# SENATE STANDING COMMITTEE ON EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

## QUESTIONS ON NOTICE SUPPLEMENTARY ESTIMATES 2009-10

Agency Fair Work Australia

DEEWR Question No. EW567\_10

Senator Fisher provided in writing.

#### Question

Can you advise what proportion of the numbers of AWA terminations granted since 1 July 2009 were:

Prior to expiry of the AWA, and Post expiry?

In each case in above, please indicate;

- The nature of industrial instrument/s and/or legislative minima that apply immediately after the AWA is terminated,
- Number of employees whose AWA has been terminated since 1 July 2009 and who
  are then covered by each industrial instrument and/or legislative minima identified in
  3a, In particular, numbers of employees whose AWA has been terminated since 1
  July 2009 and who are then covered by an award (only).

#### Answer

Fair Work Australia has provided the following response:

Can you advise what proportion of the numbers of AWA terminations granted since 1 July 2009 were:

### Prior to expiry of the AWA, and Post expiry?

4052 AWAs were terminated by agreement. Schedule 3, Item 17 of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 provides for the employee and employer covered by an AWA to make a written agreement to terminate the agreement. The Fair Work Act 2009 does not require FWA to ascertain if the AWA has passed its nominal expiry date.

Schedule 3, Item 18 of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 provides for the making of a conditional termination that will have the effect of terminating an individual agreement based transitional instrument if an enterprise agreement is made that covers the employee and employer and the proposed enterprise agreement comes into operation. The conditional termination must accompany the application for approval of the proposed enterprise agreement under section 185 of the Fair Work Act 2009. The Fair Work Act 2009 does not require FWA to issue individual orders approving a conditional termination. Consequently, FWA does not maintain readily accessible records as to the number of individual agreement based transitional instruments

that will have been conditionally terminated on the operation of an enterprise agreement prior to or post expiry of the AWA.

## Post expiry of the AWA

173 AWAs that had passed their nominal expiry dates terminated unilaterally under Schedule 3, Item 19 of the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009.

In each case in above, please indicate;

• The nature of industrial instrument/s and/or legislative minima that apply immediately after the AWA is terminated,

The Fair Work Act 2009 does not require FWA to ascertain this information other than in the case of conditional terminations under Schedule 3, Item 18 in which an enterprise agreement comes into operation.

 Number of employees whose AWA has been terminated since 1 July 2009 and who are then covered by each industrial instrument and/or legislative minima identified in 3a, In particular, numbers of employees whose AWA has been terminated since 1 July 2009 and who are then covered by an award (only).

The Fair Work Act 2009 does not require FWA to ascertain this information other than in the case of conditional terminations under Schedule 3, Item 18 in which an enterprise agreement comes into operation.