

Fair Work Amendment Bill 2014 Submission



SOUTH AUSTRALIAN WINE INDUSTRY
ASSOCIATION INCORPORATED

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Introduction

The South Australian Wine Industry Association (SAWIA) is an industry association representing the interests of wine grape growers and wine producers throughout the state of South Australia.

SAWIA is a not for profit incorporated association, funded by voluntary member subscriptions, grants and fee for service activities, whose mission is to provide leadership and services which underpin the sustainability and competitiveness of members' wine business.

SAWIA membership represents approximately 96% of the grapes crushed in South Australia and about 36% of the land under viticulture. Each major wine region within South Australia is represented on the board governing our activities. Where possible, SAWIA works with the national Winemakers Federation of Australia and state counterparts in the wine industry. In relation to this submission we will be seeking their views and support for the position we have made below.

SAWIA has a strong track record as an industry leader and pro-actively represents members and the greater wine industry with government and related agencies in all aspects of business in the wine sector.

SAWIA is a transitionally recognised association under Schedule 1 of the *Fair Work (Recognised Organisations) Act 2009*.

The Employee Relations Committee is one committee of SAWIA's that provides strategic direction in relation to employment and industrial relations issues for the industry in South Australia.

SAWIA welcomes the opportunity to put forward a submission regarding the Fair Work Amendment Bill 2014.

Background

The Australian Government has introduced a number of proposed amendments to the *Fair Work Act 2009*. The *Fair Work Amendment Bill 2014* (the Bill) was introduced to Parliament on 22 February 2014 and has been referred to the Senate Education and Employment Legislation Committee for review with their report due on 5 June 2014. The Bill seeks to:

- Respond to the Fair Work Review Panel Recommendations 2, 3, 6, 9, 11,12, 24, 28, 31 and 43;
- Establish a new process for negotiation of single enterprise greenfields agreements;
- Amend the right of entry framework of the Fair Work Act; and
- Provide for the Fair Work Ombudsman to pay interest on unclaimed monies

Proposed Amendments

SAWIA has sought feedback and comment from its standing Employee Relations Committee in relation to the proposed amendments as outlined in the Bill. The feedback received was favourable towards the proposed amendments and as a consequence SAWIA submits that it does not oppose the proposed amendments except for the proposed amendment as a result of the Fair Work Review Panel Recommendation 3:

'The Panel recommends that s.76 be amended to require the employer and the employee to hold a meeting to discuss a request for extended unpaid parental leave, unless the employer has agreed to the request.'

While the proposed amendments are not opposed SAWIA submits that the proposal to give an employee a reasonable opportunity to discuss a request to extend unpaid parental leave prior to an employer refusing it was not necessary given the current requirements of s.76 of the *Fair Work Act 2009* (the Act) as set out in the excerpt below:

76 Extending period of unpaid parental leave—extending for up to 12 months beyond available parental leave period

Employee may request further period of leave

(1) An employee who takes unpaid parental leave for his or her available parental leave period may request his or her employer to agree to an extension of unpaid parental leave for the employee for a further period of up to 12 months immediately following the end of the available parental leave period.

Note: Extended periods of unpaid parental leave can include keeping in touch days on which an employee performs work (see section 79A).

Making the request

(2) The request must be in writing, and must be given to the employer at least 4 weeks before the end of the available parental leave period.

Agreeing to the requested extension

(3) The employer must give the employee a written response to the request stating whether the employer grants or refuses the request. The response must be given as soon as practicable, and not later than 21 days, after the request is made.

(4) The employer may refuse the request only on reasonable business grounds.

(5) If the employer refuses the request, the written response under subsection (3) must include details of the reasons for the refusal.

Special rules for employee couples

(6) The following paragraphs apply in relation to a member of an employee couple extending a period of unpaid parental leave in relation to a child under this section:

(a) the request must specify any amount of unpaid parental leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts;

(b) the period of the extension cannot exceed 12 months, less any period of unpaid parental leave that the other member of the employee couple has taken, or will have taken, in relation to the child before the extension starts;

(c) the amount of unpaid parental leave to which the other member of the employee couple is entitled under section 70 in relation to the child is reduced by the period of the extension.

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No extension beyond 24 months after birth or placement

(7) Despite any other provision of this Division, the employee is not entitled to extend the period of unpaid parental leave beyond 24 months after the date of birth or day of placement of the child.

Section 76 sets out that the employer must provide the employee notice of the refusal in writing and the reasons for the refusal must be detailed, therefore the proposed amendment subsection 76(5)(5A) is not required. This proposed amendment is seen as adding another layer of unnecessary administration.

Other Amendments

It is positive to see that the proposed amendments seek to amend the Act to provide clarification around the payment of annual leave loading when employment ends and that annual leave does not accrue for an employee who is away from the workplace and in receipt of workers compensation payments.

Conclusion

The proposed amendments in the Bill, apart from proposed amendment subsection 76(5)(5A) are supported by SAWIA.