Queensland Government Submission

Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020

January 2021

Contents

Introduction and summary

The Queensland Government (Queensland) welcomes the opportunity to make this submission on the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 (The Bill).

On 1 January 2010 Queensland referred its remaining private sector industrial relations jurisdiction to the Commonwealth for inclusion in the national workplace relations system and the *Fair Work Act 2009* (Cth) (FW Act). Queensland has retained industrial relations jurisdiction over state and local government employees and notes that responsibility for fair work system employers and employees rests primarily with the Australian Government. However, the Queensland Government maintains a strong interest in the welfare of all Queensland employers and employees, regardless of whether they are covered in the state or federal industrial relations jurisdiction.

Queensland supports action to terminate long-expired 'zombie' enterprise bargaining agreements to apply with immediate effect and notes the prohibition on advertising employment at sub-minimum pay rates. It also welcomes the strengthening of the small claims process under Part 4-1 of the FW Act.

Queensland notes the inclusion of a statutory definition of casual employment in the FW Act designed to end the current disputes over the meaning of the term.

Queensland notes the measures to streamline the enterprise bargaining process, and to prevent hasty termination of enterprise bargaining agreements (EBAs) following their nominal expiry date. It also notes the extension of greenfield agreements, while noting the considerable latitude provided to the Minister for determining what qualifies as a 'major project' under the Bill's provisions.

Queensland has serious concerns regarding the proposed amendments which aim to reduce employment entitlements and protections for a considerable number of award-reliant workers in particular service industries. The amendments of concern to the Queensland include the automatic offsetting of casual workers' entitlements, simplified additional hours' agreements and flexible work directions, and the approval of EBAs that do not pass the 'better off overall test' (BOOT) all have clear potential to erode the rights of workers. It is noted that while some of the provisions are 'temporary' in nature, they will apply for the next two years. Queensland does not consider these measures to be necessary for the stated purpose of promoting the recovery of the national economy. Economic recovery cannot be built upon the diminution of workplace rights. Further detail of the Government's objections to these provisions is provided in Section 2.

Queensland is also concerned that the details of the wage theft measures in Schedule 5 of the Bill fail to provide a strong enough deterrent to deliberate underpayment and non-payment of wages and superannuation. Following amendments introduced through the Queensland Parliament in 2020, Queensland has strong and effective provisions to criminalise wage theft and does not want to see these measures diluted by ineffective federal regulation. Queensland therefore objects to the introduction of new subsections into section 26 of the FW Act explicitly providing that State and Territory based offences regarding wage theft are of no effect. These provisions should be removed from the Bill. It also notes that the proposed maximum penalty for individuals is significantly lower than those provided for in the Queensland and Victorian wage theft legislation. Queensland takes this opportunity to express its concern at the signal that this sends regarding the seriousness of wage theft as an offence, and to call upon the Australian Government to increase the maximum penalty for wage theft.

While supporting the inclusion of conciliation provisions for wage claims in the FW Act it considers that the operation of the proposed provisions could be strengthened by providing that matters discussed in conciliation provisions should not be used as evidence in subsequent court proceedings without the consent of both parties.

Finally, Queensland seeks to register its strong displeasure, as a signatory to the *Inter-Governmental Agreement for a National Workplace Relations System for the Private Sector* (IGA) at the perfunctory manner in which consultation was conducted by the Australian Government prior to the introduction of the Bill. The Government does not consider the brief period allowed to read the Bill, and the lack of any meaningful opportunity to suggest amendments prior to its introduction into Parliament, to be within the spirit of the IGA.

Recommendations

1. That the table in Schedule 5, clause 4 be amended to include increased pecuniary penalties where the employer is an incorporated small business that has committed serious remuneration-related contraventions.

2. That the approval of an enterprise agreement that does not pass the 'better off overall test' (BOOT) amendment be removed from the Bill. If it is retained then proposed subsection 189(1A) in Schedule 3, clause 19 be amended to permit employees covered by an approved agreement, or their bargaining representatives, to apply to the Fair Work Commission to opt out of the agreement and revert to the relevant award

3. That the proposed section 548C in Schedule 5, clause 10 of the Bill be amended to provide that evidence of matters discussed in a conciliation is inadmissible in any subsequent court proceedings

4. That Schedule 5, clauses 43-44 should be removed from the Bill. If clauses 43-44 are retained in the Bill, that:
   - a criminal offence for fraudulent falsification of records should be made; and
   - the note in the proposed section 324B(2) be amended to include superannuation as an amount payable to an employee

5. That the proposed section 324B(1)(a) in Schedule 5, clause 46 of the Bill be amended to provide for a maximum penalty for individuals of 10 years' imprisonment for individuals, and an unlimited fine for bodies corporate

1 - Noted provisions

Definition of 'casual employee'

Queensland notes that the Bill introduces a statutory definition for casual employment that relies on a status of 'no advance commitment' to indefinite employment but provides for conversion of employment to permanent after 12 months of a regular pattern. This is based on provisions that already exist in most modern awards.

Queensland notes that neither the FW Act nor the *Industrial Relations Act 2016* (Qld) (IR Act) currently includes a definition of casual employment. A common treatment of casuals in awards is that they are 'engaged and paid as such'.[1] Currently, awards may distinguish between casual employees and irregular casual employees. The proposed definition in the Bill emphasises that a regular pattern of hours does not of itself indicate a firm advance commitment to continuing and indefinite work according to an agreed pattern.

Queensland supports the requirement for the Fair Work Ombudsman (FWO) to publish an information statement on casual employment, and for this statement to be provided to new employees. It considers that this will promote better understanding of the rights of casual employees from the outset of employment.

On casual employment more broadly, Queensland submits that the experience with COVID-19 has highlighted the vulnerable position that many casual workers find themselves in. The Queensland Government therefore welcomes the current Senate Select Committee Inquiry on Job Security. That Inquiry provides an important opportunity to press reset button, look at the lessons from COVID-19 and consider whether the current level of casual and insecure employment is health for our economy and society.

Bargaining, voting and approval processes

Queensland notes the proposed amendment of section 171 to state that the object of Part 2-4 of the FW Act is to encourage good faith bargaining for enterprise agreements that deliver productivity benefits; enable business and employment growth; and reflect the needs and priorities of employers and employees.

Queensland notes that the Bill contains various proposed amendments aimed at streamlining of bargaining process to remove potential obstacles as a result of technical errors. These include a time limit of 21 days for the Fair Work Commission (FWC) to approve an EBA, and a requirement that, if the FWC does not make a determination within 21 days, it must give written notice to the parties and advise why it has not been able to determine the application.

This amendment may reduce approval timeframes, although the 21-day decision timeframe is not mandatory. The requirement to provide and publish written notice to all parties could increase the administrative burden and act counter to the desired effect of the new approval timeframes.

Termination of enterprise agreements and industrial instruments

Queensland supports the amendment to section 225 of the FW Act aimed at preventing immediate termination of EBAs after their nominal expiry. It notes that employers have increasingly exercised the termination of expired agreements to return workers to the award after failed bargaining negotiations.

Queensland notes that the new sections in the FW Act will provide for the automatic sun-setting of all remaining agreements under transitional FW Act provisions as at 1 July 2022.

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[1] See, e.g. *Workpac Pty Ltd v Rossato* [2020] FCAFC 84, [55].

While Queensland supports the termination of all pre-FW Act transitional instruments (zombie agreements), it calls on the Commonwealth to implement this with immediate effect to avoid prolonging these outdated arrangements which are at least a decade old for any longer than is necessary. Previous Queensland Governments have called for action on Work Choices agreements and other industrial arrangements preserved under transitional provisions to be sunset after a reasonable time. Automatic termination of remaining zombie agreements will likely have a net positive effect on affected workers' pay and conditions as they move to the relevant award or a new agreement. It has been six years since this situation was again highlighted in the Queensland Government submission to the 2016 Senate Inquiry into Corporate Avoidance of the Fair Work Act which recommended the automatic termination of all remaining Greenfield agreements made prior to 1 July 2007 to return workers to award coverage or encourage renewed enterprise bargaining in the workplace.[2] Queensland notes that this provision will also result in the termination of the One Big Order.[3] It is of the opinion that this will require further amendments to the *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009* (Cth) in order to maintain fair and equitable standards for employment of apprentices and trainees of non-constitutional corporations referred to the fair work system.

Extension of nominal expiry date of Greenfield agreements

The Bill contains various proposed amendments intended to provide greater long-term certainty for investors, employers and employees in relation to bargaining agreements covering new construction projects.

Queensland notes the amendment to allow the FWC to approve agreements with an extended nominal expiry date of eight years after the day the agreement comes into operation for a 'major project' as defined in the Bill. The Government submits that the Bill should retain the clause providing for annual wage increases of the base rate of pay for employees covered by the agreement. Queensland also notes the need for any long-term agreement to expressly include mechanisms by which employees can raise concerns regarding conditions and entitlements before the end of the life of the agreement.

Queensland notes the introduction of a statutory definition for a 'major project', and that the discretion granted to the responsible Minister to declare a project to be a 'major project' is broad, which has the potential to significantly restrict workers' rights to engage in enterprise bargaining with their employer and has potential to result in a substantial increase of eight-year agreements.

Action to address wage theft

Queensland has taken a lead role in responding to the growing scourge of wage theft, establishing the first dedicated parliamentary wage theft inquiry in the country to better understand the impact and extent of wage theft and develop practical and workable solutions to stamp it out. While the Government has taken the action it can at a state level, the fact is these are matters requiring national responses. Queensland believes that action by the Australian Government to rectify the serious issue of employer non-compliance and introduce tougher workplace laws to deal with wage theft and exploitative labour hire arrangements is long overdue. It is pleased to see the Australian Government is now legislating to strengthen the Fair Work regulatory framework, including the criminalisation of wage theft, although it notes that the proposed maximum penalty is significantly lower than that applying to stealing

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[2] Queensland Government, Submission No. 150 to Senate Standing Committee on Education and Employment, Parliament of Australia, *Inquiry into Corporate Avoidance of the Fair Work Act* (2016) 17.

[3] Queensland Industrial Relations Commission, *Order – Apprentices' and trainees' wages and conditions (Queensland Government Departments and certain government entities) 2003* (AN140326, 2 January 2001).

and fraud offences under the Queensland Criminal Code. In addition, Queensland retains concerns regarding the impact of the Bill's provisions on its ability to pursue employers for non-payment of superannuation, paid long service leave, and other entitlements not provided for in the FW Act. This is discussed further in section 2.

Queensland is equally pleased to see that the Australian Government is taking action beyond the institution of criminal penalties. For example, it considers prohibiting the advertisement of employment at sub-minimum pay rates to be a long overdue measure. The Government supports the Bill's amendments to the small claims procedure under section 548 of the FW Act, especially the alignment of the award threshold in section 548(2)(a) and the disapplication of the costs award provisions in section 570. It notes that the report of the Queensland Parliamentary inquiry into wage theft in Queensland (the Queensland Inquiry) noted filing fees for the Federal Court and Federal Circuit Court as a significant barrier to bringing of claims for many employees. The proposed reforms go some way to alleviating the cost barrier where claims are upheld.

Queensland supports the Bill's amendments to penalty provisions. It considers that the proposed increase in the maximum penalty applicable by an infringement notice will strengthen enforcement of wage and other employment conditions by the FWO. It also supports the proposed amendments to section 546 of the FW Act that will set the maximum penalty for serious remuneration-related contraventions as a multiple of the value of the contravention. It notes that this will at last provide a disincentive to corporate malfeasance that may be worth several times the maximum penalty associated with a contravention. Queensland notes, however, that as currently drafted, the increased civil penalties do not apply to incorporated small business employers, for whom serious remuneration-related contraventions attract lower maximum penalties than non-serious contraventions. Queensland considers this to be a drafting oversight in need of rectification.

Recommendation

1. That the table in Schedule 5, clause 4 be amended to include increased pecuniary penalties where the employer is an incorporated small business that has committed serious remuneration-related contraventions.

2 - Provisions not supported

Offsetting entitlements

Queensland notes that the Bill requires the 'offsetting' of entitlements where an employee has been paid an identifiable loading amount to compensate them for not having one or more relevant entitlements during a period of supposed casual employment that has subsequently been found not to be casual by a court. Further, it notes that, when making any orders in relation to the claim, a court must reduce any amount payable by the employer to the person for the relevant entitlements by an amount equal to the loading amount.

This amendment is clearly a response to the decisions of the Federal Court in *Workpac v Rossato*[4] and *Workpac Pty Ltd v Skene*,[5]. The Government considers that the automatic offsetting of entitlements does not deter the practice of misusing casual employment if there is no financial penalty to an employer.

Simplified additional hours agreements and flexible work directions

Queensland notes that the Bill provides for extension of 'flexible work directions' for 12 'identified awards' and the introduction of a statutory 'simplified additional hours agreement'

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[4] (n 1).
[5] [2018] FCAFC 131.

for a part-time worker to work extra hours at ordinary time rates. It notes that these provisions will continue in operation for two years from the commencement of the Bill.

Queensland notes that the provisions of Part 6-4D were initially introduced to supplement the JobKeeper wage subsidy payment scheme which is due to expire in March 2021. The extension of these types of directions for two years applies only to the identified modern awards to include terms that allow an employer to give a direction to an employee about:

- the duties to be performed by the employee; or
- the location of the employee's work.

Queensland recognises the importance of preserving employment for as many workers as possible during the current economic recovery. However, it notes that the 12 'identified' industries include industries such as hospitality and retail which have high levels of both award reliance and female participation.

The introduction of simplified additional hours' agreements combined with the 'flexible work directions' to override award provisions will provide employers with stronger powers to alter individual working arrangements without scrutiny. The Government also notes that the FWC will also be encouraged to approve enterprise agreements which are not BOOT compliant for two years. If the Bill is passed it is likely that a significant number of agreements will be approved on COVID-19 pandemic grounds that override a wide range of industry awards.

While the outcomes of enterprise bargaining must be published by the FWC there is no requirement for employers to report their use of simplified agreements or flexible work directions over the next two years. The impact of these changes will be difficult to assess.

As such, Queensland is concerned that the extension of 'flexible work directions' for a further two years may have significant consequences for workers in award reliant and insecure jobs in the hospitality and retail sectors. Changes that allow part-time workers to work 'additional hours' without the payment of overtime could result in effective wage cuts for the next two years. Changes to duties and location of workers in these industries also has the potential to erode award conditions. For example, an employer might potentially terminate the employment of an employee at a high classification under an award and direct a lower-classification employee to carry out their duties.

Further, the 'simplified additional hours' agreement' is, in effect, a form of a statutory individual agreement between an employer and employee within specified hospitality and retail dominated awards. While Queensland supports the individual flexibility terms included in modern awards under section 144 of the FW Act, it does so on the understanding that individual flexibility agreements:

- are the product of genuine negotiations between the employer and employee, and
- satisfy the requirement under section 144(4)(c) that the employee be genuinely better off.

Queensland notes that hospitality and retail employees generally have significantly less bargaining power than their employers. This renders them more vulnerable to predatory conduct, including wage theft. Simplified additional hours agreements, as described in the Minister's introductory speech and the explanatory notes accompanying the Bill, do not appear to include any protection for vulnerable employees beyond a requirement that minimum rate of pay, consultation and 'reasonableness' are considered by employers.

The economic impact of the COVID-19 health pandemic is hard to predict. However, the need for these types of flexibilities for two years until possibly March 2023 appears to be overestimated. The Government notes that the FWC can make determinations to vary the identified modern award industries included during this period. It also notes that this issue could be addressed by an employer under the proposed changes to the EBA. This would mean that there would be a more transparent approach and record of such arrangements over the next two years.

Therefore, in the absence of greater protection for vulnerable employees, therefore, Queensland considers these amendments to be unnecessary and does not support their inclusion in the Bill.

Approval of enterprise agreements that do not pass the BOOT

Queensland does not support the amendments which grant the FWC discretion to approve an agreement that does not meet the BOOT if approval would not be contrary to the public interest. As with simplified hours' agreements, Queensland acknowledges the aim of the amendments is to assist employers who have been impacted by the COVID-19 health pandemic. However, the financial benefits and flexibilities provided to employers are not considered to justify the potential erosion of employee entitlements until the nominal expiry of an agreement after two years. Economic recovery cannot be built upon the diminution of workplace rights.

Queensland notes the potential for such flexibility to enable exploitation of employees, particularly if an individual or cohort of employees are vulnerable, such as young workers or migrant workers, or if a substantial imbalance of bargaining power exists between the employer and its employees, for example where employees do not have a union or other bargaining representative.

If passed, the operation of the flexibility provisions should be carefully monitored considering the high likelihood that approved agreements will undermine award provisions during their period of operation. To ensure that employees are not unduly disadvantaged, Queensland considers it prudent to include a review mechanism by which employees covered by the agreement or their bargaining representatives may apply to the FWC to opt out of the approved agreement and revert to the relevant award.

Recommendation

2. That the approval of an enterprise agreement that does not pass the 'better off overall test' (BOOT) amendment be removed from the Bill. If it is retained then proposed subsection 189(1A) in Schedule 3, clause 19 be amended to permit employees covered by an approved agreement, or their bargaining representatives, to apply to the Fair Work Commission to opt out of the agreement and revert to the relevant award.

Evidence from conciliation proceedings

While Queensland supports the conciliation and arbitration processes in proposed sections 548C-548D, it considers that the provisions as drafted are insufficient for their intended purpose. It notes that the Bill does not provide for the inadmissibility of evidence from conciliation conferences without the consent of both parties. Nor does the *Evidence Act 1995* (Cth) provide for inadmissibility of evidence from conciliation or other ADR proceedings. This may affect the willingness of parties to participate in conciliation proceedings in a candid fashion, which has clear implications for the potential of such proceedings to reach a successful resolution. It is for this reason that section 507I of the IR Act provides that evidence of anything done or said, or any admission made, during conciliation (absent an agreement from both parties) is inadmissible during a hearing of the matter.

Recommendation

3. That the proposed section 548C in Schedule 5, clause 10 of the Bill be amended to provide that evidence of matters discussed in a conciliation is inadmissible in any subsequent court proceedings.

Exclusion of State and Territory laws

Queensland notes with considerable concern the additional sub-sections to be added to section 26 of the FW Act by clause 43 of the Bill. It understands that the proposed sub-sections (da) and (db) are intended to establish beyond any doubt the intention of the Australian Government to cover the field of criminal wage theft offences, thus invoking the operation of section 109 of the *Australian Constitution*.

However, if the provisions of the Bill prevail over those of state legislation, it may prevent the operation of offences that currently apply to non-payment of employee entitlements not explicitly provided for in the current FW Act or the note in the proposed section 324B(2). Of these, the most concerning is superannuation, which was shown to be a target of unscrupulous employers during the Queensland Inquiry. Long service leave, which in Queensland is provided for in the IR Act,[6] is another area of concern in that the exclusion may result in the Government being excluded from pursuing penalties where an employer has failed to fulfil its obligation in regard to long service leave entitlements. Were the Queensland Criminal Code provisions to be rendered ineffective by overriding Commonwealth legislation, it is not clear that non-payment of these entitlements would attract penalties under the proposed section 324B.

The Bill, therefore, has the potential to establish a statutory regime under which underpayment of some monetary employee entitlements is a criminal offence, but underpayment of others is dependent on civil litigation by affected employees. This is clearly counter to the aims of Schedule 5 of the Bill.

In addition, proposed sub-section (db) appears to have been drafted with a deliberate purpose to override the Queensland Criminal Code offence for fraudulent falsification of records (s430 Fraudulent falsification of records). A person engaging in the deliberate fraudulent falsification of records will generally engage in this activity with the purpose to conceal their undertaking of a known criminal offence. Acts of deliberate fraud conducted to deprive a person of their lawful property and/or to deceive or frustrate a Regulatory authority from being able to properly undertake its investigations is a serious contravention and should rightly constitute criminal offence. Fraudulent falsification of records is a long-standing offence in the Queensland Criminal Code and if it is to be overridden then there should be a corresponding criminal offence in the FW Act.

Queensland does not consider it necessary to prevent the operation of state and territory criminal offences in order for the aims of Schedule 5, Part 7 to be satisfied.

Recommendations

4. That Schedule 5, clauses 43-44 should be removed from the Bill. If clauses 43-44 are retained in the Bill, that:
   - a criminal offence for fraudulent falsification of records should be made; and
   - the note in the proposed section 324B(2) be amended to include superannuation as an amount payable to an employee.

Offences relating to underpayments

[6] *Industrial Relations Act 2016* (Qld) s 95.

Queensland notes that the penalties under the proposed section 324B are inferior to those in the Queensland Criminal Code (10 years imprisonment and/or an unlimited fine for stealing,[7] 14 years imprisonment and/or an unlimited fine for fraud[8]). It is concerned that the proposed penalties, while significant, are not sufficiently so to deter potential wage thieves. This is especially the case in light of the limited capacity for compliance and enforcement action by the FWO.[9] The Government is pleased that the trend at the time of the Queensland inquiry of steadily decreasing FWO enforcement and compliance budgets appears to have ceased, with the 2020–21 budget papers showing an increase of $38.9 million since the publication of the inquiry's report. It also notes that this budget increase has been accompanied by an additional 74 full-time equivalent positions. However, there is no transparency as to whether these positions are 'on the ground' inspectors conducting compliance and enforcement activities. As a result, the Government cannot be fully confident that the effectiveness of FWO enforcement has improved.

Further, Queensland considers that the penalties set down in the Queensland Criminal Code, coupled with the closely comparable penalties in the *Wage Theft Act 2020* (Vic)[10] reflect a community consensus that wage theft is an extremely serious offence.

The maximum penalty of 10 years imprisonment under the Queensland Criminal Code for stealing conducted by an employer in relation to their employee's property is set at the same corresponding penalty if the stealing is conducted by a clerk or servant (employee) in relation to their employer's property.

The setting of a lower penalty at the Commonwealth level appears to signal that the Commonwealth Government regards wage theft as a less serious act than, for example, the forgery of postage stamps (which attracts a maximum penalty of 10 years imprisonment[11]). While the Government does not suggest that this is the Commonwealth's intention, it is nonetheless concerned that sending such a signal would subtly embolden unscrupulous employers. This would undermine the purpose of Schedule 5 of the Bill. Increasing the proposed penalty to match those set by Queensland and Victoria would help confirm the federal Government is equally serious about addressing rampant wage theft.

Recommendation

5. That the proposed section 324B(1)(a) in Schedule 5, clause 46 of the Bill be amended to provide for a maximum penalty for individuals of 10 years' imprisonment for individuals, and an unlimited fine for bodies corporate.

3 - Consultation

Queensland notes that it referred its power to legislate regarding industrial relations to the Commonwealth Government on 1 January 2010. It did so pursuant to the *Inter-Governmental Agreement for a National Workplace Relations System for the Private Sector* (IGA) signed on 25 September 2009 by the then Federal Minister for Employment and Workplace Relations and on 11 December 2009 by the Queensland Minister for Industrial Relations.

Queensland notes that the IGA provides:

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[7] *Criminal Code Act 1899* (Qld) Sch 1, s 398 16.
[8] Ibid s 408C(2)(e).
[9] See, e.g. Education, Employment and Small Business Committee, Queensland Parliament, *A fair day's pay for a fair day's work? Exposing the true cost of wage theft in Queensland* (Report No 9, November 2018) 154-157.
[10] *Wage Theft Act 2020* (Vic) s 6(1).
[11] *Crimes Act 1914* (Cth) s 85G(1).

(a) *the Commonwealth will consult Referring States and the Territories on proposals to make amendments to the Fair Work legislation.*

(b) *the Commonwealth will consult Referring States and the Territories on draft amendments to the Fair Work legislation.*

(c) *Referring States and the Territories will be able to consider such proposals and draft amendments, and will be able to make proposals in response.*[12]

For this Bill, Queensland officers was granted a single, two-hour period in which to peruse the Bill, and a subsequent period of some three hours to ask questions of Commonwealth officers. No provision was made for any feedback from the Government, and the Bill was introduced into Parliament very shortly thereafter. There has been no formal consultation with Queensland's Minister for Industrial Relations.

In the circumstances, Queensland does not consider that this constitutes meaningful consultation, given the lack of opportunity to communicate the provisions of the Bill to the Queensland Cabinet prior to the Bill's introduction. Further, the Government regards the apparent total disregard for any proposals in response to the Bill prior to its introduction as a clear breach of clause 2.11(c) of the IGA.

The Australian Government has now had delegated responsibility for industrial relations across the entire private sector for all states and territories except Western Australia for 11 years. However, it is important that it remember that the interest of the referring states and territories in this area, as it pertains to their peace, order and good government, is ongoing.

[12] IGA, cl 2.11(a)-(c).