

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

**SENATE LEGISLATION COMMITTEE - QUESTIONS ON NOTICE
2008-09 BUDGET ESTIMATES HEARING**

Outcome **WORKPLACE AUTHORITY**

Question No. **EW496-09**

Senator Abetz provided in writing.

Question

No Disadvantage Test – Policy Guide

Page 13 (Clause 2.1.1) of the NDT Policy Guide – there is an admission in the guide that terms and conditions such as penalty payments for work such as shift work, night work and work on weekends can be removed or traded away. Is this correct?

Answer

The Workplace Authority has provided the following response:

Under the *Workplace Relation Act 1996*, workplace agreements do not have to provide specific provisions for penalty payments. However, the no disadvantage test (NDT) operates to ensure that the overall effect of the terms and conditions in the workplace agreement is not reduced when compared to the reference instrument. Therefore if the reference instrument provides for penalty payments but the workplace agreement does not, then to pass the NDT, the workplace agreement would need to offset this reduction. For example, this could be done by increased hourly remuneration.