

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2014 - 2015

Agency - Fair Work Commission

Department of Employment Question No. EMSQ15-000037

Senator McKenzie asked on 26 February 2015 on proof Hansard page 63

Question

FWC - Amendment of forms

CHAIR: Could you take on notice where the defence that you are having to amend these forms has come from and when you became aware that it was going to be a defence?
Ms O'Neill: Yes.

Answer

The answer to this question was provided in response to question (c) in EMSQ15-000036 and is repeated as follows:

The 'defence' referred to by the General Manager was a reference to section 137.1(4) of the Criminal Code, which provides that it is not an offence for a person to knowingly give false or misleading information to a Commonwealth entity under section 137.1 if, before the information was given to the Commonwealth entity, the Commonwealth entity did not take reasonable steps to inform the person of the existence of this offence.

The potential availability of this defence arose in the context of inquiries in relation to, and notices of adverse findings about, a number of office holders of the Victoria No 1 Branch of the Health Services Union, in or around March 2014.

While no such warning is required for the purposes of section 136.1 and some other potentially relevant offences under the Criminal Code, the Fair Work Commission considers it desirable in terms of discouraging the provision of false or misleading information and being open and transparent, to include a warning on its entry permit application forms.

Accordingly, while a warning would not strictly be required if only section 136.1 of the Criminal Code was to be relied upon in prosecuting a person in relation to false or misleading information in an entry permit application, the Fair Work commission is currently in the process of amending its entry permit application forms to include such a warning.