

INTERNATIONAL CENTRE FOR TRADE UNION RIGHTS  
AUSTRALIAN NATIONAL COMMITTEE  
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**President: Mordy Bromberg**

**Secretary/Treasurer: David Chin**

31 August 2000

The Secretary,  
Senate Employment, Workplace Relations,  
Small Business and Education Legislation Committee  
Parliament House  
CANBERRA ACT. 2600

Dear Sir,

**Re: Inquiry into Proposed Amendments to the Workplace Relations Act 1996  
("the Act").**

The International Centre for Trade Union Rights ("ICTUR") was established in 1987 and has its international headquarters and International Secretariat in London. There are established National Committees in 23 countries covering Europe, Africa, Asia, America and Australasia. In 1993 ICTUR was recognized as an important international organisation and was granted accredited status with both the United Nations and the International Labour Organisation ("ILO").

ICTUR welcomes this opportunity to make a submission to the Senate Committee's Inquiry. As you will be aware ICTUR has made a number of previous submissions to the Senate Committee and for that purpose an international panel of lawyers with expertise in international labour law was convened.

Unfortunately, given the short notice provided to us of the Senate Inquiry, we have not had the time to convene a panel and ICTUR is only able to make this short submission which as you will see refers and relies upon previous submissions made to the Senate Committee. I trust that you will provide to the members of the Committee access to those previous submissions.

**Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2000**

This Bill largely replicates Schedule 12 of the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999 (“the 1999 Bill”). In section 4 and in particular section 4.2 of Chapter 3 of ICTUR’s submission to the Senate Committee in relation to the 1999 Bill, ICTUR sets out the basis for its opposition to the amendment then being propose. ICTUR refers to and repeats that submission in relation to the current Bill.

### **Workplace Relations Amendment (Australian Workplace Agreements Procedures) Bill 2000**

Again this Bill appears to largely repeat Schedule 9 of the 1999 Bill. ICTUR dealt with this proposed change in section 5.2 of Chapter 2 its submission on the 1999 Bill. ICTUR refers to and repeats those submissions as a basis for its opposition to the current Bill.

### **Workplace Relations Amendment (Termination of Employment) Bill 2000**

This Bill appears to be based upon Schedule 7 of the 1999 Bill but with a number of significant amendments. The ICTUR submission at Chapter 4 dealt with the termination of employment provisions contained in Schedule 7 to the 1999 Bill. ICTUR refers to those submissions in relation to those provisions which the new Bill replicates. As to the other provisions contained in the new Bill, ICTUR has not had sufficient time to consider and respond in detail. ICTUR notes however that each of the new provisions have the tendency to restrict access to the protection from unfair dismissal currently provided and/or impose impediments which are likely to discourage employees from pursuing legitimate rights in respect of unlawful dismissal. None of the new provisions sought are supportable by reference to either the ILO convention concerning Termination of Employment at the Initiative of the Employer (Convention Number 158) nor the Recommendation Concerning Termination of Employment at the Initiative of the Employer (Recommendation Number 166). Additionally, and by reference to the practical operation of the termination of employment provisions in the Act, the changes sought are not justified.

### **Workplace Relations Amendment (Tallies and Picnic Days) Bill 2000**

This Bill seeks to replicate some of the provisions of Schedule 6 of the 1999 Bill. ICTUR dealt with Schedule 6 in Chapter 2 and in particular section 5 of its submission in relation to the 1999 Bill. ICTUR refers to and repeats those submissions as the basis for its opposition to the proposed amendments.

**General Observations**

It is of great concern that an Act which has as one of its objects the aim of complying with Australia's international obligations has been found by the international community to be in breach. It is of greater concern that despite a number of calls by the ILO Committee of Experts for amendments to be made to the Act so that it is brought into compliance, the government continues on a path of compounding and extending Australia's current failure to meet its international human rights obligations.

Australia has traditionally maintained a high level of observance of our international human rights obligations including ILO standards. The findings of the ILO Committee of Experts are acutely embarrassing to Australia. Traditionally Australia has enjoyed a high level of international respect for its observance of our international obligations. The enactment of the proposed amendments in the face of the existing international condemnation will lead to Australia being further ostracised by the international community.

Australia's leadership as an international citizen of this region is much compromised by its failure to comply with its international obligations.

ICTUR urges the Senate Committee to reject the proposed amendments but to go further and to strongly recommend that the government take steps to comply with Australia's international obligations and to introduce amending legislation so that the Act complies with all relevant ILO conventions.

Yours sincerely

MORDY BROMBERG  
President  
Australian National Committee  
and International Vice-President of ICTUR