

2004-2005

The Parliament of the
Commonwealth of Australia

THE SENATE

Workplace Relations Amendment (Work Choices) Bill 2005

(Amendments to be moved by Senator Fielding on behalf of Family First in committee of the whole)

- (1) Schedule 1, item 9, page 25 (line 14), omit paragraph 7C(3)(f), substitute:
 - (f) the observance of, and the rate of payment of an employee for, public holidays;
[payment for public holidays]
- (2) Schedule 1, item 71, page 102 (line 7), omit “the employment period”, substitute “a period of one month”.
[averaging period of one month]
- (3) Schedule 1, item 71, page 160 (after line 3), insert:

Part VAA—Guaranteed public holidays

Division 7—Public holidays

Subdivision A—Preliminary

95AA Employees to whom Division applies

This Division applies to all employees.

95AB Definitions

In this Division:

employee means an employee to whom this Division applies under section 95AA.

public holiday means a day declared by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of that State or Territory, as a public holiday by people who work in that State, Territory or region, other than:

- (a) a union public holiday; or
- (b) a day, or kind of day, that is excluded by regulations made for the purposes of this paragraph as a public holiday.

Subdivision B—Guarantee of public holidays

95AC The guarantee

- (1) An employee is entitled to the benefit of each public holiday.
- (2) Where an employee does not work on a public holiday, the employee must be paid, either:
 - (a) for the number of hours ordinarily worked by the employee on a daily basis; or
 - (b) 7.6 hours in the case of employees who work an average of 38 hours per week over the employee's applicable averaging period (pro rata in the case of employees who work less than an average of 38 hours per week over the employee's applicable averaging period);whichever is the greater.
- (3) An employee who works on a public holiday must be paid not less than two and a half times the basic periodic rate of pay for each hour worked.

[guaranteed public holidays]

- (4) Schedule 1, item 71, page 177 (line 30), after “person”, insert “provided that the provisions in the agreement concerning penalty rates, loadings for working overtime or for shift work, and rest breaks, must be comparable to the relevant awards”.

[penalties, overtime, and shiftwork protected]

- (5) Schedule 1, item 71, page 180 (lines 20 to 22), omit clause 101D, substitute:

101D Prohibited content

For the purposes of this Act, ***prohibited content*** is content that:

- (a) prohibits AWAs; or
- (b) restricts the use of independent contractors or on-hire arrangements; or
- (c) allows for industrial action during the term of an agreement; or
- (d) provides for trade union training leave or for bargaining fees to be paid to trade unions; or
- (e) provides that any future agreement must be a union collective agreement; or
- (f) mandates union involvement in dispute resolution.

[prohibited content]

- (6) Schedule 1, item 71, page 203 (lines 25 to 28), omit subsection 104(6).

[duress prohibited—requiring an AWA prohibited]

- (7) Schedule 1, item 71, page 224 (line 16), omit “contrary to”, substitute “in”.

[superseded bargaining period]

- (8) Schedule 1, item 71, page 226 (line 12), omit “contrary to”, substitute “in”.

[superseded bargaining period]

- (9) Schedule 1, item 71, page 259 (lines 19 to 34), section 109ZG, **TO BE OPPOSED.**

[liability for cost of ballot]

- (10) Schedule 1, item 71, page 260 (line 1), omit “partial”.

[liability for cost of ballot]

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- (11) Schedule 1, item 71, page 260 (line 15), omit “80%”, substitute “100%”.
[liability for cost of ballot]
- (12) Schedule 1, item 71, page 260 (lines 31 to 33), omit subsection 109ZH(6).
[liability for cost of ballot]
- (13) Schedule 1, item 71, page 261 (lines 3 and 4), omit “has the same meaning as in section 109ZG”, substitute:
means:
(a) if the applicant, or one of the applicants, is the authorised ballot agent—the costs incurred by the authorised ballot agent in relation to the holding of the ballot; or
(b) otherwise—the amount the authorised ballot agent charges to the applicant or applicants in relation to the holding of the ballot.
[liability for cost of ballot]
- (14) Schedule 1, item 71, page 287 (line 9), omit “operational requirements”, substitute “retrenchment”.
[retrenchment]
- (15) Schedule 1, item 71, page 288 (line 34), omit paragraph 116B(1)(m).
[further non allowable award matters must be enacted]
- (16) Schedule 1, item 72, page 341 (line 17), at the end of paragraph 170AB(c), add “provided that any provision in an award, workplace agreement or industrial agreement, is at least comparable to the entitlement provided for in section 170AA.”
[guaranteed meal breaks]
- (17) Schedule 1, item 358, page 352 (line 24), omit “operational requirements”, substitute “retrenchment”.
[retrenchment]
- (18) Schedule 1, item 112, page 355 (lines 27 to 29), omit “employee’s employment was terminated for genuine operational reasons or for reasons that include genuine operational reasons”, substitute “employee was retrenched”.
[retrenchment]
- (19) Schedule 1, item 112, page 355 (line 30) to page 366 (line 3), omit subsection 170CE(5D).
[retrenchment]
- (20) Schedule 1, item 113, page 356 (line 8), omit “100”, substitute “20”.
[only businesses with 20 employees exempt]
- (21) Schedule 1, item 360, page 631 (after line 5), after clause 54, insert:

54A Report by Minister

- (1) The Minister must cause to be prepared during the first six months of the fifth year of operation of this Act, a report detailing the number of unincorporated employers still employing persons under federal awards.

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- (2) The Minister must table a copy of a report prepared under subsection (1) in each House of the Parliament within 5 sitting days of that House after the day on which the Minister receives the report.

[reporting on employers still under federal awards]