

The Australian Workers' Union

Submission to the Senate Enquiry

April 2002

Workplace Relations Amendment (Fair Dismissal) Bill 2002

- The attempt to exclude employers with less than 20 employees (or more depending on the number of casuals employed) would see some of Australia's most vulnerable employees left with no mechanism to be able to defend their rights when unfairly dismissed. It is important to recognise that employees in small companies are less likely to have mechanisms for support, as collective strength is a fundamental aspect of employees maintaining rights. The removal of unfair dismissal recourse would further disadvantage some of Australia's most vulnerable employees.
- It is significant to note that the Act already has mechanisms that give small businesses concessions in relation to unfair dismissal cases. The Commission is asked to consider both the arguments put forward by the employee and also the financial position of the company. This consideration is under the concept of 'a fair go all round'. If this amendment is accepted the concept of a fair go all round, as referred to in the Act would be irrelevant.
- The AWU recognise that small businesses have an important role in the Australian economy. This however this does not make it appropriate nor justify the stripping of rights for those employed by small business. The AWU rejects the arguments put forward by Mr Abbott in his second reading speech and maintain that exempting small businesses from unfair dismissal laws is not appropriate. The AWU sees the removal of unfair dismissal recourse for employees of small business in opposition to fundamental human rights and an unethical way of trying to manage small business.
- International Labour Organisation Convention 158 on the Termination of Employment does not refer to nor consider special exemptions for those employed by small businesses to be of any consequence.
- The reintroduction of the concept of exempting small business employees from unfair dismissal without recourse is uncalled for and unimaginative. On a number of occasions similar Bills have been introduced and rejected by the Senate. No new arguments or evidence has been presented to justify that this Bill be passed.