

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

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

**Agency - Fair Work Ombudsman**

**DEEWR Question No. EW0740\_12**

**Senator Abetz asked on 19 October 2011 , Hansard page 41**

**Question**

**FWO - Concerns that Fair Work discriminates against certain employees**

Senator ABETZ: Has the proposition been put to you that the provisions of the Fair Work Act also tend to discriminate against certain employees? The example that was given to me was that if a cleaner has a contract to clean a certain premise which might take one hour, then in those circumstances you can employ somebody for a minimum of one hour under the award. But if you were to have another such premise, let us say half an hour away, that needs to be cleaned and you were to use the same employee, you would have to pay them for the travel time to the next job. What happens is that individual companies find it very difficult in certain circumstances to provide a full day's work for people when they have a whole lot of scattered contracts around the place because there will somebody else that can underbid them on the basis of, 'I've got a local employee who only wants to work for one hour and therefore we will engage that person for the one hour to clean that premise.' Another company that might want to bid for that job clearly cannot because their wage structure, which is a huge component of cleaning, would—in rough terms—be 50 per cent higher than the competitor. Have those sorts of concerns been brought to the Ombudsman's attention with a request for advice as to how some of these practical difficulties might be overcome? Mr Wilson: I will have to take that on notice. There is another division which may well have dealt with that matter which is not represented here today. I do not believe Mr Ronson's division has had any contact on that subject. Mr Ronson: No, I cannot recall that particular example or scenario in our report. Senator ABETZ: Also, is there a limitation in the award that you can only work five days in a week? Mr Ronson: I would need to refresh my memory. Senator ABETZ: Okay. And the cleaning industry is now having difficulty, because of that limitation, getting workers to work on a Monday and Tuesday because if they work five days a week, and there are penalty rates on a Saturday and Sunday, then clearly they want to work on Saturday and Sunday when they can earn more money. Nobody is putting their hand up for working only during the week because there is that limit of five days work. I will leave that to you. If you could let me know if it has been brought to your attention, or if discussions have taken place as to how these issues can be resolved.

**Answer**

*The Fair Work Ombudsman has provided the following response.*

The Fair Work Ombudsman has provided general advice through the Fair Work Infoline to individual callers and to employer associations about hours of work under

the *Cleaning Services Award 2010*. No concerns from callers have been noted in our recording system about the issues raised.

Stakeholders were consulted during, and in preparation of, the National Cleaning Services Campaign. Concerns about the spread of hours were not brought to the attention of the Fair Work Ombudsman during this consultation. Following the completion of the National Cleaning Services Campaign, surveys and interviews were undertaken with internal stakeholders and external industry stakeholders as part of the agency's campaign evaluation. The responses and feedback did not reveal apprehension from any parties regarding the spread of hours in the Modern Award.

It is noted that Fair Work Australia is currently seeking submissions in relation to its review of modern awards to be conducted in 2012. Applications to vary a modern award should be filed by 8 March 2012.