

**Submission to the Inquiry into Small
Business Employment by the Senate
References Committee for Employment,
Workplace Relations & Education**

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Prepared by Su McCluskey, General Manager, Policy,
Denita Harris, Policy Manager & Industrial Relations
Advocate & Van Do, Researcher

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Executive Summary

- The National Farmers' Federation (NFF) has a substantial interest in the issue of small business employment with 98% of the 200,000 farming businesses defined as small business.
- Agriculture is one of the largest employers in Australia, providing around 320,000 direct jobs.
- The New Apprenticeship System has created more flexibility in training but further flexibilities and access to training support in rural areas needs to be given particular consideration to the benefit of both the employee and employer.
- An issue that needs to be addressed and requires the assistance of Government is how do we attract more people to work in the farming sector.
- The complexities of employing staff are an automatic disincentive to employers. Sometimes its just easier doing the additional work yourself than going through the myriad of procedures to employ staff either, full time, part time or casual.
- The NFF supports the guidelines provided to agencies in the Office of Small Business document *Giving small business a voice – Developing strategies for informing small business about regulation 2000*. The NFF believes that the integrated approach should be given a higher priority to ensure small business can easily access and understand information about their regulatory rights and obligations.
- The NFF expresses its disappointment of the rejection by the Senate of the *Workplace Relations Amendment (Fair Dismissal) Bill 2002*.
- The NFF continues its support of the *Workplace Relations Amendment (Fair Termination) Bill 2002*. The Bill is significant to farming small business.
- The NFF commends the passing of the *Workplace Relations Amendment (Termination of Employment) Act 2001* in its attempt to minimise some of the concerns of small business in respect to termination of employment.

- It is the role of both Government and Employer organisations to undertake an educative campaign to highlight the benefits of enterprise agreements, that agreements are not difficult to implement and that the agreement process is not necessarily a costly exercise.
- The NFF seeks the continuation and preferably an increase in the AWA education role of the OEA particularly in rural and regional areas of Australia.
- The NFF seeks consideration by the Government to extend the coverage of AWAs to include any employer with coverage under a Federal Award.
- The NFF commends the *Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002* to the Committee.
- The NFF is deeply concerned about the ramifications of the centralisation of the federal industrial relations regime.
- The NFF submits that there should be a review of the current wage fixing system that should consider a system to promote a flexible and efficient economy. If a centralised system is to be retained, then wage increases should be at the minimum level, with increases for additional wage levels negotiated at the workplace.
- The Australian industrial relations regime needs to move towards greater decentralisation to ensure greater flexibility and focus on the needs of individual workplaces and their employees.
- The role of educating small business is for Governments, employer organisations, service providers to business and a proactive approach by the employer. The information has to be easily accessible, understandable, concise and cover all aspects of employment issues.
- The NFF has consistently expressed its concern regarding the adverse impact of the *SGC Act* on employers, particularly small business.
- The NFF submits that there should not be any additional requirements in respect to superannuation placed on employers through either legislation or industrial awards. This is in respect to both actual costs (for example, no increase in the percentage of employer contributions) and additional compliance costs.
- NFF expresses its disappointment that the ALP and Democrats did not support a change in the eligibility threshold that would have minimised the costs incurred with the change to quarterly payments

- The NFF believes that compliance costs are a fundamental factor that should be considered in developing all government regulation as the impact on small business is a greater proportion of total costs than on large business.
- The NFF believes that early consultation and examination of small business issues should be mandatory when developing further taxation policy and government regulation.
- The NFF believes that the non-commercial loss provisions will act as a disincentive to productive investment and innovation, especially in and by small business. It is biased against investment that creates new wealth or employment.
- The NFF believes that the Farm Management Deposit (FMD) has the ability to enable farmers to prepare for the bad times by putting money aside in the good times. Consequently, this enables farmers to even out their income flows and should have a stabilising effect on employment allowing them to give greater certainty to the people they employ.
- State taxes have the ability to erode farm employment. In particular, the effect of payroll tax increase the costs of employing staff and can be prohibitive to employing people. State taxes on insurance are another high impost that limits the ability to employ.
- Educating is vitally important to small businesses to enable them to assess how government regulation can impact on them and enables them to prepare for it. The NFF believes that the government should include an awareness and education strategy into any changes in government regulation to enable small business to be informed about these changes and have an opportunity to seek advice and plan ahead for any impact. In particular, it is necessary for government to liaise with small business organisations as a delivery mechanism to disseminate messages to small business.
- Current evidence supports the view that Commonwealth and State environmental laws and instruments are causing significant direct and indirect financial impacts on farmers. The NFF submits that the impact of environmental legislation has a significant adverse impact on a farmers ability to employ. With uncertainty about future income streams and the ability to finance asset purchases, permanent employment in the agricultural sector will fall.
- NFF is proposing a new personal income and company tax zone rebate scheme for people and businesses residing and operating in country Australia. This NFF proposal has the ability to stimulate

employment in rural and regional Australia, in particular for farmers and small business. NFF believes that the government needs to consider long term strategic measures such as this to promote employment outside the metropolitan areas and to provide increased prospects of growth in rural areas.

1. Introduction

The National Farmers' Federation (NFF) has a substantial interest in the issue of small business employment with 98% of the 200,000 farming businesses defined as small business. The linkage between productivity growth and employment growth cannot be underestimated. The maintenance or growth of employment will only occur if businesses can achieve productivity gains. Unfortunately, in many circumstances, if productivity is stable then there will be a decrease in employment because of increasing costs to the employer that are forced upon by third parties.

The crucial objective for small businesses is to increase productivity through various means. Direct factors include increasing income potential of the business and decreasing costs associated in running the business that are under the control of the business operator. Indirect factors that impact on businesses are regulatory regimes or actions by third parties that are outside the direct control of the small business operator. All these factors will have an ultimate impact on employment within small business.

The scope of the NFF submission to the *Senate Employment, Workplace Relations & Education References Committee Inquiry into Small Business Employment* will focus on issues that have a significant impact on the farming industry in Australia and the implications for employment in agriculture. Issues include:

- Particular recommendations arising from the *Small Business Deregulation Taskforce* Report and the subsequent implementation of the Recommendations.
- Factors upon which a small business can control directly themselves but may need the assistance of the government in achieving those aims.
- Matters relating to remoteness of the farming industry.
- Specific policy areas of particular concern to the farming industry that have a substantive impact on costs associated with running businesses being workplace relations, taxation, superannuation and planning law.

2. Importance of farming to Australia

Farming is a vital part of Australia's economy and society:

- In 1995-2001, rural production represent approximately 3% of Australia's GDP¹ but provides around 19% of our goods and services export².
- Many rural communities depend upon agriculture for their prosperity. Agriculture contributes more than 30 per cent of employment in 66 per cent of small non-coastal towns³.
- Farmers are vital custodians of the land, with agricultural activities covering 60% of the Australian landmass⁴.
- Agriculture is one of the largest employers in Australia, providing around 320,000 direct jobs – a level that has increased by 20,000 or 6.58% between 1996 and 2000⁵. According to the ABS, the average employment in agriculture and services to agriculture in the year 2000 is 409,200, or 107.34% of the 1995's number.
- Agricultural productivity increased by 3.3 per cent per year between 1988 and 2000, well above the average of 1.2 per cent and the second highest in the market sector (after communications)⁶.
 - This fact in particular should dispel the myth that the agricultural sector is 'old economy'. Farmers have been adopting new technologies and improving practices with fervour.
- Agriculture also represents a significant input into many other industries, particularly the food processing industry, which had a turnover of \$51.2 bn and an added value of \$14.2 bn in 1999-2000. Food processing is the largest industry subdivision of total manufacturing, both by value added and by employment. It also provides over \$11 bn of exports⁷.

¹ Source: ABS, *Agriculture (Cat no 7113.0)*, table 1.3

² Source: ABS, *Balance of Payments and International Investment Position, Australia (5302.0)*

³ Agriculture contributes more than half of total employment in 28 per cent of small non-coastal towns. Source: ABARE, *Country Australia*, p38

⁴ Source: ABS, *Agriculture (Cat no 7113.0)*, table 5.1

⁵ Source: ABS, *Agriculture (Cat no 7113.0)*, table 1.4

⁶ Source: OECD, *Economic Surveys – Australia 2000-01*, p82

⁷ Source: ABS, *Manufacturing Industry, Australia, (Cat no 8221.0)*

3. Farming Small Businesses

- The NFF represents over 200,000 businesses (according to tax office figures), of which 98% are deemed small business (less than \$10 million in annual turnover) or around 92% are micro (less than \$1 million in annual turnover).
- The average farm business asset value as at 30 June 2000 was estimated at \$1,432,700 while the return on assets was 5%⁹.
- In 1999-2000, 24,000 or 23% of Australian farm businesses had a turnover of \$300,000 or more, and contributed 66% of the total turnover of all Australian farms. Their average turnover was \$778,000 and the average cash-operating surplus (a measure of profitability) was \$138,000. The farm business profit margin (the ratio of cash operating surplus to turnover) for these businesses was 18%⁹.
- At the other end of the scale, 19,000 farms (18%) had a turnover of less than \$50,000. These farm businesses contributed only 2% of the total turnover, at an average of \$33,000. These farms had an average cash-operating surplus of \$1,000 per farm, which equated to a farm business profit margin of 3%.⁸

In order to better examine the factors that currently determine employment growth in the agricultural industry, the NFF undertook a small survey in June 2002. A questionnaire was sent to farming small businesses in all states (those with annual turnover less than \$10M as defined by the ATO). General characteristics of farmers who responded to our survey are:

- Average age is 49 with approximately 26 years in the farming business, 50% have a mixed farm.
- Income from the farm counted for an average of 83% of their family's total income.
- 56% have an education level higher than tertiary.
- It is quite clear that farmers are a significant force in the labour market. Over 75% of correspondents to our survey employed full time employees. On average, each farmer who responded to the survey has 9 employees, of which 6 are full time, 1 part time and 3 are casual. However, 60% of correspondents stated labour costs accounted for less than 15% of the total cash cost.

⁸ Source: ABS, *Agriculture (Cat no 7113.0)*, p 31, 35 and 37

- More than 50% of the farmers who responded to our survey had changes in the number of employees in the past 12 months. However, changes in employment is mostly due to the normal business reasons such as employees retired or left their job for alternative employment, or the owner expanded production.
- Most of respondents thought that there will be no change in the number or the component of their employment in the next 12 months. Only 12.5% of respondents intend to create more full time jobs while there was no consideration to convert some casual labour/part time labour to full time. On the other side, 18.75% want to dismiss their employees in the next 12 months due to the difficulties they have with market demand (lower price, weaker demand) and higher costs relating to full time employment (i.e. superannuation).
- The three most common difficulties listed by respondents when they decide to hire more employees are remoteness in the location of business, labour/skill labour shortage in the region and government regulations. Some farmers even said that hiring new staff is a full time job already. 60% of respondents to our survey who have employed full time employees for many years, still said they need simple, concise and user friendly information about the obligations of employers in firing and hiring, and worker compensation.

4. Small Business De-regulation Taskforce

The Federal Government established the *Small Business Deregulation Taskforce* in 1996 to consider the impact of regulation on small business. The Taskforce Report highlighted a series of recommendations that were considered by the Government in its response to the Report in March 1997.

The NFF supports the guidelines provided to agencies in the Office of Small Business document *Giving small business a voice – Developing strategies for informing small business about regulation 2000*. The NFF believes that the integrated approach should be given a higher priority to ensure small business can easily access and understand information about their regulatory rights and obligations.

The NFF has selected a number of the recommendations from the *Small Business Deregulation Taskforce* that particularly affected the agriculture industry to track the subsequent changes and whether they have had any benefit to small business.

Workplace relations:

- Unfair dismissal arrangements:
- Recommendation: *Small Business Deregulation Taskforce* report recommended revised arrangements for unfair dismissal be reviewed after 12 months of operation to ensure that it is delivering a more balanced and flexible approach for small business (Recommendation 13).
- Response: the Government agreed to this recommendation and went further by announcing amendments to exclude from Federal unfair dismissal laws new employees of small businesses with 15 or fewer employees until they have one year's continuous service (*The Workplace Relation Amendment Bill – 1997*). This Bill was not passed with the Government's policy now reflected in the *Workplace Relations Amendment (Fair Dismissal Bill) 2002*. The Bill was recently rejected by the Senate. Further discussion regarding the exclusion of small business from the unfair dismissal laws is contained within Chapter 6 of this submission.

Taxation

- Pay as You Go system:
- Recommendation: Recommendation 2 states that the Commonwealth Government introduce an optional Pay as You Go

system to allow small business and other provisional taxpayers the option of paying their tax in instalments from current business receipts from the 1998-1999 financial year.

- Response: The Government introduced the Pay As You Go (PAYG) system from 1 July 2000 as part of the introduction of the new tax system. The initial complex calculation required to remit the PAYG was simplified following intense lobbying from the NFF with businesses being able to have a simple instalment option. From the third quarter in 2001, small business (businesses with an annual turnover of \$2 million or less) had an additional option to pay a GST instalment amount each quarter worked out by the ATO and lodge an annual GST return if they had lodged all previous BAS forms and paid a net GST amount for the December 2000 quarter (excluding any credit for wholesale sales tax). Farmers were given a 2 instalment option (instead of 4 instalments), requiring the first PAYG or GST instalment to be paid following the end of the third quarter, recognising the seasonal fluctuations of farm income.

- Tax compliance statements:

- Recommendation: In recommendation 5, (a) a single compliance statement for income tax and all business taxes and (b) a unique business identification number for all Commonwealth taxation purposes were recommended from the 1998-1999 financial year.
- Response:
 - (a) From 1 July 2000, the Business Activity Statement or the BAS replaced 6 Tax Office forms which businesses needed to lodge (including GST, Fringe Benefits Tax, PAYE, Luxury Car Tax and the WET). However, businesses are still required to lodge the income return separately. Due to the difference in nature and timing of these two types of tax obligations it is unlikely to see these two forms reduced to one, however the NFF will continue to seek ways to reduce the compliance burden for small businesses. In particular, the NFF will be assessing the extent to which the Simplified Tax System is being utilised by farmers with the view to making further representation to the Government.
 - (b) In December 1999, the Commonwealth Government agreed to use the Australian Business Number – Digital Signature Certificate (ABN-DSC) for the whole Commonwealth Government to ensure that a single digital certificate can be used by a Business Entity for its taxation purposes. The ABN was intended to become the single business identifier for all business dealings with government, however this has not yet occurred. The NFF believe that this should be pursued to simplify transactions between small business and government. While the ABN has become the identifier for business to the ATO in relation to BAS and IAS issues, there is still a need to use the Tax File Number for matters relating to income tax.

Further, the NFF understands that there are still problems existing with replacing Australian Company Numbers (ACN) and Australian Registered Business Numbers (ARBN) with the ABN, resulting in businesses continuing to need to use two numbers.

- Review of Australian Taxation Office public rulings programme:
- Recommendation: In Recommendation 11, the Australian Taxation Office was asked (a) to give greater priority to developing and disseminating relevant information products targeted specifically at small business (b) to review its public rulings program with the objective of having fewer, simpler and more equitable rulings and to ensure the process is efficient and effective from 1 September 1997.
- Response: Some progress has been achieved in relation to relevant information products such as the publishing of A Tax Guide for New Small Businesses, A Guide to Keeping Your Business Records and the launching of several websites such as <http://www.business.gov.au> (Business Entry Point) or the <http://www.taxreform.gov.au> (Tax Reform Entry Point). However, there is still a need for small business to have a single access point to government regulation. The Business Entry Point is not the most user-friendly of websites and there is still a need to seek information from other websites. The NFF believes that the public rulings program is in urgent need of review. Rulings take far too long to issue and business is left uncertain for a considerable length of time. For example, there are still a number of public rulings that will affect farmers, in particular rulings on the GST treatment of property and prizes and two years after the introduction of the GST we are still awaiting clarification from the tax office.
- Business regulation complaints and a national business information service:
- Recommendation: A comprehensive national business information service was recommended as well as a business regulation complaints free-call service for the purpose of making it easy for small business to deal with regulatory government, in Recommendation 40 and 41.
- Response: the AusIndustry Hotline 13-28-46, Austrade Hotline 13-28-78 and Tax Reform Information Line 13-24-78 were set up to assist business including business advisory and referral services. The National Business Information Service (NBIS) containing essential information on important business-related issues such as taxation, superannuation, OH&S, customs, intellectual property protection and workplace relations are available through the Internet, AusIndustry Business Hotline, BizLink CD ROM, and government shopfront staff. The establishment of Centrelink represents a one-stop shop initiative, consolidating into one agency the delivery of a range of allowance and benefit payments and

other services, including touch-screen job search facilities. Centrelink provides services at more than 1000 locations around Australia including at 292 customer service centres.

Planning Law

- Memorandum of Understanding with local government:
 - Recommendation: Recommendation 26 suggested that the Memorandum of Understanding currently being finalised between the Commonwealth and local government should be pursued as a vehicle to commit local government to change processes to reduce duplication of regulations and consequent costs.
 - Response: Although duplication of regulations and consequent costs is still a big problem for small businesses, the government has made some effort in addressing the issues referred to in the recommendation. For example, in development and building approval processes, the Development Assessment Forum, having representatives from the three levels of governments and the major professions was formed in Adelaide in June 1998. The full DAF convene at least on an annual basis to review the work program toward its mission "*To encourage the harmonisation of Australian development assessment systems, through the promotion of leading practice regulatory reform.*"

- Review of agricultural and veterinary chemicals regulations:
 - Recommendation: Recommendation 34, Commonwealth Government was recommended to send a reference to the Industry Commission to inquire into and report by 31 December 1997 on the most efficient and effective institutional and regulatory arrangements for industrial, agricultural and veterinary chemicals.
 - Response: The effectiveness and efficiency of the institutional and regulatory arrangements for industrial, agricultural and veterinary chemicals in meeting community and industry expectations are always a concern for the Commonwealth and local governments. The government, in response to the recommendation, was quite reasonable with sufficient consideration and action. Nevertheless, more effort should be spend on this recommendation as the issue still exists and small business and farmers, still get confused about the gap in regulations relating to industrial, agricultural and veterinary chemicals issued by the Commonwealth and local governments.

- Regulation impact statements:
 - Recommendation: Recommendation 51 states
 - a) That Ministers sponsoring primary legislation imposing compliance obligations be required from 1 January 1997 to have tabled a statement from the ORR certifying that

minimum acceptable levels of analysis have been undertaken before the proposal can be considered by Cabinet; and that regulatory impact statements or a statement explaining the regulatory impact be tabled in Parliament at the same time as the legislation is introduced.

- b) That taxation legislation is subject to regulation impact statements, including an analysis of the compliance burden on small business.
- Response: The Government issued the *A guide to regulation* (Second edition) in 1998 in response to the above recommendation. However, we noted that of the seven key elements of the regulation impact statements defined in the guidance, none is specifically an analysis of the compliance burden on small business. In Section B4 of the *A guide to regulation*, the Guidelines for Commonwealth Regulation Impact Statement, small business is considered as a possible affected group or sub-group only. However, the Regulation Impact Statement for the New Tax System (Goods and Services Tax) Bill 1998 clearly analysed the compliance burden on small business.

5. General factors affecting Small Business Employment in Agriculture

In a survey undertaken by the NFF in respect to this submission it was found that there are three main factors that create difficulties in employing staff in the farming industry, those being in no order or priority:

- Remoteness of the location of the business
- Labour/Skill Shortages in the region
- Government regulations

The impact of Government regulation in specific instances is covered elsewhere in this submission. In this chapter the focus is on an area that is not within the parameters of government regulation, but may require the assistance of Government to rectify the problems that are causing a deterrent to increasing employment in farming small businesses.

Remoteness & Labour Shortages

In many respects these two issues are interlinked with the remoteness factor being a key contributor to labour shortages. It is particularly interesting that labour shortages are a constant complaint within the farming industry while there is still unemployment in Australia particularly youth unemployment.

The remoteness of working on a farming property, particularly when it is a substantial distance away from the nearest town, will always be a factor that deters potential new recruits to the farming sector, however, the benefits of working in the industry, even for a short period, should outweigh those concerns.

Accessibility to the right person for the job is also an issue that is affected by remoteness. Small businesses located in rural areas do not have the same resource base to access employees nor do they have the competitive support mechanisms in respect to recruitment agencies that are significant in the cities.

Remoteness also comes into play when considering access to training for both the employer and employee.

Training is a significant component to address skill shortages in the farming industry but training opportunities are limited due to the remoteness of the business. While the employer and employee may be interested in increasing the skills of the employee to the benefit of the

individual and the business, access to training support may limit that opportunity. Flexibility of training and increased access to training support is important. The New Apprenticeship System has created more flexibility in training but further flexibilities and access to training support in rural areas needs to be given particular consideration to the benefit of both the employee and employer.

The perception of working in the farming industry may also be an issue that relates to the labour shortages being experienced by many farming small businesses. Do potential new recruits understand the skill involved in working machinery or the detailed scientific approaches taken to pursuing farming businesses along with business development and marketing that is required in such a competitive industry both domestically and internationally?

This question was considered by Rural Skills Australia in the development of *Ontrack: Real Skills – Rural Future*, an interactive CD Rom for students in highlighting the benefits of pursuing a career in the rural industry (a copy of the CD ROM is enclosed). The CD ROM is backed by a website highlighting rural careers.

An issue that needs to be addressed and requires the assistance of Government is how do we attract more people to work in the farming sector? Are there people in the cities that would consider working if the concerns of remoteness and what is required to work in the industry are removed? Do they need assistance in assimilating into a country environment? These are some of the issues being considered by the NFF and we seek the assistance of the Government in addressing some of the concerns in respect to the labour shortages being experienced by some farming small businesses.

6. Workplace Relations

The complexities of employing staff are an automatic disincentive to employers to employing staff. Sometimes it is just easier doing the additional work yourself than going through the myriad of procedures to employ staff either full time, part time or casual.

The Regulatory impact on small business employment includes discrimination legislation, industrial relations requirements (either State or Federal), taxation, workers compensation, superannuation, payroll and occupational health and safety. In addition to the regulatory impact, employers have to ensure that they employ the right person for the job, conduct orientation and training, ensure a smooth transition with other staff members, deal with conflict in the workplace and acknowledge that a new recruit will not reach full potential for some period of time. In farming businesses there are the added problems of remoteness, labour shortages and potential accommodation requirements.

Big business employs specialist human resources staff and other administrative staff to undertake the duties outlined above; small business does not have such luxuries. They are reliant on their own resources with possible added support from their accountant or industry organisation, if a member. As quoted by one farmer from the survey undertaken by the NFF *“hiring new staff is a full time job in itself”*.

The potential for breaches of regulation are therefore substantial. Not because the small business intends to breach the regulations but simply because they do not know they exist or they do not know the correct procedure to ensure compliance. This is when small business experience difficulties, increased costs and are deterred even more from employing staff.

Then there are the impacts of when regulation adds additional compliance or the regulation provides for additional costs to be added to the business that are not directly attributable to the productivity of the business (for example, increases in wages and/or rates through awards or increases in employer superannuation contributions).

The NFF seeks to identify key areas where there are particular problems in respect to the regulatory impact in workplace relations and its impact on small business employment. Some areas are identified in other sections of this submission including superannuation, taxation and specific problems associated with farming businesses. Workers compensation issues will be addressed in the NFF submission to the *House of Representatives Standing Committee on Employment and Workplace Relations Inquiry into aspects of Australian workers' compensation schemes*. Specific issues to be addressed in this section are:

- Unfair Dismissal Legislation
- Agreements at the Workplace
- Centralisation of the Industrial Relations Regime
- Administration of Employment at the Workplace

Unfair Dismissal Legislation

The subject of unfair dismissal legislation and its impact on small business has been the subject of much debate in the Senate over recent years including the most recent consideration by the *Senate Employment, Workplace Relations, Education Legislation Committee of the Workplace Relations Amendment (Fair Dismissal) Bill 2002* and the *Workplace Relations Amendment (Fair Termination) Bill 2002*.

The NFF expresses its disappointment of the rejection by the Senate of the *Workplace Relations Amendment (Fair Dismissal) Bill 2002*. The object of the Bill is to remove the extensive administrative burdens placed on small business in undertaking procedures to dismiss an employee while not removing the provisions to seek redress if the dismissal was unlawful.

Employers are not seeking an easy way of dismissing staff without any consideration of the consequences to an employee. Rather, the pursuit of the exemption is to minimise the implications of the substantive administrative burdens placed on employers as identified by the Federal Government in its response to the *Small Business Deregulation Taskforce Report*. If the compliance costs are reduced then one of the inhibiting factors to employment is removed, hence there is a positive impact on small business employment. Small business does not want to simply dismiss staff, as they are fully aware of the cost implications of replacing a staff member. However, when situations arise in which an employee needs to be dismissed they do not want to be burdened by the legal complexities of dismissing in accordance with very specific technical procedures, making them liable if the procedures are not adhered to correctly.

The NFF continues its support of the *Workplace Relations Amendment (Fair Termination) Bill 2002*. The Bill seeks to clarify the previous regulatory exemption of casuals of less than 12 months employment from the unfair dismissal provisions. The Bill is significant to farming small business. In many instances, casuals are employed to undertake seasonal work that can extend beyond 6 months but less than 12 months. The dismissal of employees after the season is not an issue of competency but simply that the work has been completed and that there should be no assumption held by the employee that work would continue beyond the season. If the provisions to exclude casuals of under 12 months are removed, then farmers are required to comply with the strict

procedures of the law regardless of the fact that the reason for termination is neither unfair nor unexpected.

State legislation regarding casuals differs between States with some not providing for an exemption at all while others ranging from a 6 to 12 month exemption. A recent study by the NFF in respect to unfair dismissal cases filed in State jurisdictions highlighted the fact that the States with no exemption or a 6 month exemption were experiencing much higher rates of unfair dismissal claims in the State jurisdiction than that of the Commonwealth with a 12 month exemption.

The NFF commends the passing of the *Workplace Relations Amendment (Termination of Employment) Act 2001* in its attempt to minimise some of the concerns of small business in respect to termination of employment. The Act however, predominately focuses upon when an application for unfair termination has been filed, therefore, it does not minimise the administrative burden upon the employer in undertaking the process of terminating an employee pursuant to the provisions of the Act. This is why the *Workplace Relations Amendment (Fair Dismissal) Bill 2002* is so important to small business.

Agreements at the Workplace

The introduction of the availability at the Federal level of both certified agreements and Australian Workplace Agreements (AWAs) is an important step towards enabling increased flexibility to suit the circumstances of the workplace.

The uptake of the utilisation of these instruments of workplace flexibility in farming small business has been slow and relates primarily to the time it takes to implement agreements and also restrictions within the legislation in respect to AWAs. It is understood, however, that where agreements have been implemented, the benefits to both employer and employee have been substantive.

There is a perception by small business that agreements are too difficult to undertake themselves and that seeking outside assistance is costly and impacts on time that would be otherwise spent working in the business. It is the role of both Government and employer organisations to undertake an educative campaign to highlight the benefits of agreements, that agreements are not difficult to implement and that the agreement process is not necessarily a costly exercise.

The NFF, through its member organisations, is pursuing a greater marketing exercise towards agreements in farming small businesses. We recognise that the Office of Employment Advocate (OEA) has assisted farming organisations in that education role. The NFF seeks the

continuation and an increase in the AWA education role of the OEA particularly in rural and regional areas of Australia.

There are particular difficulties relating to the implementation of AWAs in farming small businesses.

The first relates to the requirement that the employer is a constitutional corporation. Many farming small businesses do not qualify to implement AWAs due to this restriction. The NFF acknowledges the reasons for this restriction, however, would like to see consideration by the Government to extend the coverage of AWAs to include any employer with coverage under a Federal Award. It is recognised that a small business that is not a constitutional corporation could establish such an entity to ensure coverage of the AWA provisions, however this is perceived as difficult, costly and may have taxation implications for the business.

The second impediment for the introduction of AWAs in farming small businesses is the cooling off period and approval process for new employees. It is a current requirement that any new employee must consider the AWA for 5 days (known as the cooling off period) prior to signing and subsequent filing of the AWA for approval by the OEA. When staff are required for seasonal work in the farming sector, where labour shortages are a normal occurrence, it is usual for an employee to start immediately upon applying for a position, which renders the 5-day cooling off period and time for approval substantive impediments for the utilisation of AWAs. It is understood that many businesses particularly in the horticultural sector of the farming industry have decided not to pursue AWAs due to the difficulties with these issues in respect to the employment of casual staff. The NFF acknowledges the importance of ensuring that prospective staff are not forced into signing a document that they have not considered and that an agreement requires the approval of the OEA, but there must a process to enable the current time restrictions to be removed without necessarily removing the objectives behind those time requirements.

The introduction of *the Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002*, has highlighted these impediments and seeks to amend the Act to remove the impediments whilst still ensuring the rights of employees are protected.⁹

The NFF commends the *Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002* to the Committee.

Centralisation of the Industrial Relations Regime

⁹ Refer to Conclusion and recommended option on page 11 of the Explanatory Memorandum to the Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002

The NFF is deeply concerned about the ramifications of the centralisation of the federal industrial relations regime particularly the approach taken in decisions of the *Australian Industrial Relations Commission (AIRC)* in respect to safety net review wages decisions and the detrimental consequences on small business in respect to test case standards.

A centralised system to determine wage rates means there is little consideration to either industry specific or workplace specific issues, particularly a lack of linking increases to productivity gains at the workplace. The recent \$18 per week increase awarded by the AIRC will have a substantive detrimental affect on employment in farming small businesses that are heavily reliant on industrial awards. The Full Bench of the *AIRC* recognised themselves that the decision would result in a loss of jobs in certain industries:

“We accept that the increase we have decided upon may have some negative effects on employment in those sectors of the economy in which a high proportion of the workers are award reliant.”¹⁰

The increase in 2002 (the highest ever granted by the AIRC in a safety net review wages decision) also has indirect costs increases to employers through allowance increases and increase of the superannuation payments (that is compounded by the increase as at 1 July 2002 of the superannuation employer contribution). Conversely, how much actually goes to the employer by the time tax is taken out and what impact the increase may have had on any Government payments being collected by the employee?

The NFF submits that there should be a review of the current wage fixing system that should consider a system to promote a flexible and efficient economy. If a centralised system is to be retained, then wage increases should be at the minimum level, with increases for additional wage levels negotiated at the workplace.

The NFF acknowledges the work being undertaken by the Federal Government to alleviate some of the concerns in respect to wage increases with the announcement that the *Workplace Relations Amendment (Protecting the Low Paid) Bill 2002* will be introduced in the spring session 2002 of Parliament, with the aim to ensure that the role of awards is to act as a safety net of minimum conditions for the low paid.

It is the NFF's position that any review of the current workplace relations regime in Australia should not be limited to wages but extend to the role of the award system and the way in which the centralisation of decisions of the AIRC limits the flexibility required of Australian workplaces, particularly business competing in the highly competitive export market. For example,

¹⁰ Paragraph 161, page 41 of the Safety Net Review Wages Decision 2002, 9 May 2002, Full Bench of the Australian Industrial Relations Commission

test case standards, sought by the ACTU, are automatically passed onto all awards with a very difficult process to oppose the introduction of such clauses within particular awards once a test case decision has been determined. In all circumstances test case standards sought by the ACTU introduce additional costs to employers without any linkage to productivity gains at the workplace. The appropriate course of action to pursue claims on behalf of employees is at the workplace where specific issues affecting the workplace can be considered and any benefits gained are to the benefit of both the employees and employer.

The Australian industrial relations regime needs to move towards greater decentralisation to ensure greater flexibility and focus on the needs of individual workplaces and their employees.

Administration of Employment at the Workplace

In the introduction to this chapter, the administrative burden upon small business operators in respect to dealing with employees was outlined as an impediment to employment in small businesses. While in many instances the regulatory impact can be reduced through legislative amendment, there is also a requirement to increase the knowledge of small business operators. Education is required not only in relation to the regulatory requirements in respect to employment, but also how to employ the right people and train them correctly to minimise the potential for any problems within the employment relationship and to maximise the output of the employee that increases productivity at the workplace.

The role of educating small business is for Governments, employer organisations, service providers to business and a proactive approach by the employer. The information has to be easily accessible, understandable, concise and cover all aspects of employment issues. These parameters were identified as important within the NFF survey with most respondents commenting that they need simple, concise and friendly information about the obligations of employers in hiring and firing and other government regulation from either the government or employer organisations.

An example of the role that can be undertaken to assist small business in this regard is a current project being undertaken by Rural Skills Australia in consultation with various organisations including the NFF, AFFA and is financed through FarmBis. The project is aimed at providing an easy guide to recruitment and induction of employees for farming small businesses. The project is in its early stages but is seeking to provide a document that is not legalistic but ensures that employers are aware of the issues they need to consider in employing people.

The accessibility of education and how it is prioritised is also a consideration that needs to be at the forefront of any programs introduced to assist small business. In assessing the training undertaken by

respondents to the NFF survey, less than 5% identified that they intended to take an employment related training course while most concentrated on farming related courses such as OH&S and chemical usage. However, all respondents had received some training relating to business management.

Difficulties in undertaking training included time constraints and limited or no access to a desired training program in the region for either themselves or their employees.

These are all factors that need to be considered when developing education programs for farming small businesses.

7. Taxation

There are a number of taxation issues that are of concern to farmers and affect their decisions in relation to employment.

The last few years have seen the introduction of the biggest tax reform changes in Australia's history and this has had a significant impact on the way farmers operate their businesses and consequently has had an impact on employment.

Compliance

The additional awareness of compliance issues has focused farmers on the need to keep adequate records. However, farmers continue to spend an increased time complying with the requirements of the new tax system, compared to the previous regime.

Many businesses are finding that they are spending twice the amount of time undertaking this additional paperwork moving from completing two returns a year (partnership and individual income tax return) up to completing 10 returns (4 BAS, 1 income tax return for partnership, 4 IAS, 1 income tax return for individual).

Even with the changes to simplify the BAS, there is still an additional compliance burden on farmers and small businesses. There have been several impacts of this additional compliance burden on employment.

Those farmers operating as a small family business have suffered the loss of a family member being able to assist with the farm work as they need to meet the compliance deadlines of the business. Many businesses have needed to seek assistance, either with the farm work or with the paperwork. This additional assistance can take the form of employed labour or contracting in the services. Unfortunately, those families who cannot afford the additional costs of employing assistants are having to bear the additional workload themselves, by working longer hours and doing their paperwork at night.

The NFF believes that compliance costs are a fundamental factor that should be considered in developing all government regulations. Compliance costs form a higher proportion of total costs for small business than large business. The recent examination of the Tax Value Method by the Board of Taxation initially did not consider the impact on small business. However, following input from the NFF and other small business organisations, the Board agreed to undertake an examination into the compliance costs of introducing TVM. The NFF believes that this type of early consultation and examination should be used as a model for developing further taxation policy and government regulation.

Goods and Services Tax

The introduction of the Goods and Service Tax (GST) has had a significant impact on farmers and small businesses. Farmers committed a substantial amount of their time and effort to understand and implement the GST. As a result the farming community has enjoyed a generally smooth transition to the GST. In particular, the education program conducted by the farming organisations through the GST Start-up Office enabled farmers to have a broad understanding of the GST and how it applies to the agricultural sector.

The GST itself has resulted in savings to farmers, particularly in relation to produce that is exported. Increased costs in relation to the GST relate mainly to set-up costs of additional systems, paperwork and advice, however the impact of the GST on employment is more clearly seen in the small businesses that farmers deal with. For example, rural accountants have needed to increase the numbers of staff to deal with the additional workload. The initial need for assistance by farmers was met to a certain extent by tax office field officers and this need for assistance has reduced substantially. However, the pressure has remained on the accounting profession.

Business Activity Statement

The need to complete Business Activity Statements (BAS) on a quarterly basis has proved to be a paperwork burden for many farmers. NFF support the view that better and more regular recordkeeping can benefit the business, particularly in knowing the cashflow position of the business. However, the reality is that completion of the BAS requires far more work than simply keeping the books up to date and can be an onerous task to meet the deadlines to complete the BAS, particularly on a quarterly basis.

A key message of the Government was that businesses would be able to complete the BAS themselves and there would be no need to visit their accountants.

Unfortunately, that has not necessarily been the case although the NFF acknowledges that the move to the instalment method of lodging the BAS has eased this burden somewhat. In particular, the removal of the requirement to complete the statistical information on the calculation sheet alleviated the problem significantly.

However, the experience with the BAS highlighted the need for government to consult with small business in relation to the practical application of government reforms and regulations.

NFF had continued to press government on the fact that while farmers could accurately account for the GST paid and collected with limited

problems, it was the extra calculations they needed to do for the BAS that was creating the complexity.

This was information that would normally be provided at the end of the year for income tax purposes. Further, there was a need to understand tax terms such as capital acquisitions. This led to farmers relying on their accountants just to complete the BAS form and completely went against the key messages from Government before implementation of the new tax system, which was that businesses will be able to meet their reporting obligations themselves.

Many farmers needed to employ book-keepers on a permanent or casual basis simply to complete the BAS. As small businesses, this was a cost they had to absorb, as there was no opportunity to pass the additional expense on.

The government finally simplified the BAS after 6 months of intense lobbying by the NFF and other small business groups. However, this highlights the issue that it is imperative that the government consult early with small business during the policy development stage. If this had happened with the BAS, and if the warning signs were heeded earlier, then the debacle that resulted in the BAS being simplified would not have happened. Small business would not have had to suffer the increased stress and workload and there would have been greater certainty in relation to small business employment.

PAYG

The PAYG system was unfortunately not given the same level of attention as the GST and BAS in the lead up to the introduction of the new tax system.

Consequently there was a lot of confusion and lack of knowledge about how the PAYG system would apply to farmers. In particular, the bringing forward of tax payments under the PAYG instalment system, when compared with provisional tax, had a negative cash flow impact on farmers.

The introduction of PAYG withholding had less of an impact in monetary terms as it did not result in a major change to the way in which income tax was collected on behalf of employees. Of great confusion however to farmers and small businesses was the introduction of the two terms, PAYG instalments and PAYG withholding. While this may have been understood and appeared more simple at the government level, it caused no end of confusion amongst businesses. In fact, many businesses and accountants still revert to the term “group tax” for their PAYG withholding payments.

The biggest impact on farmers of the PAYG system was the need to undertake what was an extremely complex calculation to be able to complete the Instalment Activity Statement (IAS).

Once again, after active lobbying by the NFF, the PAYG instalment was significantly simplified for farmers by the introduction of the instalment option.

However, the impact of this initially on farmers was that they relied on their accountants to undertake this calculation and completion of the IAS. Even with the introduction of the instalment option, it appears that many farmers still rely on their accountants to at least check the BAS and IAS before lodging the form, increasing the need for rural accountants to employ staff to deal with these administrative requirements, as a result of the new tax system.

Simplified Tax System

The Simplified Tax System (STS) has been claimed by government to be a simple tax system for small business. However, while farmers and small business may have been prepared to complete their BAS themselves, albeit with help from bookkeepers and their accountants, the vast majority of farmers will have their income tax return lodged by their accountant.

The NFF has been seeking to have the threshold increased to enable more farmers to be able to access the STS. Of great concern to the NFF is that the accounting professions are advising their clients not to use the STS because it requires use of the cash basis of accounting only. Accountants generally prepare their clients books on an accruals basis, however the STS does not permit this basis of accounting.

It appears, that farmers may not be given the opportunity to fully assess whether the STS may be advantageous to them. However, until the number of income tax returns lodged under the STS system can be identified, the NFF can only provide anecdotal evidence of this.

At this stage it has been difficult to assess the impact of the STS on employment, as it will apply for the first time to the income tax year ended 30 June 2002.

Uniform Capital Allowances

The changes to depreciation under the uniform capital allowances measures have had severe impact on farmers. In particular the reduced depreciation rates, the removal of the balancing charge offset and inability to claim low cost assets in full can result in a significant increase in taxable income.

These changes were introduced in September 1999, although small business taxpayers were able to retain existing provisions until the introduction of STS. There is still a relatively low level of knowledge about these measures.

It is difficult to assess the impact of the capital allowances changes on employment due to the lack of awareness of the measures. However, it can be assumed that, as with other tax reform measures affecting small business, the burden of the additional employment requirements will fall upon accountants and advisors.

Non-commercial losses

The non-commercial loss provisions have the potential to have an adverse impact on farmers, although many may not yet be aware of them.

The non-commercial loss provisions deny the claiming of losses against off-farm income for those enterprises that are not considered to be commercial. Unfortunately the legislation is fundamentally flawed, containing arbitrary tests and thresholds that are difficult to enforce. Further, the law is difficult for the ATO to administer and makes a mockery of the policy intention of the law. Until there can be a complete assessment of the legislation, the NFF continues to work to try and ensure compliance by farmers with this flawed piece of law.

The objective of these measures is to improve the integrity of the tax system by preventing individuals from offsetting losses from non-commercial activities against other assessable income in the year the loss is incurred.

The legislation requires that a business activity must pass at least one of four arbitrary 'rule of thumb' threshold tests for commercial activity or a Commissioner's discretion test, otherwise the business activity will be required to defer deduction of losses until a later year when one of the tests is met.

The non-commercial loss provisions as they stand will cause a serious threat to many small-scale primary producers and the rural businesses and communities that depend on them. In an attempt to eliminate abuse of primary producer tax concessions by city-based hobby farmers, the Government has introduced legislation that threatens to close down genuine small farms and rural businesses in many regions in rural Australia.

These measures will act as a disincentive to productive investment and innovation, especially in and by small business. The legislation specifically excludes passive investments, such as negatively gearing loans for investment in shares and/or residential property. It therefore favours investment that does not create new wealth or employment over

high-risk investments by individuals in new productive ventures. It will suppress innovation and 'vertical integration' by individuals, but not by companies, or large scale operations that still make consistent losses.

The consequences for farmers is that where a farm partnership may have one or more partners with off-farm income of \$40 000 or more, those partners are not able to claim the loss against their income unless one of the tests is met or they have been granted the Commissioner's discretion

The impact on small business employment is that where the loss is denied, the farmer needs to consider whether it is worthwhile continuing to undertake the off-farm work or whether there is a need to reduce the work until there is less than \$40 000 earned off-farm.

For example, one of the partners in a farming partnership decides to supplement the family income by taking up a position as a teacher in the local town. A number of factors, including adverse weather conditions and a downturn in the wool market have resulted in the farm making losses. The off-farm income earned is greater than \$40 000 and will assist in sending the children to boarding school as there is no secondary school within travelling distance of the property. None of the tests is met, nor has the Commissioner exercised his discretion. The family realise that they will not be able to offset one of the partner's share of the losses against the off-farm income, reducing the cash amount they were relying on at year end to pay for the next terms school fees. The family realise that the partner working off-farm will either need to reduce their working hours or cease work so that they remain under the \$40 000. The impact of not being able to claim the losses is too significant to their survival until they are able to meet one of the tests through normal business activities.

This legislation has a great potential to adversely affect employment by small businesses, with a consequent cascading effect on the rural community.

Alienation of Personal Services income

A new tax measure applies to income earned from providing personal services from July 1 2000. This measure affects consultants and contractors, and therefore has the potential to impact on farmers and their ability to undertake off-farm employment.

If farmers operate through a company, partnership or trust and earn contract income then payments to their farming entity may still be taxed as their personal earnings. Deductions will also be limited.

It can generally be expected that farmers who engage in off-farm activities where they operate and supply high value assets such as a grader, bulldozer, super spreader or header, then this will not be regarded as personal service income.

The type of off-farm income that is likely to be subject to these new rules is where the farmer receives payment for contract services provided, such as shearing and fencing or operating equipment, such as a hay baler, without actually providing the equipment. In these instances farmers will need to determine whether they will receive 80% or more of this income from one source. If the answer is no, then the income may still be considered to be the income of the farm entity.

If however, 80% or more of this income is received from one source, then even if this income is paid to the farm partnership, it is likely to be assessable in the hands of the individual who earned the income and cannot be regarded as farm income and split with other members of the entity.

The impact of these measures on small business employment is at two levels. Firstly, farmers who engage in contract services off-farm need to assess the impact on their farming income and determine whether they need to apply to the Tax Office for a determination. In relation to the contractors they employ, they will need to ensure that they are conversant with the recent changes to the law. Uncertainty or indeed, even a lack of awareness of these measurements impact on employment.

Farm Management Deposits

The Farm Management Deposits (FMD) Scheme encourages financial self-reliance among Australia's farmers. The FMD scheme provides an important risk management tool to help farmers deal with uneven income streams common in agriculture due to climatic and market variability.

There is overwhelming support for the FMD scheme and farmers see the FMD as vital for risk management.

NFF are pursuing a number of changes to the FMD scheme, including enabling FMDs to be rolled over into superannuation.

The NFF believes that there should be an ability to allow FMDs to be rolled over into a complying superannuation fund enabling farmers to engage in retirement planning while at the same time continuing to have access to a risk management tool. Allowing FMDs to be rolled over into superannuation will provide an incentive to Australia's farmers to plan for their retirement strategies at a younger age and afford farmers the same tax treatment that other self-employed persons have.

The Farm Management Deposit (FMD) has the ability to enable farmers to prepare for the bad times by putting money aside in the good times. Consequently, this enables farmers to even out their income flows and should have a stabilising effect on employment allowing them to give greater certainty to the people they employ.

State Taxes

State taxes continue to be an added impost to farmers and small businesses. Following the introduction of the new tax system, it was understood that many of these State taxes would be removed. However, that has not been the case, with some of these taxes unlikely to be removed in the future and some of them even rising.

State taxes have the ability to erode farm employment. In particular, the effect of payroll tax increases the costs of employing staff and can be prohibitive to employing people.

State taxes on insurance are another high impost that limits the ability to employ. With spiralling insurance costs, farmers are seeing state taxes on insurance of up to 87%.

NSW and Victoria impose the highest taxes on insurance in the world. For example, a \$100 fire insurance premium paid by business in country Victoria first attracts a \$55 fire insurance levy, and then \$15.50 in GST and then incurs 10% stamp duty on the total amount. The result is for every \$100 in fire insurance premium, Victorian rural businesses pay an additional \$88 in tax.

High state taxes impact adversely on the ability of farmers and small businesses to employ. The difference in taxes between State to State is also confusing and an impediment particularly to those businesses that operate in border towns.

Education

Education is vitally important to small businesses to enable them to assess how government regulation can impact on their business and enables them to prepare.

The GST education program was an outstanding success and resulted in farmers and small business being much better prepared for the changes. However in relation to other tax reform measures, in particular the business tax reform changes, the education and awareness has been minimal or non-existent. The NFF has done their best to inform farmers about the impact of these changes enabling them to prepare their businesses, however the extent to which we can devote resources to programs of this extent is limited.

The NFF believes that the government should include an awareness and education strategy into any changes in government regulation to enable small business to be informed about these changes and have an opportunity to seek advice and plan ahead for any impact. In particular, it is necessary for government to liaise with small business organisations as

a delivery mechanism to disseminate messages to small business. Too often the NFF, farmers and small business hear that government believes that the measure was communicated to the public because there was information available on a website. Small business and farmers do not visit the various government websites just in case there is some new information as a matter of course. They are reliant on the information and triggers provided to them by government to seek further information.

It is acknowledged that there can be a significant improvement to the education of farmers about the FMD scheme and feedback from farmers appears to indicate that information from government, including AFFA, is not that successful. Most primary producers obtain information on FMDs from their banks and professional advisors.

Overall, farmers believe that information and education provided through farming organisations and the rural press would be far more effective.

8. Superannuation

The *Superannuation Guarantee Charge Act* requires employers to contribute towards employees' superannuation. The regulatory requirements on employers have been steadily increasing since the introduction of the SGC employer contribution in 1992 and with the highest legislative level of contribution (9%) effective 1 July 2002.

Employers are adversely affected by the SGC contribution in respect to the following:

- Administrative requirements to meet SGC resulting in compliance costs
- Actual costs to meet SGC contributions
- Cash Flow impact

The legislated increase of the SGC employer contribution as at 1 July 2002 along with the impact on employers of the recently passed *Superannuation Guarantee Charge Amendment Bill 2002* are current examples of the above factors list above coming into play.

The NFF has consistently expressed its concern regarding the adverse impact of the *SGC Act* on employers, particularly small business.

In the NFF submission to the *Senate Select Committee on Superannuation and Financial Services on the Superannuation Guarantee Charge, its Enforcement and Prudential Supervision and Consumer Protection for Superannuation* in January 2000, it was stated that:

"It is the perception of many farmers and other rural people as employers that the burden of compliance with Awards, taxation administration, discrimination laws, workers compensation, occupational health and safety, and of course the SGC, is excessive. The SGC legislation stands as an example of a regulatory regime that is both difficult in concept and administratively onerous and which changes at a rate that is unsettling. Whilst these considerations remain real and emphasise the systematic faults of the SGC regime, the NFF has accepted that the scheme has become institutionalised."

The NFF acknowledges the importance of superannuation for the Australian economy as our ageing population increases and that the government should not be burdened with the responsibility. However, the NFF do not believe it should be the responsibility of the employer.

The NFF submits that there should not be any additional requirements in respect to superannuation placed on employers through either legislation or industrial awards. This is in respect to both actual costs (for example, no increase on the percentage of employer contributions) and additional compliance costs.

The responsibility for any increase in superannuation contributions must be upon the individual. The Government can also play a role in providing encouragement to individuals to contribute rather than relying only on employer contributions. The NFF therefore commends the Federal Government's introduction of *the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002*.

An employer can assist in respect to superannuation on a case-by-case scenario through employment contracts, Australian Workplace Agreements or Certified Agreements. Enterprise Agreements are a vehicle to allow the employer to increase contributions without impacting on the overall productivity of the business.

The existing regulatory regime does have an adverse impact on employers and can contribute to a reduction in productivity at the workplace and is a direct negative factor in determining the cost of creating additional employment opportunities in the workplace.

Administrative requirements to meet SGC resulting in compliance costs

In the payment of the SGC employer contribution, employers are required to ensure that each employee's superannuation details are correct and then undertake calculations on an annual basis to determine the amount to be paid on behalf of each employee. This is of a particular problem in the farming industry due to the following factors:

- Seasonal work resulting in a large number of employees being employed for a short period of time.
- Seasonal work also contributes to a high turnover in workers.
- Low utilisation of payroll systems within farming businesses.

A large number of farmers undertake the payment as per the regulatory requirement to pay on an annual basis to minimise the administration associated with calculating the payments. The compliance cost associated with the administration of the payments will be compounded as at 1 July 2003, with the amendment to the *SGC Act* that the payments must be made at least quarterly as opposed to an annual payment. The NFF expresses its disappointment that the ALP and Democrats did not

support a change in the eligibility threshold that would have minimised the costs incurred with the change to quarterly payments.¹¹

Actual costs to meet SGC contributions

The costs associated in meeting the SGC employer contributions are significant and due to the changes in the level of the payments since the introduction of the SGC, the costs have steadily increased. The cost increases are compounded by increases in wages particularly at the level recently granted by the AIRC in the safety net review decision of \$18 per week. These increases are forced upon employers without any link to productivity increases at the workplace.¹²

The NFF submits that the cost implications on employers are already significant. There should be no consideration whatsoever in legislating any additional increases to the percentage basis of the employer contribution. Such increases will have a direct impact on employment.

Cash Flow impact

Obviously employer contributions, particularly when there is an increase in the cost of paying the contribution or changes to when payments have to be made, will have a direct negative impact on cash flow. The effect on cash flow is significant. For example, a farming business employs a substantial number of employees for seasonal work and is required to pay quarterly but has yet to be paid for the produce.

¹¹ *The Superannuation Guarantee Charge Amendment Bill 2002* included amendments to change the payments to quarterly and to also change the eligibility threshold from a monthly basis to a quarterly basis. The test to determine threshold was removed from the Bill and was subsequently passed with the amendment.

¹² The NFF's concerns regarding safety net review decisions were discussed in further detail within the workplace relations chapter of this submission.

9. Planning Law

Property Rights

Increasingly, farmers in Australia are being required to comply with environmental regulations that are designed to achieve a benefit for the entire community, but which have a significant cost for individual farmers.

Desirable environmental outcomes such as the preservation of threatened species, the conservation of biodiversity and the amelioration of Greenhouse emissions are benefits the entire community enjoys. However, in Australia these outcomes are being achieved via the imposition of regulations on the use of natural resources, which often have an adverse impact on farmers.

Current evidence supports the view that Commonwealth and State environmental laws and instruments are causing significant direct and indirect financial impacts on farmers. These impacts are occurring through significant diminution of land values and by increased uncertainty in managing farm businesses.

These impacts are significant and widespread and affect farmers most acutely in the area of financing their farm business. Availability of finance is bound closely to asset values and future income. When farm assets are threatened by legislation and policies, or seasonal production cycles are broken or missed because of uncertainties arising from complex and unclear legislative requirements, then farmers' livelihoods are put at risk. This also has implications for the sustainability of many rural and regional communities.

Compounding such direct impacts on property values, the Environment Protection and Biodiversity Conservation Act is also causing impacts on the viability of some agricultural regions. Uncertainties in the complex operational aspects of the EPBC are denying farmers the ability to plan in the longer term. For example, the majority of farmers across the country are unsure about what constitutes routine farming activities in terms of 'threats' to plants and/or communities listed under the Act.

Current State water legislation being implemented as part of the CoAG water reform agenda does not recognise a property right as agreed in the 1994 CoAG Agreement. The impact of this omission is that security of access to water no longer exists.

Within the irrigation industry alone, significant infrastructure costs have been incurred in the development of water assets that were granted under numerous government land development policies. Without the security of a property right, financial institutions are, rightly or wrongly, now reviewing their exposure in rural areas with the potential to “call in” funds on loan.

In the same ways that the Commonwealth EPBC legislation and Federal/State water policies are causing financial impacts on farmers, there are numerous documented examples of farmers losing asset value and income earning capacity through vegetation legislation and instruments enacted by the States.

If Commonwealth legislation caused residential or small business assets in urban electorates to be devalued to anywhere near this extent, there would be widespread community outrage. Few family-run businesses in other sectors of the economy would be expected to absorb the levels of asset devaluation being experienced.

The impact of these types of environmental legislation have a significant adverse impact on a farmers ability to employ. With uncertainty about future income streams and the ability to finance asset purchases, permanent employment in the agricultural sector will fall with an increase in contract services to meet short term needs.

Public Benefit test and the public good

The NFF believes that Commonwealth and State Governments should adopt and implement a comprehensive, rigorous and transparent Public Benefit Test to be applied prior to the implementation of any new Government regulations or legislative changes that may apply particularly to the transfer of property rights from landholders to the community.

Such a Public Benefit Test would:

- provide an assessment of the full economic and administrative costs of all natural resource management and environmental proposals,
- provide an assessment of social and other benefits and costs arising from the proposal,
- identify those sections of the community that will incur the costs and those that will enjoy the benefits,
- demonstrate how the proposal generates a Net Public Benefit for the community, and
- demonstrate that no other viable options exist whereby the same Net Public Benefit could be generated using non-regulatory options.

The underlying principle for compensation and transition incentives is recognising that the community must be prepared to bear the cost where a

landholder is required to forgo a development opportunity or undertake some activity for the community's benefit.

Having established protection of property rights, the Commonwealth and States should also implement a transparent Public Benefit Test process for all environmental legislation, to enable a full and transparent examination of all the costs and benefits associated with regulatory proposals.

Until this is implemented the uncertainty that farmers face in bearing the cost of meeting the public good will continue to impact adversely on employment.

Regional development

Over recent years there has been considerable debate about problems facing regional Australia. Widespread concern has been expressed that the pace, and even the direction, of reform has damaged country interests. A drain in the country population, and a loss of critical mass or essential services, have been visible manifestations of this concern.

Governments, both Commonwealth and State, have responded with a range of measures designed to alleviate the most acute difficulties. Unfortunately, this piecemeal approach runs the risk of missing important underlying causes of problems, raising expectations unduly, and ultimately proving ineffective.

NFF has reviewed the basis of the city-country divide and finds that there are significant and long-standing, and possibly increasing, biases against country living.

To correct these biases, the NFF proposes revamping the existing zone rebate scheme for individuals, and extending it to businesses. Such a reform will inject a major new incentive for people to live and work outside the capital cities.

This will improve the viability and sustainability of country Australia, including widening education and employment opportunities. One desirable consequence will be that rural adjustment will be facilitated because of people leaving agriculture will face less pressure to relocate long distances from their local communities.

NFF is proposing a new personal income and company tax zone rebate scheme for people and businesses residing and operating in country Australia. The essential justification of the scheme is to redress long-standing distortions and biases against country living — and to do so in a more neutral, across-the-board, transparent, efficient, and ultimately effective manner than the current piecemeal approach to regional Australia.

The scheme will stem the drainage of people from inland Australia. Indeed NFF's expectation would be that both inland Australia and the more broadly defined "country Australia" will experience stronger population growth, perhaps by one or two percentage points per annum, as a result of the scheme, due both to a net movement of city people to the country and an increase in the share of overseas migrants choosing to settle in country Australia in the first instance.

This NFF proposal has the ability to stimulate employment in rural and regional Australia, in particular for farmers and small business. NFF believes that the government needs to consider long term strategic measures such as this to promote employment outside the metropolitan areas and to provide increased prospects of growth in rural areas.