



Restaurant
& Catering

**SUBMISSION TO THE SENATE EDUCATION
AND EMPLOYMENT LEGISLATION COMMITTEE
RE: FAIR WORK AMENDMENT BILL 2014**

24 APRIL 2014

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Restaurant & Catering Australia

- 1) Restaurant & Catering Australia is the only peak organisation representing the interests of the 35,000 restaurants, cafes and catering businesses in Australia.
- 2) The Association has a national membership with offices in Sydney, Melbourne, Brisbane, Canberra, Adelaide and Perth.

About the Industry

- 3) The industry turns over some \$20 Billion per annum and is looking down the barrel of 8+% employment growth in the next twelve months. This growth is on top of a sizeable attrition from the industry due to the large number of casual employees engaged.
- 4) Approximately 63% of the industry earns an average 2% after tax and the overall average is only 4%. It is expected profits will further deteriorate in the short term. The restaurant sector is 58% of the hospitality industry and some 62% of employment in the industry. The average employment per business is 8 employees.

Fair Work Amendment Bill 2014

- 5) Restaurant & Catering Australia seeks to make the following submissions in respect to the particular amendments detailed in the Fair Work Amendment Bill 2014 (the Bill).
- 6) The Bill responds to a number of outstanding recommendations from the June 2012 review into the operation of the Fair Work Act by the Fair Work Review Panel which our organisation made written submissions and attended hearings.
- 7) The following sections of the Bill are therefore supported by our organisation:

Bill Amendment	RCIA support
Payment for Annual Leave	This provision will resolve the confusion surrounding the interpretation of s.90(2) of the Fair Work Act 2009 and restore the conventional approach identified by the Fair Work Act Review panel in 2012. RCIA supports this amendment.
Taking or Accruing Leave While Receiving Workers' Compensation	This provision will resolve loopholes that develop between inconsistencies in state workers compensation legislation and is supported.

Greenfields Agreements	These new provisions are supported.
Transfer of Business	This provision will overcome a number of previous difficulties with the transmission of businesses and therefore supported.
Protected Action Ballot Orders	Insofar as the protected action ballot order may only be made when bargaining has commenced is supported.
Right of Entry	These amendments are supported
Fair Work Commission Hearings and Conferences	These amendments allow certain matters to be determined on the papers rather than by compulsory hearing or conferences. This would appear to be a positive amendment for reducing red tape for businesses and is therefore supported.
Fair Work Ombudsman Unclaimed monies	These provisions ensure that the Fair Work Ombudsman must also pay an amount of interest to the former employer on unclaimed monies which it has collected but not dispersed and therefore this amendment is supported.

- 8) However, in respect to the following proposed amendments the Association opposes the changes to the Fair Work Act 2009:

Bill Amendment	RCIA Opposed
Individual Flexibility Arrangements	Genuine needs statement from employees is unnecessary as the very essence of an agreement is that both parties have agreed to the proposed flexible work practices. Whilst the inclusion of non-monetary benefits notation is welcomed it should not be subject to a further layer of complexity in getting a statement from individual employees. The risk for small business operators is that if they fail to obtain the statement in the correct form they may be subjected to penalties of up to \$51,000 for each separate breach which is a compelling disincentive to enter into IFA's. The parameters of IFA's need to be further simplified to ensure both parties understand the terms and conditions of such individual agreements and express provisions of what constitutes pass/fail of the BOOT test. It should also be made clear that an IFA proposal could be initiated by an employer.
Extension of Unpaid Parental Leave	Small businesses have difficulty in employing staff under such extended leave arrangements and therefore this amendment is opposed.

Conclusion

- 9) Restaurant & Catering Australia supports the majority of the amendments set out in the Bill, however has raised some concerns about the proposed changes to Individual Flexibility Arrangements and extended parental leave considering the impact this could have on small and medium sized businesses.

- 10) Restaurant & Catering Australia in representing small and medium sized businesses across Australia seeks the Committee to take into consideration the points raised in our submission.