

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

**QUESTIONS ON NOTICE
Additional Estimates 2010-2011**

Outcome 5 - Workplace Relations

DEEWR Question No.EW1023_11

Senator Fisher asked on 23/02/2011, Hansard page 130.

Question

FWA - LEAVE LOADING

Senator FISHER—The government, and perhaps the department on the government's behalf—the minister—provided directions to Fair Work Australia in formulating modern awards and in the transitional process. Did any of those directions to, or any of those discussions with, Fair Work Australia or the commissioners in Fair Work Australia include telling the commissioners that if they were to make a provision of this sort—saying 'no leave loading payable on accrued leave'—in a modern award then it would be at odds with and therefore overruled by the Fair Work Act? Mr Kovacic—I would need to take on notice the details of that. Senator FISHER—Thank you, but I think not. I put to you that, given

Answer

The Australian Industrial Relations Commission (AIRC) (now Fair Work Australia) was required to undertake the award modernisation process in accordance with the Workplace Relations Minister's written Award Modernisation Request. The Minister's Request did not contain any specific instructions on how the AIRC was to address annual leave loading on termination of employment in developing modern awards.

With respect to the transitional process, the Australian Government made submissions to the AIRC on what it considered to be the best approach to developing model transitional provisions for modern awards. As transitional provisions do not relate to annual leave or the payment of annual leave loading on termination, the issue was not canvassed in the Government's submissions.