

Chapter 4

Family First Dissenting Report

4.1 The Government's Work Choices laws are unpopular because Australian workers do not like the idea of having to bargain for basic work conditions. The economy might be going well at the moment, but families are concerned about what might happen when there is an economic downturn and jobs are at risk. They are also concerned about what sort of workforce their children will be entering.

4.2 Family First voted against the Work Choices legislation because it undermined family life and removed guaranteed conditions including overtime, penalty rates, meal breaks and compensation for working on public holidays.

4.3 Family First took a strong stand against the Howard Government's workplace changes from day one. In fact, our first media release, issued in July 2005, was entitled 'What about meal breaks and public holidays for workers?'

4.4 In that release, I wrote:

The average Australian won't accept the idea that people could be required to work seven days a week and not get a meal break or work lengthy periods of overtime without being paid penalty rates. And they won't accept not being guaranteed pay for taking a public holiday.

4.5 The changes confirmed my view that many 'family friendly' policies are not family friendly at all. Rather, they are market friendly.

4.6 I promised in that release to take up these issues with the Federal Government on behalf of Australian workers and their families, and I have kept my promise.

4.7 Australians want to know problems are being fixed and Family First proposed sensible, commonsense solutions to improve the legislation and get a much better outcome for workers and their families.

4.8 Who really believes a young checkout operator at Coles or Woolworths is able to 'bargain' with their employer about their wages and conditions?

4.9 Family First has been the only party arguing for a balanced middle position. The Government was stubbornly refusing to make changes while the Opposition just wanted to recklessly rip up the laws.

4.10 As part of Family First's campaign to lobby the Government to change its Work Choices legislation to make it fairer for workers and their families, Family First introduced its own bill into the Parliament to give back to the more than 8 million Australian workers on agreements and contracts what the Government took away.

4.11 Family First's bill would ensure:

- workers who have to work on public holidays will be guaranteed a minimum of another day off paid at time and a half;
- workers will be guaranteed an unpaid meal break of at least 30 minutes after five hours;
- workers will be guaranteed overtime at a minimum rate of time and a half;
- workers who work anti-family hours will be guaranteed penalty rates at a minimum of time and a half; and
- workers will be guaranteed their redundancy entitlements.

4.12 Family First's legislation strikes a balance between the needs of workers and the needs of small business, most of which are family businesses.

4.13 The Australian Industry Group claimed that Work Choices '... entitles employees to a day off on public holidays, subject to an employer's right to request that employees work on public holidays, and an employee's right to refuse requests to work if reasonable in the circumstances.'¹

4.14 But this does not mean that workers and their families will get a public holiday, or be paid if they work on a public holiday.

4.15 Before Work Choices, public holidays like Anzac Day were guaranteed conditions. Workers had a legal right to take them off. But if they did work, they were guaranteed penalty rates.

4.16 Under Work Choices, public holidays like Anzac Day are no longer guaranteed. And those who do work on public holidays are not guaranteed one cent extra.

4.17 Public holidays are important family and community days and Anzac Day is a day when Australians should be allowed to honour our fallen heroes.

4.18 Under Work Choices workers can fight for public holidays like Anzac Day if they have 'reasonable grounds'. That is not a guarantee.

4.19 There is nothing to say attending an Anzac Day dawn service or ceremony is a reasonable ground.

4.20 Workers now have to plead their case to take a public holiday and their employer decides whether to grant their request, after considering things such as the needs of the business.

4.21 The only way workers can challenge their employer's decision is to go to the Federal Court.

1 Australian Industry Group, Submission 9, page 22.

4.22 Under Work Choices, the burden of proof falls on workers. But who can afford to hire a lawyer and take their boss to court to prove reasonable grounds?

4.23 Workers who do work on public holidays are not guaranteed penalty rates which means they are not guaranteed being paid one cent extra or receiving another day off.

4.24 The Australian Chamber of Commerce and Industry conceded that under Work Choices it was legal to have someone work on Anzac Day and Christmas Day and not pay them a cent more and not give them a day off in lieu.²

4.25 Family First is fiercely independent but Family First is definitely pro-worker and pro-small business. The changes Family First proposed help all workers without imposing heavy costs on small businesses which employ the vast majority of Australians.

4.26 Family First has worked hard to sell the merits of its Bill, particularly with Government and business, to ensure workers and their families are not worse off.

4.27 Family First is pleased the Government has listened, and responded. This is evidence of Family First's influence and our relentless pursuit of commonsense solutions for Australian workers and their families.

4.28 Family First will scrutinise the detail of the Government's new fairness test to ensure workers and their families will genuinely not be worse off.

4.29 Family First acknowledges its bill could be tightened to meet its desired outcomes, which is to ensure no Australian worker is worse off and no Australian worker is forced to bargain for basic conditions which the Government took away.

Senator Steve Fielding
FAMILY FIRST Senator
FAMILY FIRST Senator for Victoria

2 Mr Barklamb, Australian Chamber of Commerce and Industry, Senate Committee Hansard, 8 June 2007, page 19.

