2008-2009

The Parliament of the
Commonwealth of Australia

THE SENATE

Fair Work Bill 2008

(Amendments to be moved by Senator Siewert on behalf of the Australian Greens in committee of the whole)

Unfair dismissal

(1) Clause 381, page 318 (line 21), omit “(including small business)”. [unfair dismissal objectives]

(2) Clause 383, page 320 (lines 17 to 25), omit the clause, substitute:

383 Meaning of minimum employment period

The minimum employment period is 6 months ending at the earlier of the following times:
   (a) the time when the person is given notice of the dismissal; or
   (b) immediately before the dismissal.

[6 month minimum employment period]

(3) Clause 384, page 320 (line 30) to page 321 (line 21), omit subclause (2). [definition of period of employment]

(4) Clause 385, page 322 (lines 7 and 8), omit paragraph (c). [small business fair dismissal code]

(5) Clause 387, page 323 (line 24), after “warned”, insert “in writing”. [criteria for considering harshness]

(6) Clause 388, page 324 (lines 1 to 11), TO BE OPPOSED. [small business fair dismissal code]

Amendment (7) is an alternative to amendments (4) and (6)

(7) Clause 388, page 324 (after line 3), after subclause (1), insert:

(1A) The Small Business Fair Dismissal Code must provide that, prior to giving a person a notice of dismissal, an employer must:
(a) give the person warnings, in writing, that the employer is considering dismissing the person, including details of the reasons the employer is considering that action; and

(b) take all reasonable steps to meet with the person to discuss the warnings.

[mandatory requirements: small business fair dismissal code]

(8) Clause 394, page 329 (line 13), omit “7 days”, substitute “21 days”.

[21-day application period for unfair dismissal remedy]

Amendment (9) is an alternative to amendment (8)

(9) Clause 394, page 329 (line 13), omit “7 days”, substitute “14 days”.

[14-day application period for unfair dismissal remedy]

(10) Clause 394, page 329 (line 27), at the end of subclause (3), add:

; and (g) whether the employer advised the employee in writing that the employee is entitled to lodge an unfair dismissal claim and the timeframe for lodgement. The written advice must be given at the time the employee’s employment is terminated.

[notice and application period for unfair dismissal remedy]

Redundancy pay provisions

(11) Clause 119, page 121 (line 2), omit “The”, substitute “Subject to subsection (3), the”.

[redundancy pay entitlements for small business employees]

(12) Clause 119, page 121 (before line 7), at the end of the clause, add:

(3) If, immediately before the time of the termination, or at the time when the person was given notice of the termination as described in subsection 117(1) (whichever happened first), the employer is a small business employer, the amount of the redundancy pay equals the total amount payable to the employee for the redundancy pay period worked out using the following table at the employee’s base rate of pay for his or her ordinary hours of work:

<table>
<thead>
<tr>
<th>Redundancy pay period</th>
<th>Employee’s period of continuous service with the employer on termination</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>At least 1 year but less than 2 years</td>
</tr>
<tr>
<td>2</td>
<td>At least 2 years but less than 3 years</td>
</tr>
<tr>
<td>3</td>
<td>At least 3 years but less than 4 years</td>
</tr>
<tr>
<td>4</td>
<td>At least 4 years</td>
</tr>
</tbody>
</table>

[redundancy pay entitlements for small business employees]

(13) Clause 121, page 122 (line 11), omit paragraph (b).

[redundancy pay entitlements for small business employees]

(14) Clause 123, page 123 (line 31), after “casual employee”, insert “, except a long-term casual employee”.

[long-term casual employees to be covered by termination provisions]