

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

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

Outcome 5 - Workplace Relations

DEEWR Question No. EW0155_12

Senator Fisher provided in writing.

Question

Worker Payment Incentives

1. Can the department please conduct a qualitative and quantitative analysis of issues dealt with in each of the following clauses (numbered below) in the attached agreement, with any agreement approved by the Fair Work Australia (FWA) in comparable sectors or industries?

One item that is more restrictive on workers than managers are the prohibitions on workers

- from being paid cash instead of taking holidays (3.1.1);
- receiving incentive or bonus payments above those allowed in the Agreement. (3.1.1);
- from undertaking any work during their holidays. (7.1.13)

Answer

Clause 3.1.1 of the draft agreement states:

3.1. General

3.1.1 So that there may be no doubt, unless expressly noted otherwise the entitlements provided in the Agreement (whether financial or otherwise) cannot be set-off, cashed out or avoided by any means, including but not limited to the making of over-agreement payments.

Clause 7.1.13 of the draft agreement states:

7.1.13 An Employee shall not offer their services to any other Employer during the period they are on paid annual leave and an Employer shall not engage an Employee who is on paid annual leave.

The Department's Workplace Agreements Database (WAD) does not record any data on either the incidence or scope of clauses in enterprise agreements prohibiting the cashing out of agreement entitlements or on restrictions in undertaking any work during holidays.

Enterprise agreements are made at an enterprise level between employers and employees to address the needs and contexts of individual workplaces. Undertaking a meaningful qualitative analysis comparing particular clauses in individual agreements is not feasible in the absence of an understanding of the particular circumstances and contexts facing the parties entering into those agreements. It would be extremely resource intensive to obtain sufficient information to support a meaningful analysis.