

**Senate Standing Committee on Education Employment and Workplace
Relations**

**QUESTIONS ON NOTICE
Supplementary Budget Estimates 2011-2012**

Outcome 5 - Workplace Relations & Economic Strategy

DEEWR Question No.EW0505_12

Senator Abetz provided in writing.

Question

Modern Awards

"1. Is the Minister aware of any concerns with the operation of Modern Awards? a. Please provide details of each instance. 2. Has the Minister offered any directions or advice to Fair Work Australia in advance of the Review of Modern Awards in 2012? 3. Will the Minister offer any direction or advice to Fair Work Australia in advance of the Review of Modern Awards in 2012? 4. Has the Government considered any changes to modern awards following concerns that have been raised? "

Answer

1. I am aware that, consistent with the provisions of the *Fair Work Act 2009*, a number of industry parties have applied to Fair Work Australia (FWA) to vary the terms of modern awards. Currently there are approximately eight matters awaiting determination. Applications to vary modern awards are available on the FWA website at www.fwa.gov.au.
2. No.
3. No. This is because the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* sets out the legislative framework under which FWA must conduct a review of modern awards (other than modern enterprise awards and State reference public sector modern awards) after the first two years.

In conducting the two year review, FWA must consider whether modern awards are achieving their objective and are operating effectively without anomalies or technical problems. The legislative framework ensures that FWA has the power to consider stakeholder concerns regarding the operation of modern awards within the scope of the two year review.

The President of FWA issued a statement on 17 November 2011 announcing that the two year review will be based mainly on applications to vary modern awards – this may include applications proposed by members of FWA following a review of each modern award in its own right. Applications to vary a modern award as part of the two year review should be filed by 8 March 2012 after which time a timetable and procedure for dealing with the applications will be adopted.

4. FWA is responsible for varying, revoking or making new modern awards.
FWA may do so of its own determination or by way of application by an eligible party provided it is satisfied that the variation or making of the modern award is necessary to achieve the modern awards objective.