

**SENATE STANDING COMMITTEE ON
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS**

**QUESTIONS ON NOTICE
SUPPLEMENTARY ESTIMATES 2009-10**

Outcome 5

DEEWR Question No. EW772_10

Senator Humphries asked on 30 October 2009, EEW Hansard Page 150.

Question

Relating to rights of individuals to appear before FWA in the event that legal representation is not approved

Are parties who have a conscientious objection to being a member of a union or an employer organisation provided with some means of being able to appear, in the event that they cannot appear through a lawyer?

Answer

Yes. If a party is a natural person, he or she can appear in person.

Alternatively, a person can be represented by any other person ('the second person'), as long as the second person is not a lawyer or paid agent, unless permission has been granted by Fair Work Australia (FWA) for that lawyer or paid agent to act for the first person.

Subsection 596(2) of the *Fair Work Act 2009* provides FWA with a discretion to grant permission for a person to be represented by a lawyer or paid agent if it would enable a matter to be dealt with more efficiently (having regard to the complexity of the matter), or it would be unfair not to allow the person to be represented because the person is unable to represent himself, herself or itself effectively, or it would be unfair not to allow the person to be represented taking into account the fairness between the person and other persons in the same matter.

Subsection 596(4) allows for employees or officers of the parties to appear for the parties even if they are lawyers/paid agents, or if the lawyers/paid agents are employees of certain bodies, including bargaining representatives.