SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE TO WHICH THE HOUSE OF REPRESENTATIVES HAS DISAGREED

(31) Clause 23, page 41 (line 31), omit “15 employees”, substitute “20 employees”.

(32) Clause 23, page 42 (line 5), at the end of subclause (2), add:

; and (c) the number is to be calculated in terms of full-time equivalent positions, not as an individual head count of employees; and

(d) the regulations must prescribe a method for the calculation of full-time equivalent positions for the purposes of this section.

(33) Clause 121, page 122 (line 5), before “Section”, insert “(1)”.

(34) Clause 121, page 122 (after line 11), at the end of the clause, add:

(2) Subsection 23(1) has effect in relation to this section as if it were modified by omitting “20 employees” and substituting “15 employees”.

(3) Subsection 23(2) has effect in relation to this section as if it were modified by omitting paragraphs (c) and (d).

(94) Clause 194, page 183 (line 13), at the end of the clause, add:

; or (h) any matter that restricts, controls or dictates the use or non-use of independent contractors.

(136) Clause 3, page 3 (line 34), omit “enterprise-level”, substitute “enterprise-level or workplace-level”.

HOUSE OF REPRESENTATIVES REASONS FOR DISAGREEING TO THE SENATE AMENDMENTS

Senate Amendments Numbers 31 - 34

Definition of small business employer

This amendment would change the definition of small business employer so that instead of meaning an employer that employs fewer than 15 employees, it means an employer that employs fewer than 20 full-time equivalent positions, not as an individual head count of employees.
In April 2007 the Government released its election policy *Forward with Fairness - Labor’s plan for fairer and more productive Australian workplaces*. This document clearly set out the unfair dismissal policy contained in the Fair Work Bill as introduced into the House of Representatives. The policy is that an employee who is employed by an employer who employs 15 or more employees for 6 months will be eligible to bring an unfair dismissal claim, and an employee who is employed by an employer who employs fewer than 15 employees must have been employed for 12 months.

The Bill aligns unfair dismissal with long standing redundancy provisions.

The House of Representatives does not accept this amendment.

**Senate Amendment Number 94**

**Independent contractors**

This amendment would make certain terms in enterprise agreements relating to independent contractors ‘unlawful terms’.

The Government considers that terms relating to conditions or requirements about engaging independent contractors may appropriately be included in enterprise agreements as they sufficiently and legitimately relate to employees’ job security, provided such terms do not amount to a general prohibition against the engagement of such contractors. Further, this approach is consistent with jurisprudence about which matters pertain to the employment relationship in the context of the Commonwealth’s workplace relations laws. The Explanatory Memorandum to the Fair Work Bill outlines this at page 108.

The House of Representatives does not accept this amendment.

**Senate Amendment Number 136**

**Objects of the Act**

This amendment would amend the object of the Bill. It would replace a reference to achieving productivity and fairness through an emphasis on ‘enterprise-level’ bargaining to ‘enterprise or workplace level’ bargaining.

The reference to enterprise-level bargaining reflects a long standing approach to describing the scope of collective bargaining and is consistent with the language used to describe the bargaining framework established by the Fair Work Bill.

The House of Representatives does not accept this amendment.

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I C HARRIS

Clerk of the House of Representatives

House of Representatives

20 March 2009