

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

**QUESTIONS ON NOTICE  
Supplementary Budget Estimates 2012-2013**

**Outcome 4 – Workplace Relations and Economic Strategy**

**DEEWR Question No. EW0672\_13**

**Senator Abetz asked on 17 October 2012 , Hansard page 115**

**Question**

*Right of entry permits*

Senator ABETZ: Has it been drawn to the department's attention that there might be a gap in the law in relation to union officials who deliberately do not have a right-of-entry ticket and enter work sites so that they can only be charged with common trespass as opposed to being in breach of their right-of-entry permit, requiring the appropriate notice being given et cetera? First of all—to you, Parliamentary Secretary—has that been brought to the government's attention? You can take that on notice. Senator Jacinta Collins: The first to my knowledge—and I will take it on notice beyond this—was the discussion you had earlier today. Senator ABETZ: You can take that on notice. And the department? Mr Kovacic: To the best of our knowledge, it has not been brought to our attention.

**Answer**

- (a) The Department is aware of cases where people entering workplaces unlawfully have been charged by police. However the Department does not consider that this represents a gap in the right of entry provisions in the *Fair Work Act 2009* (FW Act).
- (b) Part 3-4 of the FW Act confers rights on officials holding right of entry permits to enter premises and exercise certain powers. Other laws authorise entry for other purposes, such as the investigation of occupational health and safety issues.
- (c) To qualify for a right of entry permit under the FW Act, Fair Work Australia must be satisfied that an official is a fit and proper person to hold the permit. Among the matters that Fair Work Australia must take into account is whether the official has ever been convicted of certain offences, including involving entry onto premises.
- (d) Persons who enter premises without the consent of the owner or occupier and who do not otherwise have a lawful excuse are liable to be charged with trespass, a statutory offence punishable by terms of imprisonment in many jurisdictions.