



Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022

Date: Wednesday, 9 November 2022

Attention:
Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600



About AMIC

The Australian Meat Industry Council (AMIC) is the Peak Industry Council representing 2,000 post-farm gate red meat industry enterprises. AMIC members include businesses processing for domestic and export consumption, smallgoods manufacturers, boning rooms, cold stores, wholesalers, distributors and independent retail butchers.

The post-farm gate meat industry employs around 200,000 people directly and indirectly and is often the single largest employer in rural/regional areas, underpinning vitality and sustainability of Australia's agricultural sector and regional communities.

It is well acknowledged that the red meat industry in Australia delivers significant value to the economy, domestically and via export markets

It is estimated that there are approximately 160 red meat processing facilities, 3,000 independent butcher shops and 400 specialist smallgoods manufacturers in Australia, accounting for approximately 16.9 billion in revenue in the 2020 financial year.

Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022 Call for Submissions

AMIC appreciate the opportunity to provide feedback to regarding the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022.

However, allowing two weeks to provide feedback on a Bill of the size and complexity of the Secure Jobs, Better Pay Bill is entirely inadequate. AMIC, and all Australian industries and businesses require adequate time to work through the Secure Jobs, Better Pay Bill so we can provide informed feedback to the proposals.

In the case of membership organisations such as AMIC, we would expect a reasonable period of time to brief and consult with our members to allow them the opportunity to work through these proposals and understand how this Bill will impact their businesses.

Although there appears to be elements of the Bill in which AMIC may support, our membership is highly concerned as to the lack of consultation and the potential impacts of changes such as those changes to multi-employer bargaining processes, which will force employers in to bargaining processes which may not benefit their business or even their direct employees.

Moving forward, AMIC expects to collaborate with Government and other key stakeholders on the proposed legislation to ensure workable solutions for all parties. But we urge the Senate to implement adequate consultation and feedback timeframes.

Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill Key Concerns

AMIC supports the autonomy of businesses to choose how they engage in the industrial relations system. The “secure jobs, better pay” Bill threatens that autonomy and the viability of our businesses.

AMIC does not support compulsory sector-wide, multi-employer bargaining or cooperative workplace agreements. AMIC does not support any measures which would make protected industrial action more likely within an organisation or across a sector, regardless of size of operation.

The Bill proposes a number of changes to the Fair Work Act which AMIC believe will negatively impact our members and potentially threaten the viability of their businesses. AMIC, our members and our supply chain work hard to maintain national food security in an already incredibly difficult operating environment. Changes such as those proposed will place further strain on businesses and their limit their ability to expand.

Due to the reduced timeframe in which to provide feedback we can only provide a high-level overview of our concerns, therefore unfortunately this submission does not cover in detail all of the proposed amendments. However, AMIC will continue to work with relevant Ministers and Departments

Objects of the Fair Work Act, Equal Remuneration and Prohibiting Pay Secrecy

AMIC supports gender equality and welcomes the introduction of gender equality into the objects of the FW Act.

However, when introducing the term ‘job security’ into the objects of the Act, we have concerns that this term is subjective and raises concerns it may discourage the use of casual and/or daily hire categories if these employment types are not considered ongoing, stable and secure employment.

Our members utilise the currently available employment classifications available to them including full-time, part-time, casual, fixed term and, in respect of meat processing plants, daily hire. We wish to retain the right to utilise employment classifications as necessary to support business functions.

AMIC appreciates the intent of the equal remuneration, prohibiting pay secrecy and updates to objects of the FW Act is to promote gender equality within workplaces. However, we require additional time to examine any unintended consequences of this legislation to our members.

Sexual Harassment and Discrimination

AMIC supports measures designed to protect workers from sexual harassment and discrimination. Specifically adding three protected attributes: breastfeeding, gender identity and intersex status, to the existing provisions that provide protections against discrimination. Though the meaning of 'special measures to achieve equality' is currently unclear with no definition or clarity as to what these measures may be.

Regarding the sexual harassment provisions, the additional liability placed on employers regarding the behaviours of non-employees such as contractors, prospective employees, customers or clients is very concerning to AMIC and our members. This liability places an unfair burden on employers who could not be reasonably held responsible for the behaviour of non-employees such as contractors, agents or prospective employees. As an industry who utilises thousands of contractors across many disciplines on a daily basis, this places undue pressure on an already unsecure workforce structure our members operate in.

Additionally, enabling prospective workers to access stop sexual harassment orders would likely cause administrative burden on the FWC and would not achieve a legitimate objective in a proportionate and reasonable way.

This provision combined with ability to launch civil proceedings has the potential to place significant burden on employers to defend claims from potential employees who may be aggrieved if not offered employment.

Flexible Work

Employees already have an ability to make a request for flexible working arrangements under certain circumstances.

New provisions empowering the FWC to arbitrate disputes regarding flexible work arrangements infringes on an employer's right to make independent and appropriate business decisions. Additionally, this provision is likely to add significant unnecessary administrative burden and cost to the FWC.

Bargaining, Agreements

In principle, AMIC supports the proposed simplified requirements to be met for an enterprise agreement to be approved by the FWC, and the provisions for dealing with errors in enterprise agreements.

However, AMIC do not support allowing a single employee to initiate bargaining (via a bargaining representative). Many of our members report that their workforces are not unionised and would hold concerns as to how a union they are not a member of could bargain on their behalf this provision will allow for future strike action on the basis of the wishes of a single employee. Enhancing the role of trade unions in this instance is not in the best interest of either employees or employers. Additionally, this provision

will place administrative burden on employers whilst having no benefit to the broader workplace and employees.

Regarding 'zombie agreements', AMIC considers 12 months to transition from agreement based transitional agreements is insufficient time for businesses to negotiate and transition to new agreements.

Multi-Employer Bargaining

AMIC does not support compulsory sector-wide or industry bargaining in the form of compulsory multi-employer supported bargaining or cooperative workplace agreements. Employers should not be forced to adopt 'one size fits all' terms and conditions. Multi-employer bargaining should only occur where an employer voluntarily agrees to participate.

The provisions allowing unions to apply and nominate businesses to participate in multi-employer bargaining, even if most employees in a nominated business do not wish to be covered, is very concerning for our industry, and particular our smaller businesses.

Amendments to the common interest test such as recognising geographic location or regulatory regime will force direct competitors into the same agreements. This is not conducive to building trust and respect between negotiating parties and may not lead to better outcomes for employees.

These provisions will result in conditions which cannot successfully be managed by all nominated businesses, and perversely will not necessarily mean all covered workers are better off across all businesses. The provisions will limit expansion and further employment opportunities as businesses negotiate and navigate new employment conditions.

The Better Off Overall Test (BOOT)

AMIC support the principal of simplifying the BOOT to make it fit for purpose, simple, flexible and fair. However, we have concerns as to the provision enabling the FWC to directly amend or excise a term in an agreement that does not otherwise meet the BOOT, these amendments should be undertaken in consultation with all parties.

Industrial Action

AMIC appreciates the intent to prevent protected industrial action (PIA) via the introduction on compulsory conciliation, however we believe this Bill will lead to increased PIA across businesses and industries.

Forcing businesses into bargaining will inevitably increase industrial activity as businesses are forced to negotiate on terms which may be untenable for their business and circumstances. Additionally, smaller businesses will be forced into PIA if the majority of employees from a larger bargaining business vote to approve the action.

Small Claims Process

Increasing the monetary cap on small claims will incentivise claims against businesses, on the basis this is a low-cost option for the employee with negligible consequences should they not be awarded a payment.

On the contrary, for employers who are forced to defend these claims, this process is stressful and time consuming to defend their business against what can be malicious claims.

AUSTRALIAN MEAT INDUSTRY COUNCIL

ABN 65 990 653 488

Level 2, 460 Pacific Highway
ST LEONARDS
NSW, 2065

Stacey McKenna

General Manager – Workforce Services