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AFEI submission to the:
House Standing Committee on Education and Employment
Committee Inquiry into the
Fair Work Amendment (Better Work/Life Balance) Bill 2012

February 2012

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Australian Federation of
Employers & Industries

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Australian Federation of Employers and Industries (AFEI)

The Australian Federation of Employers and Industries (AFEI), formed in 1904, is one of the oldest and most respected independent business advisory organisations in Australia. AFEI has been a peak council for employers in NSW and has consistently represented employers in matters of industrial regulation since its inception.

With over 3,500 members and over 60 affiliated industry associations, our main role is to represent, advise, and assist employers in all areas of workplace and industrial relations and human resources. Our membership extends across employers of all sizes and a wide diversity of industries.

AFEI provides advice and information on employment law and workplace regulation, human resources management, occupational health and safety and workers compensation. We have been the lead employer party in running almost every major test case in the New South Wales jurisdiction and have been a major employer representative in the award modernisation process under the Fair Work Act.

AFEI is a key participant in developing employer policy at national and state (NSW) levels and is actively involved in all major workplace relations issues affecting Australian businesses.

Submission

AFEI does not intend to make a detailed submission on the content of this Bill as in our view it is completely unworkable and lacking in merit.

We are strongly opposed to the extension of the right to request, the involvement of third party representation, the entrenchment of the right to request as a bargaining matter and empowering Fair Work Australia to determine and enforce “reasonable requests”.

Through our daily work with employers of all sizes across many industries we know there is already significant concern about how to manage these requests. The current provisions of the Fair Work Act are already problematic and the proposed amendments will exacerbate this situation. Further the proposed amendments increase the likelihood that “reasonable business grounds” will be construed against them in other jurisdictions such as work health safety and discrimination, as well as in Fair Work Australia.

There are already many things that employers do to accommodate their employees’ non work needs. Frequently, these come as a cost to the business, reflected in losses in efficiency, productivity, corporate knowledge, etc. Effective workplace management is already very difficult to achieve and subject to a very wide range of regulatory constraint. If the NES create additional impediments to the efficient deployment of the workforce and the efficient functioning of the business, performance and jobs will suffer.

The justification for such a measure based on longer work hours is not substantiated. The “figures” do not show “*that the average full-time working week in Australia is 44 hours—the longest in the developed Western world*”.¹ If they were, this could be viewed as the consequence of Australia having more jobs and hours available for work than the rest of

¹ A Bandt First Reading Speech

the developed Western world, much of which is currently in economic crisis or decline. However, full time hours worked per week in Australia have been declining for the past three decades. The longest hours are worked by managers and the self employed, not by the bulk of the employed workforce who now work on average 33.9 hours per week (41.0 full time; 17.1 part time; 30% of the workforce works part time and 30% of the workforce works, on average, 35-40 hours per week).²

The proposition that business will benefit from this reform and there will be a productivity bonus for the economy is fanciful; the impact of such additional regulation will be costly for businesses.

The proposed legislation is particularly untimely given the overwhelmingly consistent response of employers and industry to the review of the Fair Work Act that key provisions are in need of reform.

² ABS Australian Labour Market Statistics 6105.0 January 2012; October 2010.