THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Workplace Relations Amendment (A Stronger Safety Net) Bill 2007

(Amendments to be moved by Senator Wong on behalf of the Opposition in committee of the whole)

1. Schedule 1, item 1, page 4 (lines 28 and 29), omit the definition of protected award conditions in subsection 346B(1).

2. Schedule 1, item 1, page 5 (lines 16 to 24), omit the definition of salary.

3. Schedule 1, item 1, page 5 (lines 25 to 32), omit subsection 346B(2) and the note.

4. Schedule 1, item 1, page 6 (lines 1 to 16), omit “protected” (wherever occurring).

5. Schedule 1, item 1, page 6 (line 17), omit “protected”.

6. Schedule 1, item 1, page 8 (lines 1 to 23), omit “protected” (twice occurring).

7. Schedule 1, item 1, page 7 (lines 22 to 35), omit paragraph 346E(1)(c).

8. Schedule 1, item 1, page 9 (lines 18 to 40), omit “protected” (twice occurring).

9. Schedule 1, item 1, page 9 (lines 4 to 17), omit paragraph 346F(1)(c).

10. Schedule 1, item 1, page 10 (line 3) to page 11 (line 3), section 346G, TO BE OPPOSED.

11. Schedule 1, item 1, page 14 (line 2), omit “paragraphs 346E(1)(a), (b) and (c)”, substitute “paragraphs 346E(1)(a) and (b)”. 

[protected award conditions – definition]

[$75,000 salary threshold]
(12) Schedule 1, item 1, page 14 (lines 14 and 15), omit “paragraphs 346F(1)(b) and (c)”, substitute “paragraph 346F(1)(b)”.  

[$75 000 salary threshold]

(13) Schedule 1, item 1, page 15 (line 20) to page 16 (line 10), omit “protected” (wherever occurring).  

[protected award conditions]

(14) Schedule 1, item 1, page 15 (line 22), omit “fair compensation”, substitute “full compensation”.  

[full compensation]

(15) Schedule 1, item 1, page 15 (line 28), omit “fair compensation”, substitute “full compensation”.  

[full compensation]

(16) Schedule 1, item 1, page 16 (lines 1 and 2), omit “fair compensation”, substitute “full compensation”.  

[full compensation]

(17) Schedule 1, item 1, page 16 (lines 11 and 12), omit “fair compensation”, substitute “full compensation”.  

[full compensation]

(18) Schedule 1, item 1, page 16 (lines 22 and 23), omit “fair compensation”, substitute “full compensation”.  

[full compensation]

(19) Schedule 1, item 1, page 18 (line 26), at the end of subsection 346P(5), add:  

; and (c) must state the reasons, by reference to the matters referred to in subsection 346M(1), (2), (3) or (4), for the decision of the Workplace Authority Director the subject of the notice.  

[reasons for decision]

(20) Schedule 1, item 1, page 22 (line 27), at the end of subsection 346U(4), add:  

; and (c) the reasons, by reference to the matters referred to in subsection 346M(1), (2), (3) or (4), for the decision of the Workplace Authority Director the subject of the notice.  

[reasons for decision]

(21) Schedule 1, item 1, page 24 (after line 6), after section 346X, insert:  

346XA Effect if agreement passes review of fairness test  

If:  

(a) a workplace agreement is not in operation at the date of the review decision because of the effect of section 346W or 346R that the agreement did not pass the fairness test; and  

(b) the Workplace Authority Director decides under section 346M on review that the workplace agreement passes the fairness test;
the workplace agreement commences operation on the date of issue specified in the notice of the review decision under section 346ZI.

[(effect if agreement passes review)]

(22) Schedule 1, item 1, page 24 (lines 24 and 25), omit “, to the extent that the designated award contains protected award conditions”.

[(protected award conditions)]

(23) Schedule 1, item 1, page 27 (after line 11), after the note to section 346ZB, insert:

Note 2: This section will operate subject to section 346XA.

[(note)]

(24) Schedule 1, item 1, page 28 (lines 12 and 13), omit “, to the extent that it contains protected award conditions”.

[(protected award conditions)]

(25) Schedule 1, item 1, page 28 (line 13), omit “protected”.

[(protected award conditions)]

(26) Schedule 1, item 1, page 28 (line 32), at the end of subsection 346ZD(3), add:

; (d) if the employee is entitled to compensation because of the operation of Subdivision G in respect of the workplace agreement—the period of 14 days beginning on the date of issue of the notice of the review decision under section 346ZI.

[(compensation)]

(27) Schedule 1, item 1, page 31 (lines 10 to 19), omit “protected” (wherever occurring).

[(protected award conditions)]

(28) Schedule 1, item 1, page 31 (after line 21), at the end of Division 5A, add:

**Subdivision G—Review of decision**

**346ZI Process for review of Workplace Authority Director decision**

(1) If a notice has been provided by the Workplace Authority Director under section 346J, 346P or 346U and a person as defined in subsection (9) disagrees with the decision of the Workplace Authority Director contained in the notice, the person may notify the Workplace Authority Director of his or her objection and the reasons for the objection.

(2) The Workplace Authority Director must, by notice published in the *Gazette*, set out requirements for the form of a notice to be provided by a person under subsection (1).

(3) Any objection must be lodged in writing in the required form within 7 days of the date of receipt of the notice of the decision of the Workplace Authority Director.

(4) A copy of the objection must be provided to the other party or parties to the agreement within 7 days of receipt of the notice of the decision of the Workplace Authority Director.

(5) If an objection to a decision is lodged with the Workplace Authority Director, the Workplace Authority Director must review the decision and determine whether:

(a) under section 346E, the Workplace Authority Director must apply the fairness test to a workplace agreement; or
(b) the workplace agreement passes the fairness test in section 346M.

The outcome of the review is the **review decision**.

(6) In reviewing a decision, the Workplace Authority Director may do all things that the Workplace Authority Director may do in making the original decision.

(7) The Workplace Authority Director must provide notice of the review decision under section 346J, 346P or 346U to each party to the agreement and each person whose employment is subject to the agreement as at the date of the notice.

(8) A review decision has effect as if it was a decision under section 346E or 346M except that a person may not notify an objection in respect of a review decision.

(9) The persons who may disagree with a decision of the Workplace Authority Director are:

(a) the employer in relation to the workplace agreement; and

(b) each person whose employment is subject to the workplace agreement at the date of the notice; and

(c) any representative of a person in paragraph (a) or (b), including a registered organisation; and

(d) if the workplace agreement is a union collective agreement or a union greenfields agreement—the organisation or organisations bound by the agreement.

[process for review]

(29) Schedule 1, item 1, page 32 (after line 9), after paragraph 337(4)(ca), insert:

(cb) information about the procedure for review of a decision by the Workplace Authority Director about the fairness test as set out in Subdivision G of Division 5 of Part 8 of this Act; and

[process for review]

(30) Schedule 1, item 8, page 33 (line 24), omit “certain protected”.

[protected award conditions]

(31) Schedule 1, page 36 (after line 3), after item 22, insert:

**22A At the end of section 613**

Add:

(2) Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend religious activities on Good Friday must be taken to have reasonable grounds for refusing a request to work on Good Friday.

[Good Friday]

(32) Schedule 1, page 36 (after line 3), after item 22, insert:

**22B At the end of section 613**

Add:

(3) Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend religious activities on Christmas Day must be taken to have reasonable grounds for refusing a request to work on Christmas Day.

[Christmas Day]
(33) Schedule 1, page 36 (after line 3), after item 22, insert:

22C At the end of section 613

Add:

(4) Notwithstanding the other factors set out in this section or a provision in a workplace agreement or an award, an employee who wishes to attend commemorative events on Anzac Day, or to support the attendance of a member of the employee’s family at commemorative events on Anzac Day, must be taken to have reasonable grounds for refusing a request to work on Anzac Day.

[Anzac Day]

(34) Schedule 1, item 41, page 41 (lines 10 and 11), omit paragraph 25B(1)(c).

[protected award conditions]

(35) Schedule 1, item 41, page 41 (lines 15 and 16), omit paragraph 25B(1)(d), substitute

d) a reference in that Division to award conditions were a reference to preserved conditions; and

[protected award conditions]

(36) Schedule 1, item 41, page 41 (lines 20 to 24), omit paragraph 25B(1)(f), substitute:

(f) section 346C was substituted with:

“For the purposes of this Division, preserved conditions are taken to apply under a preserved State agreement in relation to an employee if the employee’s employment is subject to a workplace agreement.”; and

[protected award conditions]

(37) Schedule 1, item 41, page 41 (lines 25 and 26), omit paragraph 25B(1)(g).

[protected award conditions]

(38) Schedule 1, item 41, page 41 (lines 32 to 37), omit the words from “(b) if there is” to and including “agreement.”, substitute “(b) if there is no instrument of the kind referred to in paragraph (a) in relation to the employer and one or more of the employees—preserved conditions in relation to the employee.”.

[protected award conditions]

(39) Schedule 1, item 41, page 42 (line 6), omit “protected”.

[protected award conditions]

(40) Schedule 1, item 41, page 42 (line 10), omit “protected”.

[protected award conditions]

(41) Schedule 1, item 41, page 42 (lines 16 and 17), omit the definition of protected preserved condition in subclause 25B(3), substitute

preserved condition means a term of a State award or a provision of a State or Territory industrial law, as in force immediately before the reform commencement, that would have determined a term or condition of employment of a person, had the person been employed at that time and that employment not been subject to a State employment agreement.

[protected award conditions]
(42) Schedule 1, item 41, page 42 (lines 23 to 31), omit subclause 25B(4) and the note.

(43) Schedule 1, item 42, page 43 (lines 11 and 12), omit paragraph 52AAA(1)(c).

(44) Schedule 1, item 42, page 43 (lines 16 and 17), omit paragraph 52AAA(1)(d), substitute:

(d) a reference in that Division to award conditions were a reference to notional conditions; and

(45) Schedule 1, item 42, page 43 (lines 32 and 33), omit the definition of protected notional conditions in subclause 52AAA(2), substitute:

notional condition means a term of a notional agreement preserving State awards.

(46) Schedule 1, item 42, page 44 (lines 3 to 10), omit subclause 52AAA(3) and the note.