

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2017 - 2018

Agency - Fair Work Commission

Department of Employment Question No. EMSQ17-004125

Senator McKenzie asked on 30 May 2017 on proof Hansard page 25

Relates to previous Employment Question No EMSSQ173965

Question

FWC - EBA approvals

CHAIR: All right. Could you also take on notice the number of times a section-604 appeal proceeding has been brought involving a decision to approve an EBA, the approval times for union EBAs for the relevant periods, approval times for non-union EBAs for the relevant periods and a couple of other questions—could you look out for those. But for the publication of these agreements, how would any external party know that a particular workplace has negotiated an EBA and submitted it for approval?

....

Mr Furlong: There is some search functionality on the 'Agreements in progress' web page. I can certainly provide on notice a link to the website, if you would like.

CHAIR: Thank you.

Answer

- **The number of times a section 604 appeal proceeding has been brought involving a decision to approve an EBA**

The following table details appeals lodged pursuant to s.604 of the *Fair Work Act* 2009 from 1 July 2009 until 15 June 2017.

Year	Agreement approval applications lodged	Total agreement approval matters appealed
2009/10	7,209	78*
2010/11	7,081	13
2011/12	8,565	23
2012/13	7,087	35
2013/14	6,754	19
2014/15	5,922	25
2015/16	5,529	28
2016/17	5,473**	30**
Total	53,620	251**

* A number of related appeals were withdrawn during this period.

** Statistics to 15 June 2017.

- **The approval times for union EBAs for the relevant periods, approval times for non-union EBAs for the relevant periods**

Under the Fair Work Act 2009 agreements are categorised as single enterprise agreements, multi enterprise agreements or greenfields agreements. In the case of single enterprise and multi-enterprise agreements the agreements can be made between employers and unions or employers and employees. The Commission does not keep separate data on whether a union is covered by an agreement or not. Greenfields agreements are made between employers and the relevant union or unions.

The following table sets out the median time taken to finalise the different types of agreements over the last four years:

Enterprise agreements – Timeliness, lodgment to finalisation (days)

	2015-16	2014-15	2013-14	2012-13
Single enterprise agreements	18	21	17	16
Multi-enterprise agreements	28	34	26	22
Greenfields agreements	12	14	14	14

- **But for the publication of these agreements, how would any external party know that a particular workplace has negotiated an EBA and submitted it for approval?**

Rule 40 of the Fair Work Commission Rules 2013 (Rules) requires an employer who will be covered by an enterprise agreement to notify employees who will be covered by the agreement that an application has been made to the Commission for approval of the agreement.

Schedule 1 of the Rules requires that the application for approval (Form F16) and the employer's statutory declaration in support of the application for approval (Form F17) be served on each employer that will be covered by the agreement, each employee organisation that was a bargaining representative and any employee bargaining representatives.

The agreements in progress page provides the public with the details of agreements that have been lodged with the Commission and are currently being considered for approval. The following is a link to the agreements in progress page: <https://www.fwc.gov.au/awards-and-agreements/agreements/agreements-progress>