

**Submission to the Senate Standing Committee on Education, Employment and Workplace Relations on the Fair Work Bill 2008 by the Chamber of Commerce Northern Territory (CCNT)**

1. CCNT considers these hearings as an opportunity to revisit the question of compassionate leave as it relates to Indigenous organisations.
2. CCNT has constantly and consistently pointed out to this government and the previous government that the compassionate leave provisions under existing and proposed legislation do not serve the needs of organisations that are major employers of Indigenous employees especially Indigenous organisations in remote areas.
3. The basis for our claim is as follows:

The compassionate leave provision does not take in to account –

- the extended family arrangements of Indigenous employees
- the extended household arrangements of Indigenous employees
- the broader Indigenous response to death known as “sorry business”
- the incidence of death and serious illness amongst Indigenous Australians

Since the serious illness and death events are uncapped and tied to the employee’s immediate family (*extended*) or household (*extended*) this provision is exceptionally expensive to implement in organisations with large numbers of Indigenous employees. At a time when Indigenous communities are being encouraged to form business enterprises this provision could quickly derail any initiative. Non Indigenous organisations with proactive Indigenous employment policies are equally concerned.

4. The matter has been identified in discussions and correspondence between the Chamber and previous Ministers without resolution and more recently with Minister Gillard.
5. In the recent decision of the AIRC on Award Modernisation (December 19, 2008) the Commission saw fit to recognise the special needs of Indigenous organisations. It contained the following paragraph:

**“Indigenous employing entities**

[108] The Chamber of Commerce of the Northern Territory (CCNT) submitted that the award modernisation program should take account of the special needs of indigenous organisations in remote areas. The CCNT submission indicated that such organisations operate a variety of businesses which reflect a range of local factors such as geography, climate, community needs, tourism, industry needs and national security. The view was expressed that the patterns of work in these organisations are unlikely to be catered for in modern awards. We think this submission

raises some potentially important issues for the award modernisation process. We shall make provision for the matter to be further considered concurrently with Stage 4 when the terms of modern awards generally applying to indigenous organisations will be clearer and there will be an opportunity to properly consider the impact and decide upon the necessary modifications”

6. The Chamber does not have the imprimatur, nor does it think it appropriate to offer a single prescriptive response to the issue. The factors to be considered vary widely across Australia and are exacerbated in remote communities where the tyranny of distance plays an additional role.
7. The Chamber believes that the answer may lie in giving the Forward with Fairness Office the capacity to grant exemptions to the Compassionate Leave Standard where it is clearly not in the interests of an Indigenous organisation and its employees to have such a provision imposed upon them. It would be up to the employer (and the union if party) through the agreement making process to seek leave to include a provision in an agreement that departs from the Standard while at the same time providing a sensitive, respectful, workable and productive alternative.

Regards  
Michael Maloney  
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