



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



## **THE SENATE**

# **WORKPLACE RELATIONS AMENDMENT (TERMINATION OF EMPLOYMENT) BILL 2002 [NO. 2]**

**In Committee**

## **SPEECH**

**Monday, 22 March 2004**

BY AUTHORITY OF THE SENATE

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**Date** Monday, 22 March 2004  
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**Questioner**  
**Speaker** Abetz, Sen Eric

**Source** Senate  
**Proof** No  
**Responder**  
**Question No.**

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**Senator ABETZ** (Tasmania—Special Minister of State) (8.29 pm)—At the outset I want to acknowledge Senator Murray's statement, which I think indicated that he is of a particular view, but all of us operate within a particular structure. The view of the Democrats is that this amendment should be pursued. I indicate that the government strongly oppose this amendment, which would amend the bill to expand the definition of 'employee' to include many independent contractors.

The amendment sets out various factors that would supposedly help in determining whether a worker is an independent contractor or an employee. The factors include most, although not all, of the common law indicators of employment but offer no guidance as to how they are to be applied in any given situation. We believe this will introduce complexity, uncertainty and lack of choice for Australian workers. The government believe that all Australian workers should have the freedom to choose to enter into independent contracting rather than traditional employment relationships. Workers who choose to be employees will attract the full range of protection provided by industrial legislation, including unfair dismissal laws. Those who choose to work as contractors will enjoy other benefits such as flexibility and market freedom.

The government does not seek to regulate genuine contractual relationships beyond providing for remedies in relation to unfair contracts and protecting freedom of association. Contractors also have access to remedies under the Trade Practices Act 1974, under some state laws—specifically fair trading legislation—and at common law. Changes to federal laws can also have the effect of overriding existing state regimes in ways which are difficult to predict and which may disadvantage employers, contractors and employees alike. The government will not agree to such a potentially radical change without first consulting the affected parties.