



THE HON JULIA GILLARD MP
DEPUTY PRIME MINISTER

Parliament House
Canberra ACT 2600

26 FEB 2009

Senator Gavin Marshall
Chair
Senate Education, Employment and Workplace Relations Committee
Parliament House
Canberra ACT 2600

Gavin
Dear Senator Marshall

I am writing to advise the Committee about the arrangements for transitional and consequential legislation that will operate with the Fair Work Bill once enacted to transition employers and employees into the new workplace relations system. This information may further inform the Committee's current inquiry into the Fair Work Bill 2008.

Key elements of this legislation will include:

- provisions to repeal the current Workplace Relations Act 1996 with Schedule 1 (organisations) to be retained and re-named as a separate piece of legislation;
- the application of the National Employment Standards and minimum wages to all national system employees from 1 January 2010 including those covered by instruments made before commencement of the new system, with scope to 'phase in' certain entitlements;
- provisions to ensure that an employee's take home pay is not reduced as a result of the employee's transition onto a modern award by allowing for Fair Work Australia to make orders to deal with any such matter;
- rules in relation to the treatment of existing instruments in the new system, including the operation of agreements until terminated or replaced, the cessation of pre-modernised awards when replaced by modern awards, a process for integration of enterprise awards and enterprise NAPSAs into the new system and a process to allow employees on individual statutory agreements to participate in and benefit from collective bargaining;
- the abolition of the Workplace Ombudsman and the Australian Fair Pay Commission from commencement (with these functions to be taken over by the Fair Work Ombudsman and Fair Work Australia), and the continued operation of the Workplace Authority and the Australian Industrial Relations Commission (AIRC) and the Australian Industrial Registry (AIR) for a limited time to finalise existing matters;
- provisions to appoint all existing full-time AIRC members to Fair Work Australia while retaining their current appointments as members of the AIRC for a transitional period;

- the creation of the Fair Work Divisions of the Federal Court and the Federal Magistrates' Court;
- rules to enable state-registered organisations to participate in the new federal system; and
- a process to enable Fair Work Australia to make representation orders dealing with union demarcation issues in a wider range of circumstances than at present, including where this is necessary to preserve demarcations derived from state or federal award coverage.

Consistent with the Government's commitment to undertake extensive consultation on the new workplace relations system, the proposed transitional and consequential arrangements will be considered by the Committee on Industrial Legislation (COIL), and officials from the State and Territory governments at a two day meeting to be held on 26-27 February 2009.

My intention is then to present two separate Bills to the Parliament.

The first Bill will be introduced in the week beginning 16 March 2009. This Bill will include:

- transitional provisions;
- consequential amendments to other Commonwealth legislation considered essential to the operation of the Fair Work Bill (i.e. the creation of the Fair Work Divisions of the Federal Court and the Federal Magistrates' Court); and
- consequential amendments related to the workplace relations portfolio (e.g. the Workplace Relations Act 1996, the Building and Construction Industry Improvement Act 2005).

A second Bill would then deal with remaining consequential amendments to all other legislation (which is likely to involve amendments to over 70 Commonwealth Acts) and amendments consequential on any State referrals of power. This Bill would be introduced in the week commencing 23 May 2009. It is then anticipated that both these Bills will be dealt with together in the Senate.

I believe the timeframes I am proposing for both Bills will allow sufficient time for the Parliament, including your Committee, to fully examine their provisions.

I trust this additional information will assist the Committee.

Yours sincerely



Julia Gillard
Minister for Employment and Workplace Relations