Senate Standing Committee on Education Employment and Workplace Relations

QUESTIONS ON NOTICE

Fair Work Amendment Bill 2013 Inquiry Hearing

22nd April 2013

Outcome 4 - Workplace Relations and Economic Strategy

Senator Back asked, Hansard page 52:

Question

Did the Department of Education, Employment and Workplace Relations (the Department) request an exemption from making a regulatory impact statement for the Fair Work Amendment Bill 2013?

Answer

While the Department did not request an exemption it did highlight practical issues associated with preparing an approved Regulation Impact Statement in a timely way, notwithstanding the extensive consultation undertaken regarding the provisions of the Fair Work Amendment Bill 2013.

Senator Back asked, Hansard page 52:

Question

Across the board, how many instances in the last five years have regulatory impact statements been exempted by government?

Answer

The Office of Best Practice Regulation within the Department of Finance and Deregulation has advised that there have been 26 exceptional circumstances exemptions granted since the current Regulation Impact Statement requirements commenced at the start of 2010-11.

Senator Back asked, Hansard page 55:

Question

Could the Department present to the Committee a table of areas of new or extended employer rights under the Fair Work Act?

Answer

As highlighted by Mr Kovacic during the hearings, this issue has been raised in previous estimates hearings. In response to a question on notice from Senator Abetz at Additional Estimates 2009-10 (DEEWR Question No.EW1066_10), the Department outlined new rights provided to employers under the General Protections provisions of the *Fair Work Act 2009* (FW Act) (see attached).

Additional employer rights under the FW Act introduced by the *Fair Work Amendment Act 2012* include:

- Employers covered by a modern award, or an organisation that is entitled to represent one or more employers covered by a modern award, were given the right to apply to the Fair Work Commission (FWC) to make a determination varying that modern award to remove an ambiguity or uncertainty or to correct an error. This amendment responded to Review Panel Recommendation 15.
- An employer does not have to bargain with an official of an employee organisation that is not entitled to represent the industrial interests of the employee in relation to work that will be performed under the proposed agreement. This amendment responded to Review Panel Recommendation 21.
- An employer may apply to FWC to dismiss an unfair dismissal application because the applicant has failed to attend a conference or hearing, failed to comply with a direction or order of FWC or failed to discontinue the application after a settlement agreement has been concluded. This amendment responded to Review Panel Recommendation 42.
- FWC may order costs against a party to an unfair dismissal matter if it is satisfied that they caused the other party to the matter to incur costs by an unreasonable act or omission in connection with the conduct or continuation of the matter. The amendment responds to Review Panel Recommendation 45.
- FWC may make cost orders against lawyers and paid agents, including where permission to represent a party has not been granted by FWC. The amendment responds to Review Panel Recommendation 46.