

Submission

to

Senate Employment, Workplace Relations and Education
References Committee

Provisions of the Workplace Relations Amendment (Protecting Small Business Employment) Bill 2004

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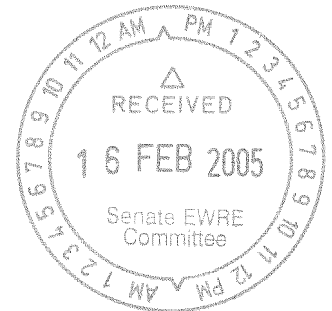
Post Office Agents Association Limited

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14 February 2005

Committee Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600



Dear Secretary,

Inquiry into the Workplace Relations Amendment
(Small Business Employment Protection) Bill 2004

The Post Office Agents Association Limited (POAAL) represents the small business operators who have a contractual relationship with Australia Post as owners of Licensed Post Offices (LPOs), Community Postal Agencies, and Mail Contractors.

Over the past couple of years POAAL has been in discussions with the CEPU regarding a minimum rates award for employees at LPOs. The award that resulted from these discussions is *The Postal Services Industry Award*. In 2004 the CEPU successfully applied to the AIRC to vary the Award to include new redundancy provisions in line with the full-bench decision to impose redundancy pay obligations on small business. We therefore have a keen interest in workplace relations as it impacts on small business and thus this Inquiry.

Our comments on the redundancy issue are attached. Many of the points we raise are common to all small businesses where the number of employees is small.

If you require any further details from us, please do not hesitate to contact us.

Yours faithfully,

Ian Kerr
CEO

INQUIRY INTO THE WORKPLACE RELATIONS AMENDMENT (SMALL BUSINESS EMPLOYEE PROTECTION) BILL 2004

Small business owners are significant providers of employment in local communities, both in metropolitan areas, regional centres and in rural Australia. Licensed Post Offices (LPOs) provide a range of postal and other services to the community that they serve. However, like so many small businesses, the continuing survival of the business is dependent upon being able to control costs without impacting adversely on services provided.

There are about 3000 LPOs in Australia, located in all States and Territories. They form almost 80% of Australia Post's retail network.

Although contracted to Australia Post, the owner/operators of LPOs pay all the costs for their business, including wages and on-costs, rent, utilities, rates, cleaning, taxes, training and so on.

Employees at Licensed Post Offices

Licensed Post Offices are privately owned post offices which operate under contract to Australia Post. Many of them operate in conjunction with another business. Sometimes the business is obvious such as a newsagency, general store or pharmacy. Sometimes the in conjunction business is less obvious – it could be sale of stationery, greeting cards, or giftware for instance.

Prior to the implementation of the *Postal Services Industry Award* in August 2003, LPO staff were usually paid under a State Retail Award. Then, as now, staff were also employed under AWAs and Certified Agreements. The implementation of an Australia-wide minimum rates award gave a degree of certainty and comfort to employees and employers alike.

Many LPOs have employees, be they casual, part-time or full-time. It is not unusual for an LPO to be completely family-operated. LPOs are small businesses with no HR department or in-house professionals.

Capability to pay

Small businesses such as LPOs are just that – small. As such they do not have the capacity to absorb lump sum redundancy payouts. This is a key issue for small business owners.

If a small business is forced to make a redundancy payout, it will have an immediate and negative impact on other parts of the business. For example, it could lead to reduced hours of employment for other employees, or reduced stock availability, or shorter business opening hours.

It would be a tragic irony if in order to provide for a redundancy payout another employee were made redundant or have their hours reduced as part of cost cutting measures taken to underwrite the redundancy payout.

Transmission of business

It is sometimes the case that, when someone buys a small business such as an LPO, they wish to retain some of the staff who were previously employed in the business. This could, in the event of such an employee being made redundant, leave the new employer liable to make redundancy payments relating to the period where the employee was employed by the previous owner. Small business owners should not be responsible for decisions made by a previous owner of the business.

It should also be pointed out that in the case of LPOs, an employee may work at a number of LPOs over time, and be paid under the one award. However, in the event of redundancy, time spent with a different employer, even if the work was similar or even covered by the same award, should not count towards a payout.

Non-continuous employment

POAAL would seek an assurance that in the event of non-continuous periods of employment with the one employer, any redundancy payout would be limited to the most recent period of employment and not the entire period of employment.

Other factors

LPOs, unlike some other businesses that could be considered “franchises”, do not enjoy the protection of a “territory” specific to their business.

Sometimes Australia Post opens a new post office close to or in competition with an existing LPO. In this case, if the decreased business levels result in employee redundancy, a redundancy payout could be the “straw that breaks the camel’s back” and result in bankruptcy for the Licensee and closure of the post office to the detriment of its customers.