

NTCCI SUBMISSION
TO THE SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION COMMITTEE
Inquiry into Small Business Employment Issues

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**OVERVIEW OF THE NORTHERN TERRITORY CHAMBER OF
COMMERCE AND INDUSTRY**

NTCCI is the largest employer association in the Northern Territory, representing the interests of approximately 1,500 businesses from all industry sectors. Those members currently employ 15,000 full-time and 7,000 part-time or casual employees in the NT (or approximately 26.5% of the total NT workforce).

NTCCI was originally established in 1957 as the Darwin Chamber of Commerce, and in 1975 formally joined with the other regional Chambers to form what is now the NT Chamber of Commerce and Industry.

NTCCI is a foundation member of the Australian Chamber of Commerce and Industry and a foundation member of '*Chambernet*' which brings together Australian Business Limited, the Victorian Employers Chamber of Commerce and Industry, South Australian Chamber of Commerce and Industry, Queensland Chamber of Commerce and Industry, and Tasmanian Chamber of Commerce and Industry to provide services to meet the needs of companies operating nationally, or in two or more states.

NTCCI also represents the interests of the Australian Retailers Association (ARA) in the Northern Territory;

Is a Partner in the NT Industry Search & Opportunities Office (ISO), (which supports and promotes businesses located in the Northern Territory, enhances opportunities for import replacement and maximises expenditure by Government, Defence and the Private Sector with NT business);

NTCCI is also a partner in Contractors Accreditation Ltd (CAL), (which provides an accreditation system for contractors performing civil, construction and building services to the Northern Territory Government, to co-ordinate and encourage co-operation between the civil, construction and building services industries in the Northern Territory and government, civic and other authorities) and,

Is the secretariat for the NT branch of The Pharmacy Guild of Australia.

The Chamber also provides industry specific services to members through out International Business Council, Manufacturers Council and the Tourism Council.

NTCCI provides a wide range of services to members, including: -

- Industrial & Workplace Relations advise;
- International Trade & Commerce services;
- Training & Consultancy Services (QETO standard);
- Lobbying & Representation;
- Information dissemination;
- Networking;
- Financial Services; and
- NT Expo & Regional Expos

NTCCI is particularly well placed to speak on the effect of government regulation on small business as approximately 65% of NTCCI members fit within the definition of a small business (i.e. less than 20 employees).

TERMS OF REFERENCE

1. The effect of government regulation on employment in small business, specifically including the areas of workplace relations, taxation, superannuation, occupational health and safety, local government, planning and tenancy laws.

Workplace Relations:

NTCCI believes that workplace relations issues are over-regulated, in particular, termination of employment. In the ACCI pre-election Survey of August 2001, the Northern Territory results showed that Unfair Dismissals Legislation ranked number 7 out of a total of 63 issues. The fear of being taken to court certainly inhibits the employment of staff by small business operators and one bad experience can put them off employing for quite some time.

National unfair dismissal laws commenced in Australia on the 30 March, 1994 following Australia's adoption of the International Labour Organisation's 1982 *Convention Concerning Termination of Employment at the Initiative of the*

Employer and Recommendation No. 166 – Recommendation Concerning Termination of Employment at the Initiative of the Employer.

Some commentators have suggested that the logic behind the creation of the new national unfair dismissal laws were designed to address declining trade union membership within the Australian workforce. Mechanisms did exist in 1994 for employees who had been unfairly dismissed to pursue a remedy in the Australian Industrial Relations Commission, however, such a remedy was only open to trade union members and remedies were limited to re-instatement although many ‘monetary settlements’ were made.

By contrast, the new national laws included ‘monetary compensation’ amongst the remedies and NT trade unions were amongst the first pursuing million dollar claims through the media on behalf of dismissed employees who joined those trade unions only after dismissal occurred.

Notwithstanding the 1996 and subsequent amendments to the legislation, NTCCI believes that many employees still view action against their former employers as the chance to score a lottery win. The Australian Industrial Relations Commission does nothing to discourage this attitude by urging employers to make commercial settlements on unmeritorious claims to avoid the cost of litigating a claim. A \$50 investment [the filing fee] can often result in a windfall of \$1,000 to \$2,000 which is an excellent return on investment.

The NTCCI Industrial and Workplace Relations Division includes two (2) former long-serving NT based officers from the Private Sector Division of the Department of Industrial Relations, as it then was. Both believe that the unfair dismissal regime primarily rewards those that strive to achieve mediocrity and have set themselves particularly low standards.

There is now an expectation amongst employees that by employing a lawyer and taking the employer to court they will receive sufficient compensation to warrant the effort.

Our officers, (one of whom also served in the Borders/Compliance Branch of the Department of Immigration and Multicultural Affairs in the NT), can relate instances of what are colloquially referred to as *practitioners*, or *'back packers'* –including those that are in Australia on legitimate working holidays for a finite period [maximum 3 months with any one employer], and those who should not be working at all – using the regime to fund travel from one city to another.

One NTCCI member, who issued an employee with one hundred and two (102) Employee Non-Conformance Reports and two (2) written warnings in a period of employment of only two (2) years and four (4) months before finally dismissing this employee when he refused to comply with occupational health and safety requirements no less than five (5) times on his final day, when asked why he tolerated such appallingly bad conduct and performance for so long stated it was because he was *"scared of unfair dismissal"*. Whilst there is

little doubt that this employee could have, and should have, been dismissed within a few months of commencing employment, the fact remains that his employer was “scared” of the consequences.

NTCCI believes it is naive to say that the impact of the unfair dismissal regime does not have an effect on businesses, particularly small businesses, to employ more staff when surveys and anecdotal evidence point to the contrary.

It seems that no one disputes that a significant proportion of sexual assaults against females go unreported each year and no one challenges this anecdotal evidence supporting such claims. However no support is given to the anecdotal evidence stating that business is under great pressure to settle or make commercial settlements to make the issue go away. Rather, Court statistics are used to provide the number of cases are static or diminishing.

Industrial Awards are another area where workplace relations is over-regulated. The industrial award system is archaic. Australia has literally thousands of documents that all effectively say the same thing. The process could be streamlined by providing for core conditions of employment to be enshrined in legislation and dispensing with the entire system. A mechanism could be provided for agreements to be made and registered providing for additional terms and conditions or enhanced benefits to suit individual workplace needs and requirements. The ‘one size fits all’ approach should be consigned to history.

The Award Simplification process has failed to achieve real change. Lengthy negotiations, arbitrary decisions by Industrial Commissioners, Union procrastination and a myriad of decisions, have seen organisations strain under the load. Resources stretched and costs incurred for little return to the small business operator.

The ability for employees to “shop around” between jurisdictions is also a concern of the Chamber. We often see employees who have failed in the industrial relations system, go to the Anti Discrimination or Sexual Harassment Commissioner or to the Small Claims Court. All adds to the fear of employment in the scenario of “once bitten, twice shy”.

Taxation:

In the ACCI Pre-election Survey held in August 2001, the Northern Territory Chamber of Commerce survey of members showed that the frequency and complexity of changes ranked number two, the level of taxation ranked number 5, and cost of compliance with government regulations ranked number 15.

Payroll tax has been a thorn in the side of business for many years and is seen as a direct tax on employment, this ranked number 27 from a total of 63 with Fringe Benefits Tax at number 22.

Superannuation:

Superannuation is over-regulated, particularly when industrial awards make provision for contributions to be made to prescribed funds. Why not a system whereby superannuation contributions are made to the Australian Taxation Office and failing nomination by the employee of a fund, deposit into a default fund?

Such a proposal would streamline the system by minimising employer administration, maximise compliance and bring about the demise of “orphan” superannuation accounts.

Occupational health and safety:

In our previously mentioned survey, compliance with OH & S regulations ranked 41st. The predominant concern is over the ability to dismiss or severely caution staff over breaches of workplace safety without the employee threatening the employer over stress or dismissal. Inroads are being made with the unions on this matter as our NT Workers Compensation Scheme is becoming more expensive and the NT Government with industry is placing more focus on ownership of workers health and safety by all parties, employer, employee, insurance company and the medical profession. The greatest focus is of course on prevention and then if injured, getting the worker back to work as soon as practicable.

Tenancy laws:

NTCCI has had some involvement with tenancy laws, particularly in relation to the impact of a new Act on caravan parks. Whilst we do not normally lobby on residential tenancy laws, a system which permitted the easy removal of errant tenants would not be inappropriate.

The Northern Territory Government is currently drafting Commercial/Retail Tenancy Legislation to bring the NT into line with the rest of Australia. This has been at the encouragement of the NT Chamber of Commerce and Industry.

Other Inhibitors for Small Business

Attached are the results of the ACCI Pre-election Survey for 2001 in which the NT Chamber participated.

The major concern for industry is the cost of energy in the NT. To this end the Chamber has been lobbying with the NT Government and other Industry Associations, to progress Gas on Shore. Without a cheaper, reliable energy source for the future, the NT will become even more expensive a place in which to do business. Gas on Shore will also encourage a manufacturing base, population growth and less reliance on the Federal Government. It is imperative that the NT benefit from the value adding that comes from the gas, liquid nitrogen and ancillary industries that come with gas on shore.

Recruiting skilled employees ranked number 3 and retaining skilled employees ranked number 10. Other issues include adequacy of telecom infrastructure, road and air transport cost and reliability and level of government spending.

Much more needs to be done to develop a skilled, stable and productive work force, whilst low unemployment figures are good in one sense, they do not help employers choosing and employing from a low pool of employees. Skill shortages are currently evident in the construction industry, IT and professional arenas.

Government is still the largest customer and employer in the NT, any severe cut backs effect the NT economy very transparently.

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**PRE-ELECTION SURVEY
 AUGUST 2001
 NORTHERN TERRITORY**

RELATIVE RANKING

Rank	Area	INDEX
1	Energy Costs	74.4
2	Frequency and Complexity of Changes	73.4
3	Recruiting Employees with Appr Skills	72.3
4	Telecommunications Costs	72.2
5	Level of Taxation	71.8
6	Workers Compensation Payments	68.0
7	Unfair Dismissals Legislation	68.0
8	Adequacy of Telecom Infrastructure	65.6
9	Superannuation Guarantee	64.3
10	Retaining Skilled Employees	64.2
11	Road Transport - Cost and Reliability	63.8
12	Air Transport - Cost and Reliability	63.3
13	Level of Government Spending	63.2
14	Water Costs	62.7
15	Cost of Compliance with Government Regs	61.9
16	Personal Tax (PAYG)	61.9
17	Cost of Finance/Interest Rates	61.8
18	Compliance with the GST	61.7
19	Complexity of Government Regulations	61.0
20	Time required to complete BAS forms	60.1
21	Wage Levels	59.7
22	Fringe Benefits Tax	59.5
23	Penalties for Not Complying with Regs	57.5
24	Exchange Rate Volatility	57.5
25	US Economic Outlook	57.5
26	Asian Economic Outlook	57.5
27	Payroll Tax	57.1
28	Company Tax	57.0
29	Getting Appr Training for Employees	56.1
30	Penalty Rates	55.8
31	GST	55.8
32	Quality of Vocational Education	55.3
33	Capital Gains Tax	54.5
34	Compliance with tax other than the GST	54.2
35	Rate of Inflation	53.6
36	Complying with Award Regulations	53.5
37	Restrictions on Ent/Indiv Agreements	52.6
38	Achieving Workplace Change	52.3
39	Compliance with (non tax) Paperwork	51.5

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Rank	Area	INDEX
40	Foreign Debt/Current Account Deficit	51.1
41	Compliance with OH&S Regulations	49.9
42	Availability of Finance	49.8
43	Redundancy and Termination Payments	48.9
44	Stamp Duty	48.5
45	Unemployment	47.9
46	Speed of Government Payments	47.4
47	Employee Productivity	47.2
48	Safety Net Increases	46.6
49	Absence of Junior Rates	45.6
50	Compliance with Environmental Regulator	45.5
51	Workplace Health and Safety Inspections	44.5
52	Access to Government Procurement	44.3
53	Industrial Disputation	42.1
54	Land Tax	41.4
55	Rail Transport - Cost and Reliability	41.4
56	Trade Practices Legislation	40.6
57	Licensing Provisions	40.3
58	Compliance with Privacy Requirements	39.2
59	Corporation Law Requirements	38.9
60	Excise Taxes	37.2
61	Sea Transport - Cost and Reliability	35.8
62	Access to R&D Tax/Grants	33.0
63	Getting Export Assistance	22.5

