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The Parliament of the
Commonwealth of Australia

THE SENATE

Fair Work Bill 2008

(Government)

(1) Clause 193, page 182 (after line 15), at the end of the clause, add:

FWA may assume employee better off overall in certain circumstances

(7) For the purposes of determining whether an enterprise agreement passes the better off overall test, if a class of employees to which a particular employee belongs would be better off if the agreement applied to that class than if the relevant modern award applied to that class, FWA is entitled to assume, in the absence of evidence to the contrary, that the employee would be better off overall if the agreement applied to the employee. [better off overall test]

(2) Clause 207, page 196 (lines 5 to 10), omit subclause (5). [variation of enterprise agreements]

(3) Clause 211, page 198 (line 6), omit “and”. [variation of enterprise agreements]

(4) Clause 211, page 198 (lines 7 to 9), omit paragraph (1)(c), substitute:

unless FWA is satisfied that there are serious public interest grounds for not approving the variation. [variation of enterprise agreements]

(5) Clause 211, page 198 (line 26), omit “those provisions”, substitute “sections 180 and 188”. [variation of enterprise agreements]

(6) Clause 211, page 199 (line 3), omit “and subparagraph 188(a)(ii)”. [variation of enterprise agreements]

(7) Clause 211, page 199 (after line 4), after paragraph (3)(h), insert:
references in paragraphs 186(2)(c) and (d) to the agreement were references to the enterprise agreement as proposed to be varied; and
(hb) subparagraph 188(a)(ii) were omitted; and

variation of enterprise agreements

Page 202 (after line 5), after clause 217, insert:

217A FWA may deal with certain disputes about variations

(1) This section applies if a variation of an enterprise agreement is proposed.

(2) An employer or employee organisation covered by the enterprise agreement or an affected employee for the variation may apply to FWA for FWA to deal with a dispute about the proposed variation if the employer and the affected employees are unable to resolve the dispute.

(3) FWA must not arbitrate (however described) the dispute.

variation of enterprise agreements

Page 230 (after line 20), after clause 256, insert:

256A How employees, employers and employer organisations are to be described

(1) This section applies if a provision of this Part requires or permits an instrument of any kind to specify the employers, employees or employee organisations covered, or who will be covered, by an enterprise agreement or other instrument.

(2) The employees may be specified by class or by name.

(3) The employers and employee organisations must be specified by name.

(4) Without limiting the way in which a class may be described for the purposes of subsection (2), the class may be described by reference to one or more of the following:

(a) a particular industry or part of an industry;
(b) a particular kind of work;
(c) a particular type of employment;
(d) a particular classification, job level or grade.

description of employees etc.