

INQUIRY INTO WORKPLACE AGREEMENTS

SUBMISSION OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS, SCIENTISTS AND MANAGERS, AUSTRALIA

INTRODUCTION

1. The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) is an organisation registered under the Workplace Relations Act 1996 (the Act) representing over 25,000 professional engineers, scientists, veterinarians, surveyors, architects, pharmacists, information technology professionals, managers and transport professionals throughout Australia. We are the only industrial association representing exclusively the industrial and professional interests of these groups.
2. Professional and managerial employees primarily work under a dual system of industrial regulation. Employees in the public sector are usually covered by Section 170 LJ Agreements underpinned by the relevant award. In addition some agencies make use of Australian Workplace Agreements.
3. Typically, professional and managerial employees employed in the private sector have access to the award safety net and work under individual employment contracts of employment. In the private sector there are very few collective agreements that have application to professional and managerial employees.

KEY ISSUES

The Capacity for Employers and Employees to Choose the Form of Agreement-Making Which Best Suits Their Needs

4. Section 3 (e) of the Workplace Relations Act 1996 states that one of its objectives is to “provide a framework of rights and responsibilities for employers and employees, and their organisations, which supports fair and effective agreement – making...”. In reality the employer chooses the industrial instrument whether it be a non-union collective agreement or individual agreement, and employees may face very little choice but to agree to this.
5. APESMA believes that in order to provide genuine choice in forms of agreement making, there needs to be an obligation to bargain in ‘good faith’ so as to ensure that the bargaining process is honest and fair. This is then more likely to result in an equitable outcome.

6. The lack of good faith in bargaining is particularly pertinent to members of APESMA. As professional and managerial employees APESMA members are traditionally non-militant and collectively have very little bargaining power.

The parties' ability to genuinely bargain, focusing on groups such as women, youth and casual employees;

7. As mentioned above, while one of the principal objects of the Act is to foster workplace bargaining there is no legislative support in order to enable this object to be realised.
8. APESMA would propose that the Act be amended requiring parties to bargain in good faith once a notice has been given initiating a bargaining period under section 170MI. We further propose that where there is a refusal to bargain or failure to bargain in good faith, the Australian Industrial Relations Commission be empowered to give directions or make orders requiring a party to bargain in good faith, failing which the AIRC may proceed to exercise its general powers under the Workplace Relations Act without restriction for example by S89A.
9. APESMA is also concerned regarding the process used in agreement making in accordance with Section 170LK of the Act. The Act currently does not prescribe a requirement for employers to bargain with employees through the establishment of for example, of a collective mechanism such as a consultative committee. In so far as employees who are union members are concerned the Act stipulates that the employer need only meet and confer with the relevant union if requested.
10. The shortcomings in the process surrounding the making of S170LK agreements was recently highlighted in negotiations involving EDS (Australia) Pty Ltd and related entities. EDS is a major information technology outsourcing company with several thousand employees working in their Australian operations. EDS proposed the replacement of an existing S170LK agreement with a proposed EDS People Agreement 2005. The "negotiation process" involved EDS firstly e-mailing a copy of the proposed agreement to their employees. This was followed by briefings from local management, and the conduct of focus groups. Employees were invited to make suggestions on an individual basis but had no collective representation. APESMA were able to meet and confer with EDS but as the Act currently allows, the company refused to negotiate.

11. APESMA is concerned that apart from the statutory requirements governing the circulation of a proposed S170LK agreement and the ratification process that there are no provisions in the Act that facilitate an interactive process that could be described as genuine bargaining. In these circumstances the interests of such groups as women, youth and casual employees are only taken into account if the employer wishes to do so.

The social objectives, including addressing the gender pay gap and enabling employees to better balance their work and family responsibilities.

12. APESMA is very concerned regarding the gender pay gap amongst professional and managerial employees.
13. This problem is highlighted by APESMA's *Women in the Professions Survey Report 2004*, which reported that female professionals receive lower salaries than men do. Overall, 28.4% of respondents believed they did not receive equal compensation in the workplace compared to males. The perception of disparity was particularly evident amongst certain professions, particularly Architecture, Business and general Science. However, the survey also found that for those professions where underpinning industrial awards or enterprise agreements play a significant role in salary determinations, such as Engineering and Pharmacy, there was a perception of greater equity in wage and salary outcomes.
14. The problem of excessive working hours has in recent years been a major issue for professional and managerial employees. According to APESMA's *Professional Engineer Remuneration Survey Report 2005* the median number of working hours reported by full-time employee Professional Engineers was 43. Half of all engineers work between 40 and 48 hours per week.
15. The survey also found that just under 60% of Professional Engineers do not receive compensation for working overtime. This result is similar for both the private and public sectors of employment and it was also consistent with results obtained for other professional groups such as scientists and computer professionals.
16. According to the *Women in the Professions Survey Report 2004* the average number of hours worked, across all disciplines, was 42. The greatest incidence of overtime was amongst scientific disciplines.
17. APESMA believes that recent test cases of the Australian Industrial Relations Commission pertaining to Working Hours and the Family Provisions decision are a

particularly important protection for many professional and managerial employees employed in the private sector. There is a concern that if the award system is not maintained as a viable safety net then the benefits that flow from these provisions will not be readily accessible to employees whose primary industrial instrument will be an individual contract of employment.

The Capacity of the Agreement to Contribute to Productivity Improvements, Efficiency, Competitiveness, Flexibility, Fairness and Growing Living Standards

18. Engineering has been recognised as one of the professions within Australia currently suffering from a skills shortage crisis. Due to a combination of strong engineering manufacturing levels, global labour force and a lack of demand for engineering places at universities, there is a significant shortage of engineers in Australia. This has enormous ramifications for Australia's productivity, competitiveness and increased living standards. Without sufficient personnel working within engineering, fundamental necessities such as public infrastructure and economic growth will suffer.
19. One way to assist in curbing this trend is through an increase in remuneration levels. Professional Engineers' salaries have not kept pace with other professional incomes. *The Age* reported on 27 July 2005 that the average starting salary of a graduate engineer is \$41,000, almost \$20,000 less than that earned by a graduate dentist. APESMA's *Graduate Engineer Employment Survey Report 2005* found that many graduates do not think that Professional Engineers 'enjoy the status they deserve' and that they have abandoned the profession in favour of better paid careers. The Association of Consulting Engineers (ACEA) reported in their July 2005 edition of *National Outlook* that 53% of all graduate respondents perceive that they will get higher salaries in different professions. Moreover, APESMA's *Professional Engineer Remuneration Survey Report 2005* also concluded that engineers are underpaid relative to their level of responsibility.
20. APESMA believes that measures such as the introduction of good faith bargaining and the maintenance of a viable award system are integral to improving the salaries and conditions of employment for Professional Engineers and other technology based professionals.
21. Another important issue is that of career planning and professional development. For example APESMA's *Graduate Engineer Employment Survey Report 2005* has found that companies are not investing enough in job planning and ongoing training. Without the implementation of structured career development programs that take into account both short and long term needs, the industry will keep on losing well qualified and experienced engineers.

22. APESMA believes that the most effective way of ensuring career planning and professional development is through awards and collective agreements, rather than through Australian Workplace Agreements.
23. Michael Butler, APESMA Senior Industrial Officer and Jackie Wise APESMA National Research Officer prepared this submission.

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