

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

**QUESTIONS ON NOTICE
Budget Estimates 2011-2012**

Agency - Fair Work Australia

DEEWR Question No.EW0240_12

Senator Abetz asked on 30/05/2011, Hansard page 19.

Question

Badging On Marquees During Protected Ballots

Senator ABETZ: I have a particular order in front of me from Fair Work Australia which talks about timetable and locations which tells me that, 5.20 am to 8 am, at a particular main, in the marquee on site in the northern end of employees' car park, which suggests that it is a marquee that is already there and one that the Australian Electoral Commission may not necessarily be establishing. How do we ensure that it is not an HR Nichols Society marquee or, indeed, a CFMEU marquee that workers have to walk into to be able to cast their ballot? [...] Senator Chris Evans: We will take on notice to see if we can help any further in terms of Fair Work Australia's jurisdiction, if you like, but the evidence is that AEC then conducts the ballot and would have to be confident about—

Answer

Fair Work Australia has provided the following response.

Fair Work Australia understands the Order referred to by Senator Abetz relates to a protected action ballot conducted by a protected action ballot agent who was not the Australian Electoral Commission.

Section 444 of the Fair Work Act 2009 provides that Fair Work Australia may decide that a person other than the Australian Electoral Commission is to be the protected action ballot agent only if:

- (a) the person is specified in the application for the protected action ballot order as the person the applicant wishes to be the protected action ballot agent; and
- (b) FWA is satisfied that:
 - (i) the person is a fit and proper person to conduct the ballot; and
 - (ii) any other requirements prescribed by the regulations are met.

In the case of a protected action ballot agent who is not the Australian Electoral Commission, section 450 of the Fair Work Act 2009 provides that Fair Work Australia

must give the protected action ballot agent written directions in relation to the following matters relating to the protected action ballot:

- (a) the development of a timetable;
- (b) the voting method, or methods, to be used;
- (c) the compilation of the roll of voters;
- (d) the addition of names to, or removal of names from, the roll of voters;
- (e) any other matter in relation to the conduct of the ballot that FWA considers appropriate.

Sub-section 463(2) of the Fair Work Act 2009 provides that a protected action ballot agent must not contravene a term of a direction given by Fair Work Australia in relation to a protected action ballot.