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JULIA IRWIN MP

THE HON JULIA GILLARD MP
DEPUTY PRIME MINISTER

Parliament House
Canberra ACT 2600

29 JUL 2008

Mrs Julia Irwin MP
Chair
Standing Committee on Petitions
PO Box 6021
Parliament House
CANBERRA ACT 2600

JG
Dear Mrs Irwin

Thank you for your letter of 27 May 2008, enclosing a petition on job security and working conditions presented to the House of Representatives on 26 May 2008. I apologise for the delay in responding.

I note that the petition is dated 2007 and the intent of the petition is to draw attention to the adverse impact on Australian employees of the previous government's workplace relations laws, including Work Choices. The petitioners call on the Australian Government to reverse those changes and to produce instead a plan for a fair workplace relations system.

The Government understands the concerns of the petitioners and is addressing the specific issues raised in their petition. The *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008* came into effect on 28 March 2008. The Government has put in place transitional arrangements to ensure a sensible and measured phasing in of a new workplace relations system based on the Government's election commitments as set out in *Forward with Fairness* and the *Forward with Fairness Policy Implementation Plan*. Later this year, further legislation will be introduced into the Parliament to ensure that a new, fair and balanced workplace relations system is fully operational by 1 January 2010.

A number of important *Forward with Fairness* election commitments, together with key provisions in the Transition to Forward with Fairness Act, cover the specific concerns raised by the petitioners.

Rights for Australian workers who are unfairly dismissed

The previous government's Work Choices laws included an exemption from unfair dismissal protection for employees in businesses with 100 or fewer employees. The Government will ensure that all employees have protection from unfair dismissal but will also balance the needs of employers, particularly small business employers, to manage their workforce with a simpler, faster system for making and resolving unfair dismissal claims.

A strong safety net of minimum awards and conditions

The previous government's changes to the workplace relations laws allowed individual Australian Workplace Agreements (AWAs), to undercut the award safety net. The Government, has already passed the *Transition to Forward with Fairness Act*, which does not allow any new AWAs to be made and has put in place a genuine no disadvantage test for all workplace agreements to provide better protection for employees. The benchmark for the new no-disadvantage test is the full range of entitlements in an earlier collective agreement or award.

In the Government's new workplace relations system the safety net will be in two parts. All Australian employees will be protected by a legislated safety net of 10 National Employment Standards (NES). On 16 June 2008, together with the Prime Minister, I released the final version of the proposed new NES after a period of extensive consultation. NES will ensure that all employees are protected by a strong safety net of fair minimum conditions that cannot be stripped away. Modern and simple awards will provide additional protection for award covered employees. The Australian Industrial Relations Commission has already commenced award modernisation.

An independent umpire to ensure fair wages and conditions and to settle disputes

The Government has committed to establishing a new independent umpire to be called Fair Work Australia. Fair Work Australia will oversee the new workplace relations system and promote fairness and flexibility in Australian workplaces. It will be established as a one-stop-shop to provide employees and employers with information about their rights and responsibilities and will help them resolve workplace disputes and grievances.

The right for employees to bargain collectively for decent wages and conditions

Under the previous government's Work Choices laws, even where a majority of employees at a workplace wanted to collectively bargain, their employer could simply refuse to collectively bargain with them. There is currently no legal obligation for an employer to sit down with employees to have a discussion about the working conditions and arrangements that apply at their workplace.

Collective agreements based on bargaining at the level of the enterprise will be at the heart of the Government's new workplace relations system. Where an employer refuses to bargain collectively with its employees, Fair Work Australia may determine the level of support for collective bargaining amongst employees in the workplace. If a majority of employees at the workplace want to bargain collectively, their employer will be required to bargain collectively with them in good faith.

The right for workers to reject individual contracts which cut pay and conditions and undermine collective bargaining and union representation

There will be no AWAs or any other statutory individual employment agreements in the new workplace relations system. The Government has already prevented the making of new AWAs during the transition to the Government's new workplace relations system. Individual Transitional Employment Agreements may be made but are available only in limited circumstances and for a limited time to ensure a smooth transition to the new workplace relations system.

The right to join a union and be represented by a union

Freedom of association is a basic democratic right for all Australian workers.

In the new workplace relations system, all employees will be free to decide whether or not to join a union. It will be unlawful to try to stop a worker from exercising free choice by threats, pressure, discrimination or victimisation.

Employees will have the right to seek advice, assistance and representation from their union in the workplace.

I trust this information on key aspects of the new workplace relations system is of assistance to the Standing Committee on Petitions.

Yours sincerely


Julia Gillard
Minister for Employment and Workplace Relations