consultations prior to finalising the modern awards. All consultations are required to be open and transparent. The AIRC is also taking a consultative approach to vary modern awards.

In this regard, the AIRC has set out a forward timetable for consultation on all applications to vary modern awards, including those applications made as a result of any variations to the Award modernisation request. The timetable is available at <http://www.airc.gov.au/awardmod/fullbench/timetable.cfm>

Consistent with the consultative approach to award modernisation, an extensive public consultation process will take place on applications to vary modern awards and interested parties may lodge written submissions and appear before the AIRC in oral hearings.

In addition, Fair Work Australia will undertake four yearly reviews of each modern award to maintain a relevant and fair minimum safety net and to ensure that they continue to meet the needs of the community. The first such review is set to take place in 2014, four years after modern awards commence on 1 January 2010.

An interim review of modern awards will take place in 2012, two years after modern awards commence. This review will examine whether modern awards are achieving the modern awards objective and operating effectively, without anomalies or technical problems arising from the award modernisation process.