The Parliament of the Commonwealth of Australia

THE SENATE

Workplace Relations Amendment (A Stronger Safety Net) Bill 2007

(Amendment to be moved by Senator Murray on behalf of Australian Democrats in committee of the whole)

(1) Schedule 1, page 4 (after line 4), before item 1, insert:

1A Paragraph 22(1)(a)
After “conduct”, insert “annual”.

annual wage reviews

(2) Schedule 1, page 4 (after line 4), before item 1, insert:

1B Section 23
Repeal the section, substitute:

AFPC’s wage-setting parameters

(1) The objective of the AFPC in performing its wage-setting function is to ensure that a safety net of fair minimum wages and conditions of employment is established and maintained while promoting economic prosperity of the people of Australia, having regard to the following:
(a) the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community;
(b) the capacity of the unemployed and low paid to obtain and remain in employment;
(c) economic factors, including levels of productivity and inflation, desirability of attaining a high level of employment, employment and competitiveness across the economy;
(d) relevant taxation and government transfer payments;
(e) the needs of the low paid.

(2) In performing its functions under this Part, the AFPC must have regard to the following:
(a) the need for any alterations to wage relativities between awards to be based on skill, responsibility and the conditions under which work is performed;
(b) the need to support training arrangements through appropriate trainee wage provisions;
(c) the need, using a case-by-case approach, to protect the competitive position of young people in the labour market, to promote youth employment, youth skills and
community standards and to assist in reducing youth unemployment, through appropriate wage provisions including, where appropriate, junior wage provisions, taking into account:

(i) the extent of labour market disadvantage faced by young workers; and
(ii) the work value of young workers at different ages; and
(iii) the promotion of skills development and training of young workers to reduce their labour market disadvantages; and
(iv) the desirability of minimising discrimination on the basis of age in wage rates only to the extent necessary to further these objectives; and
(v) the structural efficiency principle; and
(vi) that 18 years of age is considered an adult;
(d) the need to provide a supported wage system for people with disabilities;
(e) the need to apply the principle of equal pay for work of equal value;
(f) the need to prevent and eliminate discrimination because of, or for reasons including, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

(3) For the purposes of paragraph (2)(f), trainee wage arrangements are not to be treated as constituting discrimination by reason of age if:
(a) they apply (whether directly or otherwise) the wage criteria set out in the award providing for the national training wage or wage criteria of that kind; or
(b) they contain different rates of pay for adult and non-adult employees participating in an apprenticeship, cadetship or other similar work-based training arrangement.

[AFPC's wage-setting parameters]

(3) Schedule 1, page 4 (after line 4), before item 1, insert:

1C Paragraph 24(1)(a)
Before “the”, insert “subject to paragraph 22(1)(a),”.

[annual wage reviews]

(4) Schedule 1, page 4 (after line 4), before item 1, insert:

1D Paragraph 103(1)(b)
After “economy” (second occurring), insert “and society”.

[public interest]

(5) Schedule 1, page 4 (after line 4), before item 1, insert:

1E Paragraph 103(2)(b)
After “economy” (second occurring), insert “and society”.

[public interest]

(6) Schedule 1, page 4 (after line 4), before item 1, insert:

1F At the end of subsection 151(3)
Add:
; and (c) the principle that men and women should receive equal remuneration for work of equal value.
(7) Schedule 1, page 4 (after line 4), before item 1, insert:

**1G After Subdivision G of Division 2 of Part 7**

Insert:

Subdivision GA—Indexation of minimum wage

**200A Indexation of minimum wage**

(1) This Subdivision provides for the indexation of the minimum wage, in line with the Consumer Price Index, to start on commencement of this section.

(2) The indexation factor is to be worked out in accordance with section 1193 of the *Social Security Act 1991*.

(3) The rounding off of indexed amounts is to be worked out in accordance with section 1194 of the *Social Security Act 1991*.

(8) Schedule 1, page 4 (after line 4), before item 1, insert:

**1H After subsection 226(4)**

Insert:

Unreasonable hours

(4A) An employee must not be requested or required by an employer to work unreasonable hours, whether as additional hours or otherwise.

(4B) For the purpose of subsection (4A), the factors to be taken into account in determining whether hours are unreasonable include:

(a) any risk to the health and safety of the employee, other employees, customers or clients; and

Note: For purposes of this paragraph, an example is where truck drivers or doctors in hospitals are given unreasonable hours that endanger the health and safety of others.

(b) the employee’s personal circumstances (including family responsibilities); and

(c) any notice given by the employer of the requirement or request to work the hours in question.

Note: For example, hours may be unreasonable because the employee is asked to work excessively long hours, or an unreasonably short shift, or shifts broken by an unreasonably short period, or at unreasonably short notice.

(9) Schedule 1, page 4 (after line 4), before item 1, insert:

**1I Subsection 337(4)**

Repeal the subsection, substitute:

(4) The information statement mentioned in subsection (2) and paragraph (3)(a) must contain:
(a) information about the time at which and the manner in which the approval will be sought under section 340; and
(b) if the agreement is an AWA—information about the effect of section 334 (which deals with bargaining agents); and
(c) if the agreement is an employee collective agreement—information about the effect of section 335 (which deals with bargaining agents); and
(d) must be appropriate, having regard to the person’s particular circumstances and needs, especially if the employee(s) whose employment will be covered by the agreement are women, persons from a non-English speaking background or young persons; and
(e) any other information that the Employment Advocate requires by notice published in the Gazette.

[improve genuine consent for vulnerable workers]

(10) Schedule 1, page 4 (after line 4), before item 1, insert:

1J Subsection 400(6)

Repeal the subsection, substitute:

(6) To avoid doubt, an employer is considered to have applied duress to an employee for the purposes of subsection (5) if the employer requires the employee to make an AWA with the employer as a condition of engagement.

[requiring an AWA as a condition of employment is duress]