

ACCI RESPONSE TO RECOMMENDATIONS

TOWARDS MORE PRODUCTIVE AND EQUITABLE WORKPLACES: AN EVALUATION OF THE FAIR WORK LEGISLATION

The Australian Chamber of Commerce and Industry (ACCI) has reviewed the recommendations of the three-member panel contained in its report, *“Towards more productive and equitable workplaces: An evaluation of the Fair Work legislation”* (2012), on the operation of the *Fair Work Act 2009* (FW Act) and the *Workplace Relations Amendment (Transition to Forward with Fairness Act) 2008*.

ACCI and its members provided detailed submissions as part of the Post Implementation Review of the legislation. Those submissions also addressed a range of related workplace policy issues, not limited to the Fair Work legislation which are also impacting employers and business. ACCI reiterates its strong support for implementing those recommendations in full.

ACCI’s response to the panel’s recommendations is without prejudice to ACCI or its members’ further consideration.

Recommendation	Response
1.	ACCI’s recommendations, if implemented, would achieve these policy goals and objectives.
2.	Strongly supported.
3.	Opposed.
4.	Opposed.
5.	Opposed.
6.	Strongly supported.
7.	Under consideration.
8.	Support in-principle subject to consideration of detailed amendments.
9.	Conditional support for the better off-overall test in s.144(4)(c) and s.203(4) amended to expressly permit an individual flexibility arrangements to confer a non-monetary benefit on an employee in exchange for a monetary benefit. This should apply equally to s.193 of the FW Act. Oppose other limb of recommendation.
10.	Strongly opposed.
11.	Conditional support for the FW Act to be amended to provide a defence to an alleged contravention of a flexibility term under s.145(3) or s.204(3) where an employer believed on reasonable grounds, that all relevant statutory requirements are met. Oppose other requirements which are linked to recommendation 10.
12.	Support in-principle. However, this should be amended in line with ACCI’s written submissions/recommendations.
13.	Opposed. Section 341(3) currently applies to the issue.

14. Support in-principle subject to consideration of detailed amendments.
15. Strongly supported.
16. Under consideration.
17. Strongly opposed.
18. Strongly opposed.
19. Opposed.
20. Strongly opposed.
21. Strongly supported.
22. Opposed.
23. Opposed.
24. Strongly supported. This should be amended in line with ACCI's written submissions/recommendations.
25. Supported.
26. Opposed.
27. Opposed. Amendments to address greenfield agreement making should be amended in line with ACCI's written submissions/recommendations.
28. Strongly opposed.
29. Opposed. Whilst the problem of greenfield agreement making has been correctly identified by the panel, amendments to address greenfield agreement making should be amended in line with ACCI's written submissions/recommendations.
30. Opposed. Whilst the problem of greenfield agreement making has been correctly identified by the panel, amendments to address greenfield agreement making should be amended in line with ACCI's written submissions/recommendations.
31. The first paragraph of the recommendation is strongly supported. The second paragraph of the recommendation is strongly opposed.
32. Opposed.
33. Strongly opposed.
34. Opposed.
35. Support in-principle subject to consideration of detailed amendments.
36. Strongly opposed.
37. Strongly opposed.
38. Supported. Amendments to address transfer of business provisions should be made in line with ACCI's written submissions/recommendations.
39. Opposed.
40. Conditional support for the FW Act to be amended to allow an extension from 14 days to 21 days if the existing exceptional circumstances provisions are removed in line with ACCI's written submission/recommendations.
41. Opposed.

42. Support in-principle subject to consideration of detailed amendments.
43. Support in-principle subject to consideration of detailed amendments.
44. Strongly supported. No requirement to amend FW Act to implement.
45. Support in-principle subject to consideration of detailed amendments.
46. Supported.
47. Strongly supported. Amendments to address general protections' provisions should be made in line with ACCI's written submissions/recommendations.
48. Strongly opposed.
49. Conditional support to amend FW Act to align time limit for lodging a general protections claim relating to a termination of employment with unfair dismissal applications.
50. Relevant to institutional framework and supported in-principle.
51. Relevant to institutional framework and supported in-principle.
52. Supported.
53. Supported.