

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

**QUESTIONS ON NOTICE  
Supplementary Budget Estimates 2010-2011**

**Agency - Fair Work Ombudsman**

**DEEWR Question No.EW0559\_11**

**Senator Abetz asked on 20/10/2010, Hansard page 28.**

**Question**

**FWO - SUPERANNUATION THRESHOLD**

Senator ABETZ—Has the Fair Work Ombudsman had any concerns expressed to it about the confusion in relation to the superannuation threshold? As I understand it, under the tax act or whatever it is called, under taxation law in this country, the threshold is at \$450 per month that super has to be paid for an employee if they earn more than that, whereas I understand that some awards have in fact reduced that to \$350—for example, the restaurant award. Has that confusion been expressed to your office as to which one prevails, what do they need to do? Mr Wilson—I am not aware of that issue. That does not mean that in a call to our contact centre someone has not said, ‘What on earth is this and what does it mean?’ But I am certainly not aware of it from a policy point of view. Senator ABETZ—I understand that you might not be, but would the hotline or something like that be able to find that out for us without too much work? Mr Wilson—We could not do that without too much work. Senator ABETZ—All right, in that case I will not to pursue it. Mr Wilson—What I am trying to say is if it were a substantive issue that had been put to us formally, we would be aware of it. Senator ABETZ—It has been put to me by some people—that is, which one prevails and why. If the threshold is \$450 per month, why do some awards then vary that and therefore you have differing thresholds? Senator Chris Evans—Perhaps I will ask Mr Wilson to take it on notice as well. Rather than search every query, but if there is any reporting inside the system—

**Answer**

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

The Fair Work Ombudsman has jurisdiction to investigate and enforce superannuation entitlements only where that entitlement is contained in a federal industrial instrument.

Where an employee is covered by a federal industrial instrument that does not contain an entitlement to superannuation, the employee’s superannuation entitlements arise from the *Superannuation Guarantee (Administration) Act 1992*.

The Fair Work Ombudsman has examined its customer contact management system and is unable to identify instances where it has received enquiries relating to the difference between the superannuation entitlement in the *Restaurant Industry Award*

2010 and the *Superannuation Guarantee (Administration) Act 1992*. The Fair Work Ombudsman can advise that from 1 July 2010 to 15 November 2010, it received four enquiries relating to superannuation and the *Restaurant Industry Award 2010*.