



**Committee Secretary
Senate Education, Employment and Workplace Relations Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600**

Dear Secretary,

RE: Combined NUW Branch Submission – Fair Work Bill 2008

Please find attached the above submission. We appreciate the extension given to our lodgement of this initial submission.

Given the timing of this exercise it has been difficult for the NUW Branches to co-ordinate a more fully detailed submission than the summary of recommendations and commentary provided. It is our intention to further lodge a more detailed supplementary submission prior to the completion of the public hearing stage of the Committees activities on this matter.

We would request an opportunity to address the Committee on our submission recommendations and concerns at the Queensland, Adelaide or Sydney public hearings if that is possible.

Your assistance with this matter has been greatly appreciated.

Yours Sincerely

**Craig Shannon
Industrial Officer
NUW NSW Branch
Submission co-ordinator
14 January 2008**

Fair Work Bill 2008:

NUW Combined State Branch Submission

Standing Committee on Education, Employment and Workplace Relations

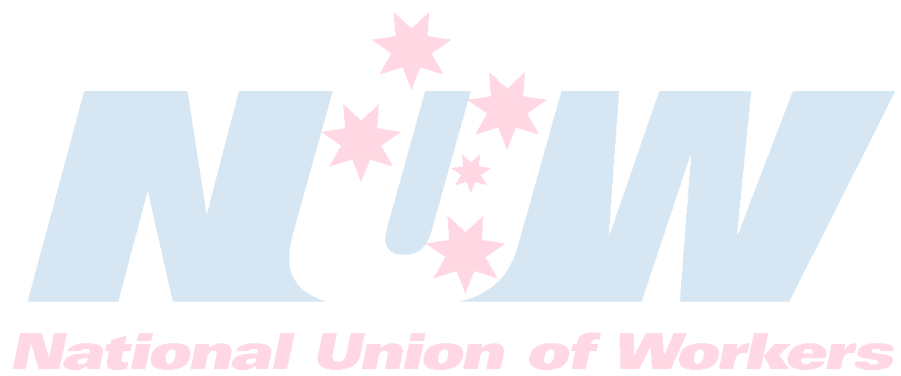


ABSTRACT

“This Bill must not become a smoke screen for the corporatisation of Federal/State unions, which if consolidated through this legislation will see a wholesale orgy of asset stripping State union memberships and assets, often in efforts to pay off accumulated debts.

This is the hidden truth that will underpin the legacy of this legislation and its consolidation of union members as minority shareholders in centrally controlled unions far removed from true accountability.”

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Glossary

ACTU: *Australian Council of Trade Unions*

AEC: *Australian Electoral Commission*

FWA: *Fair Work Australia*

FWB: *Fair Work Bill 2008*

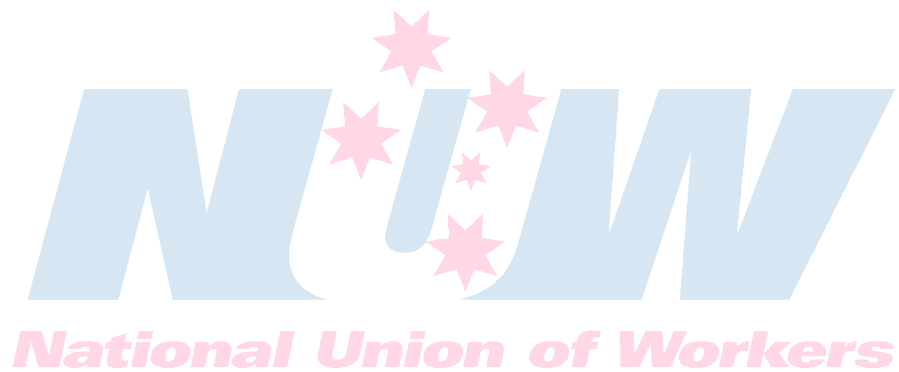
IRA: *Industrial Relations Act 1999 (Qld)*

IR Act: *Industrial Relations Act 1996 (NSW)*

NES: *National Employment Standards*

NUW: *National Union of Workers*

WHS: *Workplace health and safety*



The National Union of Workers

The Combined State Branches of the National Union of Workers (NUW) tendering this submission represent approximately half of the members of the federally registered NUW organisation.

We support the nature and content of our respective State Labour Council submissions on this Bill.

The National Union of Workers is Australia's largest distribution and transport, food, defence and mixed industries union. With a proud history including our role at the forefront of the campaign to establish industry superannuation funds, the National Union of Workers maintains proud Federal and State histories.

The National Union of Workers was formed by a progressive amalgamation of unions from 1989 onwards. These unions merged into the one larger union.

The six unions, which form the NUW, were established in the early part of this century and have been at the forefront of workers' achievements for nearly 100 years.

- * Federated Storemen and Packers Union (Est. 1912)
- * Federated Rubber and Allied Workers Union (Est. 1908)
- * Federated Cold Storage and Meat Preserving Employees' Union (Est. 1908)
- * Federated Millers and Manufacturing Grocers Union (Est. 1909)
- * Commonwealth Foremen's Association (Est. 1912)
- * United Sales Representatives and Commercial Travellers Guild (Est. 1888)

The National Union of Workers is a large and diverse general Union with members in almost all industries including the private and public sectors of employment.

We have around 90,000 members nationally and employ approximately 140 staff across all NUW offices. Combined, we represent workers under 160 Federal Awards and various State Awards as well as numerous enterprise agreements.

The main concentrations of NUW membership can be found in the following areas:

- * warehousing and distribution
 - * food manufacture
- * rubber, plastic and cable making
 - * dairy
 - * cold storage
- * poultry, fish and game processing
 - * skin & hide
 - * wool
 - * oil
 - * pet food
- * pharmaceutical manufacture

*** milling**
*** market research, merchandising and sales representatives**
and all casuals and part-time workers in those industries.

The NUW is registered under the Commonwealth and State Industrial Relations Acts and therefore has a legal right to represent its members. Our registered rules and objectives govern our responsibilities.

NUW Structure

The NUW is a democratic organisation. It operates under a set of Rules (the Union's Constitution), which provides that the supreme control of the Union is vested in the Union's members. Within this structure, the Rules also establish various elected bodies. These bodies and representatives play important roles.

The NUW relies on the organisation of its members on the job in order to operate effectively.

At workplaces that have NUW members, the members make decisions about the conduct of the Union in the workplace democratically.

Branches

There is a Branch of the NUW located in each state, as well as a Central Branch, which has a presence across all states. Each is governed by a Branch Committee of Management, which meets monthly to manage the affairs of the Branch. At least half of the members of the BCM must be rank and file representatives, with the rest made up of elected officials such as the Branch Secretary, President and Organisers. Elections for BCM are held every four years.

Branch Secretaries are responsible for the administrative and industrial affairs of members of their Branch. They are assisted by the other elected Branch officials, as well as full-time specialists in areas such as health and safety, industrial issues, training and organising.

National Office

The Union is governed at the national level by the National Council, which meets annually. The National Council is made up of all elected national officers, and delegates elected from each Branch. It is responsible for deciding the broad policies the Union will follow. Throughout the year, the Council's powers are held by the National Committee of Management, which consists of the Branch Secretaries and the National Officers.

The General Secretary and Assistant General Secretary of the National Office are responsible for the overall management and development of the Union, and are elected by the members every four years. The National Office also employs Industrial Officers and technical staff to support the Branches in their role of looking after members' needs

Executive Summary of recommendations

The National Union of Workers Combined State Branches submission notes and welcomes the introduction of the Fair Work Bill 2008 as a replacement for the worst excesses of the Workchoices Industrial regime.

This submission endorsed by the branches of the National Union of Workers who are signatories, expresses concern over several major issues of the Bill requiring amendment before the aspirations of our membership would be met.

The National Union of Workers supports the general criticisms of the Bill identified by the Australian Council of Trade Unions in its submission.

As a key union support for the “Your Rights At Work” campaign, our membership is engaged in the industrial debate and the majority of those members endorsed a Rudd Labor Government with anticipations as to the industrial outcomes they could see manifest in legislation to replace WorkChoices.

We believe that those expectations will not be met without urgent amendments to the Bill as follows:

- 1. The Act must recognise the historical existence and role of State unions and their structural inter-relationships with their Federal counterparts;**
- 2. The Act should strengthen the democratic control of Federally registered unions by their state based members and establish mechanisms to prevent the “corporatisation” of national unions where members become nothing more than minority shareholders of their own unions;**
- 3. The Act should ensure that State base registered organisations and their members are not disadvantaged in transition to a unitary system and provide a permanent mechanism for State registered unions to seek Federal registration. Should the State systems change in a future manner that would see this outcome protect members interests it should remain an option;**
- 4. The Act should require all Federal Unions to maintain a registration under State regulation to operate within that State, in a manner similar to the requirements that exist for companies;**
- 5. The Act should allow for parties to opt out of the national system so as to continue to be covered by State regulation;**
- 6. The capacity of FWA to arbitrate should be extended to every situation where the FWA or the parties involved form the view that the parties have exhausted all reasonable avenues to reach agreement;**

7. The Act should recognise a set of procedures for the provision of funding and assistance to Federal and State unions to facilitate the internal harmonisation of registered organisations rules to comply with the imposed unitary model. This should recognise the need to ensure democratic control concerns through procedures and funding, to ensure members decide the form and nature of their industrial organisations under the new system;
8. The Act should establish a process for an open review with public submissions as to the future nature and regulation of organisations under the unitary system to ensure the harmonisation of State and Federal organisations does not adversely impact on member's interests. This would then also allow a process to consider the unique nature of issues in this area as raised by the UnionsACT submission;
9. Changes should be made to ensure that employees in New South Wales, Queensland, South Australia and Western Australia are not disadvantaged by the move to standardised conditions contained in the NES and modern awards;
10. Limitations as to what the parties can agree to include in agreement should be removed;
11. Agreements should be allowed to contain provisions dealing with contractors and labour hire workers;
12. Greenfields agreements should allow for new employers working on the project to be added with their agreement;
13. Dispute settlement procedures in agreements and modern awards should explicitly allow for those making those instruments to include a provision conferring upon a body or person a power to arbitrate any dispute arising under such award or agreement;
14. There should be a new general provision permitting a person to make an application to vary their terms and conditions of employment where such terms are determined by FWA to be harsh, unfair or unreasonable;
15. Parties should be prevented from seeking interlocutory orders from courts to prevent industrial action if they have not first sought relief from FWA;
16. The Act should ensure that any contracted employee at an enterprise, performing work regulated under a modern award or associated agreement on that site, cannot be remunerated less than the applicable award or agreement.
And,
17. Transitional provisions should recognise the unique nature of the ACT jurisdiction and its relationship historically with the NSW Industrial environment. Provisions to recognise

State registered organisations to operate within the ACT in accordance with historical custom and practice must be incorporated into the Bill.

Summary of Combined Branches View

As State registered Industrial Unions, our Branches expressly make this submission with a primary concern about the failure of the process to scrutinise the true impact of the Bill on the historical structures, relationships and activities of State registered organisations and their Federal counterparts.

This failure is a breach of the duty of care maintained by the Parliament to the interests of those workers represented by these organisations. As union organisations are micro - managed with a regulatory scrutiny well beyond any stock listed company, the Parliament has an onus to balance this intervention with recognition of the societal role and activities of union organisations.

It is the Parliament that has determined the primacy of the need to ensure the democratic control of union organisations through legislation and therefore it is parliament that maintains a duty in this area.

The establishment of a unitary industrial model under this Bill is an evolution of the imposition of this agenda through the previous Governments legislation and the historic use of the Corporations powers.

It is an evolution still not embraced willingly by many practitioners. The ongoing limitations of union rights to organise, and attend workplaces, and restrictions on bargaining activities contained under the Bill, are a serious concern to us.

It is the contention of this submission that the move to a single national system is already creating an environment where registered organisations will be encouraged to centralise and reduce the democratic control of union structures. This would be alarmist, where it not for the fact that as affiliate branches of a national organisation we have already been forced to mount a successful court actions to prevent a pre-emptive smash and grab effort on State branch assets by our central national union administration.

It disturbs us that this Bill will consolidate the incentive and opportunity for federal union organisations to reduce structures and centralise income away members at the State level. The Initial efforts by the NUW office to establish a centralised structure (in accordance with the principals of a unitary system advocated by this Bill) would have overnight removed \$3 million in State based members revenue from State member control and placed it in the control of Melbourne based Federal Officials. Thankfully due to Federal court intervention, these efforts were stopped at this time.

It is our organisations concern that the current premise of the Bill encourages federal organisations to effectively corporatize their organisations to remove State based structures contrary to the principles of democratic control.

This Bill must not become a smoke screen for the corporatisation of Federal/State unions, which if consolidated through this legislation will see a wholesale orgy of asset stripping State union memberships and assets, often in efforts to pay off accumulated debts.

This is the hidden truth that will underpin the legacy of this legislation and its consolidation of union members as minority shareholders in centrally controlled unions far removed from true accountability.

If this Bill imposes a future where State entities cease to exist it will achieve nothing more than reduction in service delivery to members in need, and a corporatizing of the union members assets away from local control and transparency .

Authorised by:

Derrick Belan
Secretary
NSW Branch

John Cosgrove
Secretary
QLD Branch

Nick Thredgold
Secretary
SA Branch

Joe Bullock
Secretary
WA Branch

14 January 2008

