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United Firefighters Union of Australia

Submission

to the

House of Representatives Standing Committee

On Education and Employment

Inquiry into

Fair Work Amendment

(Better Work/Life Balance) Bill 2012

The United Firefighters Union of Australia

1. The United Firefighters Union of Australia ("the UFUA") is the registered federal union for career firefighters in Australia.
2. The UFUA has eight branches in Tasmania, South Australia, Victoria, ACT, New South Wales, Queensland, Western Australia and the Aviation section branch.
3. The UFUA has a very high level of union membership with the majority of branches averaging about 95-100 per cent membership of the relevant workforce. The UFUA represents firefighters employed on a permanent full time basis, permanent part time basis and on a casual basis.

The Fair Work Amendment (Better Work/Life Balance) Bill 2012

4. The UFUA notes the introduction of the Fair Work Amendment (Better Work/Life Balance) Bill 2012 ("the Bill") would further recognise the need to balance work, life and family and that achieving work/life balance is a priority for many employees. However, individual circumstances must be balanced in the context of the workplace or industry.
5. The UFUA supports the Bill in that it specifically provides that flexible arrangements cannot be inconsistent with a term of an enterprise agreement.
6. Section 306I (2) of the Bill provides:

"A term of a flexible working arrangements order has no effect in relation to an employee to the extent that it is inconsistent with a term of an enterprise agreement that applies to the employer."

7. Those that negotiate the enterprise agreement are best placed to negotiate a provision that meets the requirement of the industry and the workplace. The parties are best placed to negotiate a provision that can recognise the issues that arise in that workplace and to accommodate those issues within the context of the requirements of the industry. This can be done without being inconsistent with the enterprise agreement.

8. The firefighting industry is an example where the opportunity to provide for individual needs is fettered by the requirement to provide a 24 hour a day, 7 day a week service by highly skilled and trained employees to perform a highly dangerous and specialist job. The manner in which the service is provided has been negotiated collectively and is enshrined in a roster system. That roster system is reflected in enterprise agreements and has prevailed through various disputes and through the award simplification and modernisation processes.
9. The roster system is the cornerstone of an effective and reliable fire service. It is in widespread use throughout Australia. It regulates the start and finish times and ensures appropriate cover by trained and highly skilled firefighters at any time. It includes the remuneration system of rates of pay, shift loadings and allowances.
10. The 10/14 roster was introduced in Victoria in January 1971. At the time it was hailed by the UFU members as the union's biggest achievement. The firefighters welcomed the certainty around family and work life as well as the inclusion of provisions to ensure they were rested which greatly improved their performance. Therefore the introduction of shift work in itself provided for work/life balance as it has concentrated time off work and leave requirements built in.
11. Just as importantly, the roster system fosters teamwork and knowledge of skills. Firefighters must be able to rely upon one another for their own safety. Knowledge of one another's skills and how each other performs in various situations is essential for sound decision-making in highly stressful, and often life-threatening circumstances. A firefighter needs to know he or she can rely on every other firefighter they are working with. To walk into a burning building to perform a rescue there needs to be a high level of trust.
12. The deployment of firefighters at a fire ground will be determined by the senior officer and based on the knowledge of the skills and experience of the individual firefighters and how they perform in various situations. Having worked together on shift for a period of time those decisions are more easily made and put into action as each crew member can rely on skills of the other.

13. The shift work system ensures a range of ranks and experience are on shift together. They work and live together while on shift. They drill together repeatedly so that the tasks become second nature. They know each other's strengths and weaknesses and as a result work effectively and efficiently together at the fire ground. They are able to make and implement decisions immediately. This system is integral to the safety of firefighters when responding to any fire or incident.
14. The roster system has been tested, and prevailed, through various disputes and judicial proceedings. There have been disputes about the use of day workers and the applicability of part time work was canvassed during award simplification and modernisation processes. Those jurisdictions have upheld the roster system in determining that in order for the fire service industry to meet its needs.
15. The roster system has also been tested during award simplification and modernisation of awards. During the award simplification process, the Australian Industrial Relations Commission ("The AIRC") considered the issue of part time work in the firefighting industry in the context of the then legislative requirement to modify awards to ensure they did not contain provisions that would hinder productivity and the efficient performance of work. It was also a requirement to introduce provisions allowing for part time work unless the AIRC considered it inappropriate.
16. Evidence provided to the AIRC during that process included evidence from firefighters who stated they would be more cautious and concerned about their safety on the fire ground if working with a part time employee as they would need to be more mindful of the skills and experience and previous exposure to similar situations of the employee. They would be more cautious as the part time employee would not have been part of the shift roster and therefore would not have the same experience of training and working with that team; and this would affect the proper operation of that team.
17. The AIRC agreed with that due to the nature of the industry and the firefighting occupation, it was not appropriate to employ part time firefighters.¹
18. Therefore any flexible working arrangement should not undermine that roster system which is central to the provision of the fire service to the community. As the roster/shift system is a key provision in firefighting enterprise agreements, it follows that any flexible working arrangement should not be inconsistent with any enterprise agreement applicable to the employer.

¹ AIRC, Hingley C, Dec 128/00 M Print S3127)

19. There is the ability for flexible working arrangements to be consistent with the enterprise agreement.
20. For family reasons, for example the birth of a child, there are times where firefighters need a period of time where they cannot work the usual shift pattern. Alternative arrangements have been made which do not undermine the roster system, and are not inconsistent with the enterprise agreement. For example, there are non-shift positions and these have been used in other situations such as return to work programmes after injury or illness.
21. The requirement for any flexible working arrangement to be consistent with the enterprise agreement does not disadvantage any group of employee. The UFUA has the ability to consult and discuss any issues, including issues specific to any one group, to ensure the needs of its members are accommodated in the workplace. This includes groups such as women firefighters and issues such as flexible working arrangements.

Conclusion

22. Regulated hours of work through a roster system is integral to the provision of firefighting services. Not only does it provide certainty of staffing but it is integral to the way in which firefighters perform their duties. As a shift they work closely together and understand each other's strengths and weaknesses. They can rely on each other and that trust is central to the way in which they work on the fire ground and their own health and safety.
23. The roster/shift system is a key provision of the enterprise agreement. The enterprise agreement is the primary vehicle for the terms and conditions of employment. The parties are best placed to negotiate terms and conditions to meet the needs of the individual while balancing the requirements of the workplace.
24. Flexible working arrangements can still be accommodated and have been accommodated without creating an inconsistency with the enterprise agreement. The requirement for a flexible working arrangement to be consistent with the enterprise agreement does not disadvantage any specific group.

25. The UFUA supports the Bill in that it provides that any flexible arrangements cannot be inconsistent with any enterprise agreement that is applicable to the employer.

Dated 29 March 2012

Peter Marshall
UFUA National Secretary