



National Farmers'
FEDERATION

SENATE EDUCATION,
EMPLOYMENT & WORKPLACE
RELATIONS COMMITTEE

**INQUIRY INTO THE WORKPLACE
RELATIONS AMENDMENT (TRANSITION
TO FORWARD WITH FAIRNESS) BILL
2008**

NATIONAL FARMERS' FEDERATION

ABN 77 097 140 166

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Executive Summary

- The NFF commends the Government for its consultation process through NWRCC and COIL as an effective means to discuss policy with major parties and to enable technical matters to be addressed by key workplace relations advisors.
- The NFF continues to support the maintenance of Australia Workplace Agreements (AWAs) as a legitimate choice for Australians to consider as an alternative to awards, common law agreements or collective agreements. The NFF therefore continues to express its disappointment in the policy of the Government to remove AWAs.
- NFF has not identified any technical problems with the Bill in respect to the removal of AWAs and the introduction of ITEAs.
- The NFF supports the removal of the fairness test and its replacement with the overall no disadvantage test on the basis that the implementation of the no disadvantage test by the Workplace Authority is consistent with the approach taken by the Office of Employment Advocate prior to the introduction of WorkChoices.
- The NFF does not support the change in commencement dates for collective agreements and seeks an amendment to the Bill so that all agreements, including collective agreements commence on lodgment date.
- The NFF strongly supports the process of award modernisation outlined in the Bill. The NFF further supports the terms established that can be included in an award including minimum wages and classifications.
- The award modernisation process if undertaken correctly should provide for greater workplace flexibility and a reduction of red tape for award-reliant industries such as agriculture.
- The NFF does support the objective of a reduction of awards, however, to achieve this aim the NFF believes it is vital that industry parties play a lead role in the development of the modern awards.
- The NFF strenuously opposes the recommendation in the Award modernisation request that the Australian Industrial Relations Commission (AIRC) has the responsibility of drafting the modern awards. It is only where parties do not have the adequate resources or have not reached an agreement where the AIRC should play a role in actually drafting the modern award.

1. INTRODUCTION

The National Farmers' Federation ("the NFF") is the peak farming lobby group representing producers of all major commodities in relation to issues affecting more than one State or commodity. The NFF's membership comprises State farm and commodity organisations with individual farmer members.

The NFF's goal for any reforms to workplace relations laws is to seek a flexible labour market that is based on a co-operative approach between employer and employees to the mutual benefit of both parties without undue intervention of third parties. The NFF's response to the *Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008* (the Bill) is based on our workplace relations goal.

The NFF is represented at the National Workplace Relations Consultative Council (NWRCC) and as such is represented on the Committee on Industrial Legislation (COIL).

Through NWRCC and COIL, the NFF has had the opportunity to consider the detail relating to the Bill prior to its introduction and has provided input through that consultation process.

The NFF commends the Government for its consultation process through NWRCC and COIL as an effective means to discuss policy with major parties and to enable technical matters to be addressed by key workplace relations advisors. The NFF believes the process should continue in the lead up to the substantive legislation to be introduced later in 2008.

In this submission the NFF will briefly comment on changes intended on both workplace agreements and award modernisation as it relates to the agriculture sector.

2. WORKPLACE AGREEMENTS

AUSTRALIAN WORKPLACE AGREEMENTS

The NFF continues to support the maintenance of Australia Workplace Agreements (AWAs) as a legitimate choice for Australians to consider as an alternative to awards, common law agreements or collective agreements. The NFF therefore continues to express its disappointment in the policy of the Government to remove AWAs.

The NFF has considered the Bill in relation to the removal of AWAs and the introduction of Individual Transitional Employment Agreements (ITEAs).

Despite the NFF opposition to the removal of AWAs, NFF believes the transitional arrangements in place through ITEAs before the introduction of the new system commencing 1 January 2010 should not prove to be a significant burden on business and minimises any immediate disruption to businesses and their employees that have otherwise relied on AWAs.

NFF has not identified any technical problems with the Bill in respect to the removal of AWAs and the introduction of ITEAs.

NO DISADVANTAGE TEST

The NFF supports the removal of the fairness test and its replacement with the overall no disadvantage test on the basis that the implementation of the no disadvantage test by the Workplace Authority is consistent with the approach taken by the Office of Employment Advocate prior to the introduction of WorkChoices.

The NFF acknowledges the capacity of the no disadvantage test to provide flexibility at the work place is limited by the extent of the level of detail contained in the award to which the no disadvantage test is being applied. That is, flexibility at the workplace through agreement making can be constrained due to the extensive nature of many awards when providing a nexus between awards and agreements through a no disadvantage test.

If the nexus between awards and agreements is to be maintained in the Australian workplace relations system through tests such as the no disadvantage test then the aim to increase flexibility at the workplace rests predominantly on the success of the award modernisation process.

COMMENCEMENT DATES

The Bill provides that collective agreements other than Greenfield agreements will commence after approval date while ITEAs and Greenfield agreements will commence from the date of lodgment. The current provisions provide that all agreements commence on lodgment date.

The NFF does not support the change in commencement dates for collective agreements and seeks an amendment to the Bill so that all agreements, including collective agreements commence on lodgment date.

The length of time between lodgment date and approval date has always been a frustration for employers given the delays experienced with the administrative process. Those concerns were resolved with the change that enabled all agreements to commence on lodgment.

The NFF's concerns as to the changes to commencement date for collective agreements are exacerbated by lengthy delays being experienced with the Workplace Authority and reports that the Authority has recently experienced significant budget cuts that may result in extensive delays in approval being granted and as such delaying the introduction of a collective agreement.

There is no justification as to why ITEAs can commence on lodgment date but collectives cannot. It is a significant inequity issue that has not been justified and as such the status quo should remain for collective agreements as to commencement date.

3. AWARDS

The NFF strongly supports the process of award modernisation outlined in the Bill. The NFF further supports the terms established that can be included in an award including minimum wages and classifications. The added complexity of separating minimum wages and classifications from awards has caused significant confusion for employers that can be resolved through the new system envisaged for commencement on 1 January 2010.

The award modernisation process if undertaken correctly should provide for greater workplace flexibility and a reduction of red tape for award-reliant industries such as agriculture.

The NFF does support the objective of a reduction of awards and believes there is the opportunity, in consultation with the relevant industry representatives, to create one national agricultural award. However, to achieve this aim the NFF believes it is vital that industry parties, particularly those with the necessary resources, play a lead role in the development of the modern awards.

Further, NFF supports the objects of the award modernisation process outlined in the Explanatory Memorandum to the Bill as an appropriate base to determine the approach on modern awards.

However, the NFF strenuously opposes the recommendation in the Award modernisation request that the Australian Industrial Relations Commission (AIRC) has the responsibility of drafting the modern awards. Industry representatives will be much better versed in the intricacies of industry awards than an AIRC registry officer and further will have the capacity to undertake the detailed negotiations required to achieve an outcome that will be satisfactory to all parties. It is only where parties do not have the adequate resources or have not reached an agreement where the AIRC should play a role in actually drafting the modern award.

4. UNITARY SYSTEM

The NFF notes that the reforms sought through the Bill will not cover those employers and employees whose employment is covered by the federal transitional award system. That is, employers who are not corporations but were covered by federal awards prior to the introduction of WorkChoices have been provided a transitional federal award system for a period of 5 years that is set to expire in March 2011. Those employers seek to be covered by the federal workplace relations system.

The NFF believes it is critical that a unitary system is created in Australian workplace relations prior to the commencement of the new system in January 2010. Otherwise there will be greater disparity between those in the federal workplace relations system and those under the federal transitional award system than already exists today.

Further, the NFF believes the only way to ensure that a complete and fair unitary system is for all the remaining states to refer power. Harmonisation of laws is not the answer.