

## APPENDIX V

### SUGGESTED AMENDMENTS to *Workplace Relations Act 1996* Amendments highlighted in Bold

#### Section 4(1) "Definitions"

- (\*) "employee" includes:
- (a) any person whose usual occupation is that of employee; and
  - (b) **any person (not being the occupier of a factory) who performs outside a factory, for the occupier of a factor or a trader who sells TCF products by wholesale or retail, any work in the TCF trades for which a payment or rate is fixed by an award (in which case the occupier or trader is taken as the employer);**

but does not include a person who is undertaking a vocational placement.

- (\*) "employer" includes:
- (a) a person who is usually an employer; and
  - (b) an unincorporated club; and
  - (c) **the occupier of a factory or a trader who sells TCF products (by wholesale or retail) who gives out any work in the TCF trades (for which a payment or rate is fixed by an award) directly to a person (not being the occupier of a factory) who performs that clothing work outside a factory.**

#### S.170 VQ Effect of AWA on awards and agreement:

S.170 VQ (1) [Award] During its period of operation, an AWA operates to the exclusion of any award that would otherwise apply to the employee's employment, **except in relation to any award concerning the giving out of work to be performed outside a factory (in which case an AWA does not operate to the exclusion of such an award).**

This subsection has effect subject to subsections (2) and (3).

S.170 VQ (4) [State award or agreement] - During its period of operation, an AWA operates to the exclusion of any State award or State agreement that would otherwise apply to the employee's employment, **except in relation to any state ward concerning the giving out of work to be performed outside a factory (in which case an AWA does not operate to the exclusion of such a State award).**

### S.170 VR Effect of AWA on other laws.

170 VR (1) [Conditions in State law] Subject to this section an AWA prevails over conditions of employment specified in a State law, to the extent of any inconsistency.

- (2) [Provisions operating subject to State law] Provisions in an AWA that deal with the following matters operate subject to the provisions of any State law that deals with the matter:
- (a) occupational health and safety;
  - (b) workers compensation;
  - (c) apprenticeship;
  - (d) **the giving out of work to be performed outside a factory;**
  - (e) any other matter prescribed by the regulations.

### S.285B Investigating suspected breaches of Act etc

285B (1) [Application of section] This section applies if a person who holds a permit in force under this division suspects that a breach has occurred, or is occurring, of:

- (a) this Act; or
- (b) an award, an order of the Commission, or a certified agreement, that is in force and binds the organisation of which the person is an office or employee.

(2) [Entry of premises] For the purpose of investigating the suspected breach, the person may enter, during working hours, any premises where employees work who are members of the organisation of which the person is an officer or employee, **or any premises from which work is being given out to be performed outside those premises.**

(3) [Inspection of documents etc] After entering the premises, the person may, for the purpose of investigating the suspected breach:

- (a) require the employer of the employees to allow the person, during working hours, to inspect and, if the person wishes, to make copies of any of the following that are kept by the employer on the premises and are relevant to the suspected breach:
  - (i) any time sheets; or
  - (ii) any pay sheets; or
  - (iii) **any records relating to the giving out of work to be performed outside those premises; or**
  - (iv) any other documents, other than an AWA, an ancillary document or a document that shows some or all of the content of an AWA or an ancillary document; and

### S.285D Conduct not authorised under sections 285B and 285C

(2) [Notice must be given] A person is only entitled to enter premises, and exercise powers, under section 285B or 285C if the person has given the occupier of the premises at least 24 hours notice of the person's intention to do so, **unless work is**

**being given out from those premises (to be performed outside those premises) in which case a person is entitled to enter those premises and exercise powers under section 285B or 285C without giving any prior notice of the person's intention to do so.**