

BGC Contracting Pty Ltd

Submission to the Senate Select Committee

**The Workplace Relations Amendment (Transition to
Forward with Fairness) Bill 2008**

29th February 2008

BGC Contracting Pty Ltd is the multi-disciplined open pit mining and civil construction arm of the privately owned Australian company, BGC (Australia) Pty Ltd which has a group turnover of around \$2.4 billion. BGC Contracting ("BGC") has a turnover approaching \$700 million this financial year.

We employ approximately 1,400 personnel on major mining and civil projects in both Western Australia and Queensland. Of these, approximately 1,000 are employed under Australian Workplace Agreements ("AWAs") and the remaining 400 staff under common law contracts.

Section 326 of The Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008 ("the Bill") states:

"(1) an employer may make an agreement (an individual transitional employment agreement or ITEA) in writing with a person whose employment will be subject to the agreement.

(2) The Agreement is not an ITEA unless

(a) as at 1 December 2007..... and

(b) the person whose employment is to be subject to the ITEA

*(i) did not commence that employment more than 14 days before the ITEA was made, **and had not previously been employed by the employer (our emphasis):** or*

(ii) is in an employment relationship with the employer and that employment relationship is regulated by an ITEA or an agreement of a kind specified in subsection (3)."

This means that any employee that has previously been employed by BGC would not be able to be placed on an ITEA. This poses a number of issues for BGC:

- We provide contracting services ranging from six months to five years and as each contract ends we endeavour to transfer employees to existing or new contracts but as this is not always possible some will be terminated as is the nature of our industry ;
- Also, as is the custom and practice in our industry, some employees are very mobile and leave BGC Contracting of their own volition;
- Either way, they may be re-employed which will not be possible if we use ITEAs ;
- We wish to continue with the existing AWAs and sign up new employees with the equivalent ITEAs so that everyone is employed on equal terms and conditions; and
- Over the last 12 months, 10% of the recruited employees have worked for us previously.

BGC sees the prevention of offering ITEAs to previous employees as creating an unjust discrimination against previous employees which must be removed.

