

## **Workplace Relations Amendment (Genuine Bargaining) Bill 2002**

### Pattern Bargaining

- The AWU believes that this Bill is an over reaction to the broad concept of pattern bargaining, and if passed would result in over legislation. The fact that a claim is made on more than one employer does not mean that it is not genuine. If the Bill is passed it would mean that a big shadow would be cast on very genuine bargaining claims that are being advanced by the AWU.
- The AWU believes that the concerns around pattern bargaining expressed by the Minister in his second reading speech are adequately dealt with in the current Act and that further amendments are a unnecessary and unfounded attack on the rights of employees and Unions as well as having a potentially detrimental effect on numerous industries and employers.
- For example the current policy of the AWU to attempt to insert Paid Education Leave into new certified agreements could be interpreted by the new s170MW(2)(a)(b)(i) as an intention 'to reach agreement with all persons in an industry who are, or could become, negotiating parties to another agreement with the first party, rather than to reach agreement with just the other negotiating parties.' In each case where this claim is made it is done so with the intention of negotiating the claim with individual employers and advancing it to the appropriate level at that workplace. This would not necessarily be recognised under the proposed legislation.
- The decision of Munro J as mentioned by the Minister is an indication that the Act has enough scope to be able to terminate a bargaining period if it does not believe that genuine bargaining is taking place at the enterprise level. There is no need to take this further.

### Cooling - Off Period

- The resolve to continue with protracted protected action is not a decision taken lightly by Union members. The decision to take protracted protected action should be recognised as a commitment by employees to pursue issues that they see as essential to their conditions and contract of employment. It is important to recognise that when employees engage in protracted protected action they are sacrificing money from their take home pay. Protracted industrial action is not the desired outcome of collective bargaining but in some circumstances it is the only option that the employees have to genuinely bargain.
- If this bill was passed it would be a further avenue for employers to have a greater advantage at the negotiating table. Armed with the knowledge that a suspension in protected action was a very viable option they would be less inclined to genuinely bargain.
- The Bill contains no incentive for employers to genuinely bargain rather it sways the provisions of the Act to further enhance advantages for

employers involved in negotiations. Therefore this Bill could have the effect of reducing genuine bargaining by the employers.

- This Bill attacks the fundamental human right to collectively bargain.
- The Commission already has adequate power to be able to stop industrial action if it deems it is not in the public interest by withdrawing the bargaining period.

### New Bargaining Period

- This provision accomodates further restrictions around the already very regimented provisions surrounding industrial action and collective bargaining. It is essential that this right to collectively bargain remains especially if no agreement has been reached between the parties in relation to their terms and conditions of employment.h