

The Senate

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Standing Committee on  
Employment, Workplace Relations  
and Education

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Workplace Relations (Restoring Family  
Work Balance) Amendment Bill 2007

June 2007

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# Members of the Committee

## *Members*

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Senator Andrew Murray	AD, Western Australia	

## *Senators participating in this inquiry*

Senator Steve Fielding	FFP, Victoria
Senator Rachel Siewert	AG, Western Australia

## **Secretariat**

Mr John Carter, Secretary  
Dr Greg Spelman, Principal Research Officer  
Ms Candice Lester, Executive Assistant

Senate Employment, Workplace Relations and Education Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia  
Phone: 02 6277 3520  
Fax: 02 6277 5706  
Email: [eet.sen@aph.gov.au](mailto:eet.sen@aph.gov.au)  
Internet: [www.aph.gov.au/Senate/committee/eet\\_ctte/index.htm](http://www.aph.gov.au/Senate/committee/eet_ctte/index.htm)



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# Acronyms

ACCI	Australian Chamber of Commerce & Industry
ACTU	Australian Council of Trade Unions
Ai Group	Australian Industry Group
AMWA	Australian Manufacturing Workers Union
AWA	Australian Workplace Agreement
CPSU	Community & Public Sector Union
NFF	National Farmers Federation
QCU	Queensland Council of Unions
SDA	The Shop Distributive & Allied Employees' Association





# Chapter 1

## Introduction

### Background

1.1 On 29 March 2007, Senator Steve Fielding, leader of the Family First Party, introduced the *Workplace Relations (Restoring Family Work Balance) Amendment Bill 2007* into the Senate. On 10 May 2007, the Senate referred the bill to the Employment, Workplace Relations and Education Committee for inquiry and report by 14 June 2007. The committee dealt with this private bill concurrently with its inquiry into the provisions of the *Workplace Relations Amendment (A Stronger Safety Net) Bill 2007*.

### Purpose of the bill

1.2 The purpose of the bill is to amend the Workplace Relations Act 1996 to restore to Australian workers their public holidays, meal breaks, penalty rates and overtime and to protect their redundancy entitlements. It seeks to achieve this by ensuring Australian workers are guaranteed a paid full day off in lieu paid at not less than a rate of time and one half for working on a public holiday; a meal break after five hours of continuous work; remuneration at not less than a rate of time and one half for working more time than their maximum ordinary hours of work; the preservation of existing redundancy entitlements; and a clear definition of ordinary hours of work.

### Submissions

1.3 The committee advertised the inquiry in *The Australian* newspaper on 16 May 2007, inviting submissions by 4 June 2007. Details of the inquiry, the bill and associated documents were available on the committee's website. The committee also directly contacted the Department of Employment and Workplace Relations as well as various employer groups, industry organisations, unions, stakeholders, commentators and academics to invite submissions to the inquiry.

1.4 The committee received 11 submissions, which are listed at Appendix 1. The committee held a public hearing in Canberra on 8 June 2007. However, there were few references made to this bill during the hearing with the focus remaining on the *Workplace Relations Amendment (A Stronger Safety Net) Bill 2007*. The list of witnesses that appeared at the hearing is at Appendix 2 and copies of the Hansard transcript are available through links at <http://www.aph.gov.au/hansard/index.htm>.

## **Acknowledgement**

1.5 The committee thanks those organisations and individuals who made submissions, gave evidence at the public hearing and otherwise assisted with the inquiry.

## Chapter 2

### Government Senators' Report

2.1 Many of the submitters to the inquiry supported the principles underlying the bill, but for various reasons they considered that the provisions were unlikely to meet the stated objectives of the bill. Many submissions raised concerns about the technical drafting of some of the provisions that would disadvantage employers and/or employees. Employee organisations generally argued that the provisions did not go sufficiently far to restore improvements to the family-work balance for workers. It was also noted that the bill did not effectively amend the Workplace Relations Act to remove provisions, which permitted the exclusion of the provisions of the bill in workplace agreements. Employer groups generally argued that the changes would remove the flexibility necessary to allow family and work obligations to be balanced, impose additional costs and administrative burdens on business, and would not accommodate different industry and employer requirements.

2.2 The committee majority concurs with these criticisms of the bill.

#### **The workplace relations system and the family-work balance**

2.3 The family-work balance in workplace agreements has been increasingly important because of the changes inherent in modern work patterns. Increasingly, more households have become either single parent/earner or dual income households, necessitating increased flexibility in the way people are employed.

2.4 The intention of the bill is to restore conditions necessary to enable employees to balance work and family obligations. However, the committee majority considers that such provisions are unnecessary as the primary purpose of the Government's reforms to the workplace relations system has been to enable employers and employees to negotiate a better balance of work and family life. This bill aims at returning workplace arrangements to the former system where there was little or no provision for individual needs, nor the flexibility to negotiate hours of work to accommodate family responsibilities. Standardisation of conditions cannot be made to suit the diverse family responsibilities of millions of employees or the operational requirements of varied businesses.

2.5 As a result of the Government's workplace relations reforms and the increased flexibility it has delivered, fewer people are working unsocial and excessive hours. The number of people working 50 hours or more each week—the most widely used indicator of long hours—during 2006 was 17 per cent. This is a substantial reduction from the levels of 2000 when this constituted 22 per cent of the workforce. Further, most of those working more than 50 hours per week are professionals with high job

satisfaction or self-employed.<sup>1</sup> The enhanced flexibility of Work Choices has facilitated their capacity to exercise choice, enhance their own productivity and that of the business that employs them. The Government's championing of workplace flexibility encourages payment of a higher standard hourly rate of pay, as opposed to penalty rates, and diminishes the pressure some employees may feel to work weekend or other unsocial hours to maximise earnings.

2.6 The Organisation for Economic Cooperation and Development's Economic Survey of Australia 2006 highlighted concerns about Australia's aging population and the long-term effect on the sustainability of productivity and living standards. It underscored the need for continued labour market flexibility and streamlining of industrial relations provisions to maintain productivity growth and workforce participation. It suggested such flexibility was particularly important for providing employment opportunities to single parents, women with families, people with disabilities and older Australians.<sup>2</sup>

2.7 Therefore, the committee considers that such a bill is unnecessary in providing the purported family-work balance, as they are already inherent in the Government's workplace relations system and the provisions of the existing legislation. Further, in addition to imposing unfair costs on businesses, the committee considers that in many respects the bill will act contrary to its intention. This is because it is overly prescriptive and will undermine the flexibility necessary to achieve the balance of work and family responsibilities desired by Australian workers.

### **Views in the submissions**

2.8 Opposition to the bill falls roughly into two categories of argument: first that it is incompatible with the Workplace Relations Act; and second, that the provisions are impractical and disadvantageous to employees and employers.

2.9 The Queensland Council of Unions (QCU) highlighted that it believed the bill does not achieve the stated objective of restoring family time. Professor Andrew Stewart of Flinders University supported the principles of the bill, but argued that many of the protections could be circumvented by provisions in the primary legislation.<sup>3</sup>

2.10 The Shop Distributive and Allied Employees' Association (SDA) also supported the principles of the bill, but believed many of the sought after protections

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1 Caroline Overington, 'Prosper or suffer long at work', 10 March 2007, *Weekend Australian*, p. 4; Mark Wooden, 'Renewed push to regulate overtime is overkill', 13 March 2007, *The Australian*, p. 14.

2 Organisation for Economic Cooperation and Development, *Economic Survey of Australia*, July 2006, [www.oecd.org/document/28/0,2340,en\\_33873108\\_33873229\\_37147228\\_1\\_1\\_1\\_1\\_00.html](http://www.oecd.org/document/28/0,2340,en_33873108_33873229_37147228_1_1_1_1_00.html) (accessed 22 May 2007).

3 Professor Andrew Stewart, *Submission 11*, p. 2.

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would not eventuate. It drew the committee's attention to its concern that the establishment of minimum conditions in the workplace relations system can be used to undermine employees' entitlements. Therefore, the SDA recommended that the Australian Fair Pay Conditions Standard be amended in line with new base-lines, as under the bill, to ensure that employers cannot use the base conditions rather than the higher preserved award conditions.<sup>4</sup>

2.11 In its submission to the inquiry, the Australian Chamber of Commerce and Industry (ACCI) maintained that the amendments were unnecessary and any perceived need had been obviated by the Government's own amendments under the Stronger Safety Net bill. It pointed out that the conditions that are the subject of the bill are protected unless removed or varied by explicit agreement. Further, it considered that the additional resources being invested into the Workplace Ombudsman will provide added protection to employees by resulting in more active monitoring of agreements than previously has been the case.<sup>5</sup> ACCI also argued that the bill would function contrary to its intention. In particular, it would make it more difficult for some people to balance work and family life. It cited evidence provided to the 2004/2005 Australian Industrial Relations Commission of an employee who sought to delay the taking of a lunch break to allow caring for school-age children. ACCI also pointed out that other employees may prefer an earlier finishing time than taking a mandated rest break.<sup>6</sup>

2.12 Similarly, the Australian Industry Group (Ai Group) also argued that the balance of work and family responsibilities was dependent on flexibility to negotiate hours of work to accommodate family responsibilities. It maintained that this was already provided in the existing legislation. Further, it argued that the bill would impose 'significant operational difficulties for employers'.<sup>7</sup>

### ***Public holiday provisions***

2.13 The National Farmers Federation (NFF) highlighted that the bill would cause problems in the agricultural sector by mandating a higher rate of pay for work on public holidays. It pointed out that such requirements are accepted by both employers and employees as inherent in the nature of the sector. It submitted:

The operational requirements of a significant proportion of agricultural employers include work on public holidays as an inherent requirement of employment – for example, dairy farms must milk on a daily basis, fruit must be harvested at precisely the correct time, and cattle must be moved and fed when and as required.<sup>8</sup>

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4 The Shop Distributive and Allied Employees' Association, *Submission 8*, pp. 1-2.

5 Australian Chamber of Commerce and Industry, *Submission 6*, pp. 33-34.

6 Australian Chamber of Commerce and Industry, *Submission 6*, p. 35.

7 Australian Industry Group, *Submission 10*, p. 18.

8 National Farmers Federation, *Submission 5*, p. 2.

2.14 The Ai Group also argued that the existing legislation allowed employees to refuse to work on public holidays under reasonable circumstances and that relevant agreements allow for appropriate compensation when workers were required to work on such days. Further, Ai Group argued that certain industries required public holiday work, such as aluminium smelters, airlines, electricity generation, hotels, resorts and restaurants and the bill would be too inflexible for such industries.<sup>9</sup>

2.15 The Australian Council of Trade Unions (ACTU) supported the provisions to ensure employees that work on public holidays receive alternative time off and financial compensation. It recommended strengthening the provision by requiring the day off be taken within a certain period and allow negotiation of an even higher rate of pay in lieu of a day off.<sup>10</sup> But according to the Community and Public Sector Union (CPSU) and the Australian Manufacturing Workers Union (AMWU) the amendments do not go far enough and should restore the rights to take public holidays. The CPSU cited the example of Telstra call centre workers who are unable to take public holidays to spend time with their families, following a change in policy from Telstra. It argued that this was a particular difficulty for regional workers who were being required to work unsocial hours while having limited childcare facilities.<sup>11</sup>

### ***Penalty rates and maximum ordinary hours of work***

2.16 The NFF also highlighted the problem of defining maximum ordinary hours for workers in the agricultural sector. It pointed out that many jobs, such as milking at a dairy, require starting times before 6:00 am. The NFF argued that the mandatory imposition of penalty rates would be a costly burden, disadvantaging employers in the sector, as the rates would be required to be paid each day. It maintained that the bill does not account for the benefits that accrue to employees, such as in the case of dairy workers who are able to finish their shifts early. The NFF argued that the bill fails to consider industry standards and operational requirements of businesses.<sup>12</sup>

2.17 The Ai Group also argued that numerous employees in various industries are required to work their ordinary hours between midnight and 6:00 am, such as hotel workers, essential service workers, security guards continuous shift workers in manufacturing facilities. It considered that they were already well remunerated and the increase of penalty rates would be 'unreasonable'.<sup>13</sup>

2.18 ACCI also raised concerns about the imposition of penalty rates under the bill. It suggested compliance would be impractical and argued:

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9 Australian Industry Group, *Submission 10*, p. 23.

10 Australian Council of Trade Unions, *Submission 4*, p. 22.

11 Community and Public Sector Union, *Submission 3*, p. 1.

12 National Farmers Federation, *Submission 5*, p. 3.

13 Australian Industry Group, *Submission 10*, p. 20.

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This would see every manager and professional in Australia paid a penalty rate on their rate of pay...Someone on \$300,000 would see their rate of pay go from \$150 an hour to \$227 per hour...There would be a real risk of employers paying penalties twice.<sup>14</sup>

2.19 The ACTU submission highlighted the confusion of subsection 226(4A)(b) and whether the overtime rate would be applicable to all hours worked at night or only those that exceeded the ordinary hours of work. Further, the ACTU raised its concern that the provisions precluded the parties to an agreement from negotiating more beneficial arrangements, such as double time.<sup>15</sup> Both the ACTU and the AMWU also highlighted that the provision is problematic in that it does not address the allowance in the primary legislation to permit 'reasonable additional hours' to be averaged over 12 months.<sup>16</sup>

### ***Redundancy entitlements***

2.20 The ACTU, the AMWU and Professor Stewart argued that the bill does not achieve its objective of protecting redundancy entitlements with the extension of the 12 month preservation period to five years because it fails to take into account broader provisions of the Workplace Relations Act. They pointed out problems including that the Workplace Relations Act allows the formulation of agreements that exclude award provisions for redundancy pay; that new businesses are not bound by awards; that employees of small businesses employed pursuant to federal awards have had redundancy entitlements voided; and that redundancy benefits will be lost to employees under notional agreements preserving a State award (NAPSAs).<sup>17</sup> The AMWU also maintained that redundancy benefits cannot be protected while employers retain the right to 'manufacture' 'arbitrary' reasons for terminating employment under the 'operational reasons' justification provided in the Workplace Relations Act.<sup>18</sup>

### ***Meal breaks***

2.21 The Ai Group argued that the provisions regarding enforcing meal breaks were restrictive and many employees support flexibility in these arrangements, such as to allow them to finish work early.<sup>19</sup> The ACTU supported the provision on meal

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14 Australian Chamber of Commerce and Industry, *Submission 6*, p. 36.

15 Australian Council of Trade Unions, *Submission 4*, p. 21.

16 Australian Manufacturing Workers' Union, *Submission 7*, p. 4.

17 Australian Council of Trade Unions, *Submission 4*, pp. 19-20; Australian Manufacturing Workers' Union, *Submission 7*, p. 5; Professor Andrew Stewart, *Submission 11*, p. 2.

18 Australian Manufacturing Workers' Union, *Submission 7*, p. 5.

19 Australian Industry Group, *Submission 10*, p. 21.

breaks provided it was amended to ensure employees could negotiate arrangements that left them better off overall.<sup>20</sup>

2.22 The AMWU brought the committee's attention to technical ambiguities in the text of the provision regarding exactly what an agreement would not be permitted to exclude with respect to meal-breaks. It also argued that the provision did not sufficiently amend the Workplace Relations Act to prevent the requirement for a meal-break being excluded from workplace agreements. The AMWU also raised concerns about the dispute resolution process. Doubt was expressed about whether the Australian Industrial Relations Commission had the power to resolve matters. The AMWU also pointed out that legal proceedings would be costly.<sup>21</sup>

## **Conclusion**

2.23 The committee majority considers that provisions to restore and protect entitlements proposed under the bill would remove important reforms related to increasing the flexibility of workplace relations. There is substantial scope in the existing legislation for these conditions to be a part of workplace agreements if they are appropriate to the workplace and suitable for both employers and employees. But employers and employees should retain the right to trade the entitlements prescribed by the bill off against a higher base salary or other improved working conditions. The Government has recently introduced legislation aimed at providing additional assurance that these conditions cannot be traded away without fair compensation.

2.24 The committee is also opposed to penalty rates and the other mandated conditions prescribed by the bill being required to be included in agreements. They were deliberately excluded from the minimum standards introduced under the Government's 2005 reforms because this would have limited flexibility. Their standardisation could adversely affect productivity and limit jobs growth.

2.25 The bill would also impose an unnecessarily high administrative burden and additional costs to employers that would translate into problems in agreement formulation. When the conditions to be imposed under the bill are not appropriate for a particular workplace environment, they provide barriers to people entering the job market and can impede business profitability.

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20 Australian Council of Trade Unions, *Submission 4*, p. 21.

21 Australian Manufacturing Workers' Union, *Submission 7*, p. 3.



**Recommendation 1**

**2.26 The committee recommends that the bill not be passed.**

Senator Judith Troeth

Chairman



# Chapter 3

## Opposition Senators' Report

### **The family work balance**

3.1 In proposing the bill, Senator Fielding has taken up concerns long held by the Opposition about the adverse effects of Work Choices on family-work balance. The Opposition shares the concern expressed in various submissions made to the inquiry that changes to workplace relations have made many employees more vulnerable, especially those less capable of negotiating their employment conditions. Opposition members of the committee have long advocated an entitlement to public holiday leave, meal breaks, penalty rates, overtime, redundancy pay and a clear definition of ordinary hours of work. These should be considered rights and protected under law, advocated by the bill. If they are to be negotiated away, the compensation should be reflected in pay rates and other forms of entitlement which are at least equal to the value of what has been sacrificed. While this bill seeks to restore some of the conditions stripped away by the Government's policies, it falls well short of the breadth necessary to achieve its aim. The Workplace Relations Act cannot be made fair by any kind of 'tinkering' process, such as this bill represents. It requires comprehensive demolition.

3.2 Opposition senators recognise that the traditional working life pattern of working only on weekdays and between 8 am and 6 pm is past. Many modern day workers find it more difficult to find time with family and friends. The contemporary realities of modern life cannot be resisted, but nor can their effects on the workforce be ignored. It is the view of Opposition senators that individuals required to work unsocial hours should be entitled to adequate compensation for this inconvenience and confident of such compensation over the long-term. This bill makes the right gestures, but much more than that will be required to effect any significant remedy.

### ***The adverse effects of Work Choices***

3.3 Research into the effects of Work Choices has highlighted its adverse effects on the family-work balance. The Government was warned of this likely eventuality during the 2005 inquiry into the legislation. At that inquiry, the committee heard from Families Australia that 89 per cent of respondents surveyed indicated their relationships were in trouble because they could not find a suitable work-life balance. It was also informed that these workers experienced increased stress, anxiety, depression, poor physical health and felt isolated from their social networks.<sup>1</sup>

3.4 Despite the Government's boasts of the benefits of 'flexible' working conditions under Work Choices, workers have become increasingly vulnerable and disadvantaged in workplace agreements. During the inquiry, the committee heard

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1 Families Australia, *Submission 60 to the 2005 Work Choices Inquiry*, pp 2-3.

numerous accounts of employees having conditions stripped from workplace agreements without any compensation, and being forced to work unsocial or excessive hours. The repeal of penalty rates and other entitlements has removed disincentives for employers to require employees to work unsocial hours. Opposition members of the committee also note a recent report by Relationships Forum, which indicated that more than two-thirds of Australians considered too many workers were being required to work excessive hours, with two-thirds of those indicating these work requirements were having an adverse effect on family and personal lives.<sup>2</sup>

3.5 The Government's attack on penalty rates and other entitlements under Work Choices has been premised on a theory that such conditions are an impediment on flexibility and employment growth. But it has never provided any research to support this theory. In contrast, penalty rates have always functioned as a curb on employees being forced to work excessive and unsocial hours and as an inducement for businesses to employ more staff.

### **Effects of the provisions of the bill**

3.6 Opposition members of the committee support the principles in the provisions to restore public holiday rights, penalty rights and meal breaks. However, we concur with the views expressed during the inquiry that the provisions of the bill are unlikely to meet their stated objectives. Despite some of the claims made during the inquiry, many employees have little capacity to negotiate working on public holidays or unsocial hours. It supports the submissions of the ACTU, the AMWU and the CPSU that the provisions could have been strengthened further to restore additional rights to workers. Opposition senators also highlight the need to ensure the provisions are drafted to ensure sufficient flexibility to allow workers to negotiate even more improved conditions. As was highlighted in several submissions, the fundamental problem with the bill is the existing Workplace Relations legislation that permits 'reasonable additional hours' to be averaged over 12 months, and the right for employers to terminate employment for nebulous 'operational reasons' and various provisions that permit the exclusion of the provisions of the bill from workplace agreements.

### **Conclusion**

3.7 Opposition senators reject the assertions of the majority committee report that amendments proposed under the bill are unnecessary and contrary to the flexibility necessary to allow workers to balance family and work responsibilities. The provisions would impose additional administrative burdens on parties to an agreement, but this is necessary to restore balance to the Coalition's unfair workplace

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2 Relationships Forum Australia, *An Unexpected Tragedy: Evidence for the connection between working hours and family breakdown in Australia*, March 2007, p. 34; These findings were also consistent with an earlier study by Barbara Pocock and Sara Charlesworth, "Work and Family beyond 'WorkChoices': Establishing the Partnership", 17 May 2006, Presentation to the Roundtable *Work, Family and Industrial Relations: Making It Work*, p. 7.

relations system in the absence of more radical reform. The Government itself has acknowledged problems with its Work Choices legislation by introducing amendments, although they do not go far enough or provide any kind of genuine safety net.

3.8 Opposition members of the committee support the principles underlying this bill and applaud Senator Fielding for the initiative. However, the bill does not go far enough to restore improvements to the family work balance for workers. In many respects this cannot be achieved by the existing bill, due to the various provisions retained in the Workplace Relations Act that would not allow the amendments to operate. Opposition senators also have doubts about the drafting of some of the provisions that could potentially have the unintended effect of leaving employees worse off. In the view of the Opposition, the only real solution to restoring the family work balance is to completely overhaul the existing workplace relations system.

### **Recommendation 1**

**3.9 Opposition members of the committee recommend that the bill be withdrawn by the sponsor so that it may be reviewed and amended to take account of the suggestions made during the inquiry. In particular, it recommends consideration of the suggestions designed to ensure the provisions do not unintentionally leave employees worse off and address the broader nullifying provisions of the *Workplace Relations Act*.**

Senator Gavin Marshall  
Deputy Chair



## 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.'<sup>1</sup>

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.

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1 Australian Industry Group, Submission 9, page 22.



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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.<sup>2</sup>

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

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



# **Appendix 1**

## **List of submissions**

- 1 Mr Joe Lazzaro, VIC
- 2 Queensland Council of Unions, QLD
- 3 Community & Public Sector Union, PSU Group, NSW
- 4 Australian Council of Trade Unions, VIC
- 5 National Farmers Federation, ACT
- 6 Australian Chamber of Commerce & Industry, VIC
- 7 Australian Manufacturing Workers Union, NSW
- 8 The Shop Distributive & Allied Employees' Association, VIC
- 9 Office for Employment Relations (Australian Catholic Bishops Conference),  
VIC
- 10 Australian Industry Group, NSW
- 11 Professor Andrew Stewart (Flinders University), SA



## **Appendix 2**

### **Hearing and witnesses**

*Parliament House, Canberra, 8 June 2007*

#### **Department of Employment and Workplace Relations**

Mr Finn Pratt, Deputy Secretary, Workplace Relations

Mr John Kovacic, Group Manager, Workplace Relations Policy Group

Ms Natalie James, Chief Counsel, Workplace Relations Legal Group

Mr David Bohn, Assistant Secretary, Workplace Relations Legal Group

#### **Australian Chamber of Commerce and Industry**

Mr Scott Barklamb, Assistant Director Workplace Relations

Mr Daniel Mammone, Advisor Workplace Relations

#### **Shop Distributive and Allied Employees' Association**

Mr Joe de Bruyn, National Secretary

Mr Bernard Smith, Assistant Secretary NSW Branch

#### **The Australian Council of Trade Unions**

Ms Sharan Burrow, President

Ms Cath Bowtell, Industrial Officer

#### **Australian Industry Group**

Mr Stephen Smith, Director, National Workplace Relations

Mr Ron Baragry, Legal Counsel, National Workplace Relations

