

Subject: Submission – Inquiry into the Operation and Adequacy of the National Employment Standards

Dear Committee Secretariat,

Please find attached my submission to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training in relation to the Inquiry into the Operation and Adequacy of the National Employment Standards under the Fair Work Act.

The submission is provided in response to the Terms of Reference adopted on 27 November 2025 and addresses the objective, operability and practical application of the NES within Australia’s small and medium enterprise environment. It includes consideration of service-dominant industries, retail and hospitality, health and community services, music and entertainment sectors, project-based work, environmental exposure risks, digital and gig interfaces, and broader labour mobility dynamics.

The submission is provided in my capacity as a small business and advanced-industry advocate, with particular reference to SME participation in emerging technology and energy ecosystems. It does not seek to reduce minimum standards. Rather, it focuses on strengthening administrative clarity and practical operability to support consistent compliance outcomes.

I consent to the publication of this submission on the Committee’s website.

Please advise if any further information or clarification would assist the Committee.

Yours Sincerely



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Submission to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training

Inquiry into the Operation and Adequacy of the National Employment
Standards (NES) under the Fair Work Act

Date Referred: 27 November 2025
Submissions Close: 27 February 2026

Submission Title

National Employment Standards and Small Business Stability:
Structural Pressures, Service-Dominant Economy Dynamics, Environmental Exposure,
Labour Mobility and Administrative Operability in Australia's SME Framework

Submitted by

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Declaration

This submission is provided in response to the Terms of Reference adopted by the Committee on 27 November 2025.

The views expressed are offered in a professional capacity informed by small business, advanced-industry and SME supply chain engagement across service, retail, hospitality, technology and emerging energy ecosystems.

Executive Summary

Australia's National Employment Standards (NES) function as the foundational employment safety net within the Fair Work Act framework. Their effectiveness, however, is dependent not only on legislative clarity but on the operating stability of the businesses required to implement them.

For small and medium enterprises (SMEs), including sole traders and micro-employers, now operate in an environment characterised by:

- Compliancing occurring in real operating conditions shaped by demographic change, cost pressures, environmental exposure, insurance availability, and increasingly software-mediated work practices, including workforce ageing and lower birth rates;
- Commercial rent and industrial land constraints;
- Infrastructure lag in growth corridors;
- Elevated operating costs, including insurance and security;
- Technological disruption through AI, automation, robotics and distributed manufacturing;
- Cashflow volatility within project-based supply chains.

While the NES remains appropriate as a minimum standard framework, its practical effectiveness is influenced by these structural pressures.

The principal reform task is operability: improving clarity, reducing avoidable ambiguity at interaction points with awards and enterprise instruments, and aligning guidance with digital payroll and rostering systems. These adjustments strengthen worker protection in practice by reducing inadvertent non-compliance and supporting employer solvency, particularly within project-based supply chains.

From an Australian fusion energy industry perspective, the issue is not sectoral special treatment. It is readiness. Emerging advanced-energy supply chains are SME-heavy, involving fabrication, electrical and controls, metrology, data and diagnostics, precision maintenance, and logistics. If Australia seeks to participate in these high-value industries rather than import them, employment standards must remain strong and also practically workable for SMEs operating under tight cash flow, higher insurance costs, and variable project cycles.

This submission argues that improving NES operability for SMEs will strengthen both worker protection and long-term economic resilience. The objective is not deregulation, but administrative clarity, technological alignment, and systemic awareness.

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1. The Structural Operating Context for Australian SMEs

Australia has over 2.7 million actively trading businesses, with the majority classified as small enterprises. These firms operate with limited administrative and legal capacity compared with larger corporations.

Structural pressures affecting SME resilience include:

- Ageing workforce demographics;
- Housing and transport constraints that affect labour availability
- Commercial rent escalation in industrial and suburban zones;
- Infrastructure constraints affecting logistics and travel times;
- Rising insurance and security costs in certain retail and service sectors;
- Cashflow exposure to delayed payments in project-based industries.

While these matters are not employment law issues in isolation, they materially influence a firm's capacity to meet employment obligations consistently.

2. The NES Objective and Small Business Solvency

The NES establishes minimum entitlements relating to hours, leave, notice and related protections. Its intent is protective.

However, the sustainability of these protections depends on employer solvency and administrative clarity. Where compliance is complex or cashflow volatile, risks increase not through intent, but through operational strain.

Improving clarity, guidance and interpretive consistency supports the objectives of Section 3 of the Fair Work Act by promoting both fairness and economic viability.

3. Changing Nature of Work: AI, Automation and Variable Hours

AI-enabled scheduling systems, digital payroll integration, robotics-assisted maintenance, and project-based advanced manufacturing are increasingly present in SME environments.

These developments may produce:

- More variable working patterns;
- Greater use of shift optimisation software;
- Increased remote and hybrid support roles;
- Short-cycle production peaks.

The NES remains applicable; however, clearer practical guidance on digitally mediated rostering and variable hours environments would reduce ambiguity.

The issue is not technological change itself, but alignment between regulation and modern workplace systems.

4. Retail and Hospitality within Industrial Precincts

Retail and hospitality SMEs operating within industrial estates, research campuses and energy precincts are economically interdependent with surrounding employers.

International examples such as the Culham Centre for Fusion Energy illustrate how café and service operators depend on predictable workforce presence.

In Australia, similar patterns exist across industrial estates where cafés, takeaway services and mobile vendors rely on weekday workforce density.

Where industrial activity fluctuates, these businesses experience immediate revenue compression while remaining subject to fixed wage and lease obligations.

This dynamic highlights the interconnected nature of employment ecosystems.

5. Cashflow Volatility and Supply Chain Payment Structures

In construction, energy, advanced manufacturing and technology supply chains, SMEs frequently operate under milestone-based payment structures.

Payment delays at prime contractor level can result in:

- Working capital strain;
- Leave liability pressure;
- Payroll timing stress;
- Reduced hiring capacity.

While outside the direct scope of NES provisions, supply chain liquidity affects the practical capacity of employers to meet employment standards reliably.

Improved payment transparency and structured milestone discipline may indirectly strengthen employment stability.

6. Interaction Between NES and Workplace Instruments

SMEs often experience difficulty navigating the interaction between:

- NES provisions;
- Modern awards;
- Enterprise agreements;
- Individual flexibility arrangements.

Consolidated interpretive guidance and plain-English interaction maps would reduce inadvertent non-compliance.

7. Worker Cohorts and Participation

SMEs disproportionately employ:

- Young workers;
- Part-time employees;
- Workers re-entering the workforce;
- Older tradespeople transitioning into advisory or reduced-hour roles.

Clarity and predictability in scheduling and entitlements support retention in a tightening labour market.

8. Data Gaps and Measurement

There is limited systematic data on:

- Compliance time cost for SMEs;
- Variable-hours prevalence in digital scheduling systems;
- Employment volatility within industrial precinct retail sectors;
- Administrative burden of NES interpretation.

Enhanced measurement would support evidence-based refinement.

9. International Comparisons

United Kingdom

The UK communicates working time standards and leave entitlements in simplified public-facing terms, aiding SME comprehension.

European Union

EU working time standards are framed around health and safety, providing clear maximum hour baselines.

Canada

Federal labour standards guidance provides accessible clarity for regulated sectors.

The common feature is not deregulation, but clarity and administrative simplicity.

10. Risks of Inaction

Failure to address SME operability risks:

- Increased administrative cost;
- Higher insolvency exposure;
- Reduced hiring confidence;
- Erosion of small business participation in emerging industries.

The long-term consequence may be reduced economic resilience rather than improved worker protection.

11. Recommendations

The Committee may consider recommending that the Government:

1. Develop consolidated, plain-English NES interpretive guidance tailored to SMEs.
 2. Produce official interaction maps between NES and common award scenarios.
 3. Align guidance with digital payroll and rostering systems.
 4. Improve measurement of SME compliance burden and variable-hours prevalence.
 5. Encourage policy coordination recognising retail and service operators within industrial precinct ecosystems.
 6. Examine supply chain payment discipline as a contributor to employment stability.
-

12. Environmental Exposure, Insurance Escalation and Workforce Stability

Australia's small and medium enterprises increasingly operate within an environment of heightened physical climate exposure, including flooding, bushfire, cyclone and extreme weather events.

Industrial estates and construction sites are often located in:

- Non-residential zones;
- Flood-prone industrial corridors;
- Remote or peri-urban areas;
- Coastal or resource-adjacent regions;
- Areas with limited infrastructure redundancy.

These locations are commercially practical but may carry elevated environmental risk.

12.1 Increasing Replacement and Interruption Costs

Environmental events impose layered impacts on SMEs:

- Physical asset replacement costs;
- Inventory loss;
- Equipment damage;
- Business interruption;
- Staff displacement;
- Increased insurance premiums;
- Medical and safety-related costs following incidents.

Where insurance coverage becomes more expensive or restricted, working capital is further compressed. This has downstream implications for payroll stability and leave provisioning.

While the NES itself does not regulate insurance or environmental policy, employer capacity to meet NES obligations is influenced by these cost pressures.

12.2 Construction, Shutdown Labour and Union Award Environments

Construction and industrial shutdown projects frequently rely on:

- Short-term contract labour;
- Specialist trades;
- Individual contractors operating under union-covered awards;
- Time-critical work schedules;
- Highly regulated safety environments.

On large industrial or energy sites, union-award structures typically govern on-site employment conditions. SMEs operating within these environments must comply not only with the NES, but with award provisions and site-specific industrial agreements.

Additionally, SMEs often operate within funding ecosystems where:

- Prime contractors control milestone certification;
- Government project funding flows through tiered contractual structures;
- Payment timing is determined upstream;
- Compliance requirements are influenced by both union and corporate HR frameworks.

This layered structure creates a compliance and financial environment in which SMEs must align simultaneously with:

- NES obligations;
- Award requirements;
- Union-negotiated site rules;
- Prime contractor procurement frameworks;
- Government funding conditions.

The cumulative administrative burden can be significant for small employers with limited internal HR capacity.

12.3 Environmental Risk and Industrial Workforce Continuity

In remote or resource-linked regions, environmental events may:

- Disrupt site access;
- Delay shutdown schedules;
- Extend project timelines;
- Interrupt roster cycles;
- Increase fatigue risk;
- Trigger emergency leave usage.

Clear guidance regarding:

- Stand-down provisions;
- Roster adjustments during emergency events;

- Leave interactions under force majeure conditions;
- Award overlays in disaster contexts

would assist SMEs in navigating these circumstances lawfully and consistently.

12.4 Insurance Escalation and Industrial Land Risk

Insurance premiums for industrial property and public liability have risen in some high-risk regions. Where premiums materially increase, SMEs may face:

- Reduced coverage limits;
- Higher deductibles;
- Restricted insurer participation;
- Increased compliance documentation requirements.

For small retail and hospitality operators within industrial precincts, these pressures compound with already narrow margins.

Policy settings that improve environmental resilience and infrastructure planning indirectly support employment stability.

12.5 Relevance to the NES Inquiry

The NES is a safety net framework. Its effectiveness is maximised when employers operate within:

- Predictable cost environments;
- Stable insurance settings;
- Clear award interaction structures;
- Transparent supply-chain payment systems;
- Disaster-response clarity.

Environmental risk and insurance escalation do not weaken the case for minimum employment standards. Rather, they reinforce the need for:

- Administrative clarity;
- Simplified compliance pathways for SMEs;
- Clear disaster-related guidance;
- Alignment between workplace law and real-world operating conditions.

The objective is not regulatory reduction. It is regulatory coherence within a higher-risk operating landscape.

Appendix A – Comparative International Approaches (Employment Systems Lens)

United Kingdom

Clear, simplified communication of working time and leave standards supports SME compliance.

European Union

Structured working time limits framed through occupational health principles.

Canada

Accessible federal labour standards guidance aiding regulated-sector employers.

Appendix B - Music, Arts, Entertainment and Service-Dominant SME Economy

Australia's music and live entertainment sector is primarily SME-based. It includes: Independent venues and live music bars; Theatres and performing arts organisations; Touring companies; Event management firms; Sound, lighting and staging contractors; Technical crews and production support services; Independent artists employing support staff.

The employment model in this sector is structurally different from conventional fixed-site businesses. It is characterised by casual and short-duration engagements, night and weekend concentration, touring and interstate mobility, variable attendance-driven revenue, and event-specific employment peaks.

Live events create concentrated demand peaks requiring front-of-house staff, technical operators, security personnel, venue management and casual hospitality workers. Between events, staffing requirements may drop sharply. Clear guidance on variable hours, cancellation handling and recordkeeping in event-based contexts assists SMEs in complying confidently with NES requirements.

Touring production and performance work introduces interstate travel, overnight and extended shifts, mixed engagement types and layered industrial instruments across jurisdictions. Consistency in interpretive guidance is particularly important where jurisdictional variation intersects with national standards.

The entertainment industry increasingly includes digital streaming production teams, content creators employing casual editors and technicians, hybrid in-person and online events and small media production houses. Clarity in classification boundaries and recordkeeping expectations reduces inadvertent non-compliance.

Live entertainment venues face increasing public liability insurance costs, security obligations, compliance requirements and venue maintenance expenses. These costs compress working capital in margin-sensitive venues where payroll obligations must be managed alongside fluctuating ticket revenue.

Regional festivals, cultural events and community arts initiatives often combine paid employees, casual event staff, volunteers and board governance. Clear delineation between volunteer roles and paid employment supports lawful compliance.

Appendix C – Services-Sector Employment Context (ABS Data)

According to the Australian Bureau of Statistics, service industries account for the majority of Australian employment, including Health care and social assistance, Retail trade, Accommodation and food services, Professional, scientific and technical services, Education and training, and Arts and recreation services (ABS, 2024). These sectors collectively represent a substantial share of total national employment, reinforcing that the NES framework operates predominantly within service-oriented SME environments rather than heavy manufacturing settings.

Arts and recreation services, accommodation and food services, and retail trade exhibit higher proportions of part-time and casual employment compared with other industries (ABS, 2024). This reinforces the importance of clarity in rostering, overtime calculation, leave accrual and recordkeeping obligations.

Appendix D – Analytical Bridge – Service Economy and Advanced Industry Ecosystems

Australia’s emerging advanced-industry sectors, including energy innovation, digital infrastructure and fusion-related research ecosystems, operate within a predominantly service-based national economy. Retail, hospitality, arts, gig-supported services and local micro-enterprises form part of the workforce support structure that enables high-skill industry participation. A resilient and administratively clear NES framework strengthens not only traditional SMEs but also the broader ecosystem that supports advanced technology sectors. In this sense, service-dominant industries, gig interfaces and entertainment enterprises are not peripheral to advanced industry growth; they are foundational to workforce stability and regional vitality.

Appendix E – Agriculture, Primary Production and Regional SME Employment

Australia’s agricultural sector is predominantly SME-based, comprising family farms, horticulture enterprises, livestock operations, viticulture, aquaculture and associated regional service contractors.

According to the Australian Bureau of Statistics, agriculture, forestry and fishing remains a significant regional employer, with strong seasonal labour components and higher variability in hours worked compared with metropolitan service sectors (ABS, 2024).

Employment in agriculture is frequently characterised by seasonal workforce peaks, harvest mobilisation periods, weather-dependent activity cycles, and short-duration engagements.

These structural features influence how NES obligations are administered in practice, particularly in relation to overtime calculation, maximum hours interpretation, leave accrual management and stand-down provisions during weather interruption.

Agricultural SMEs also interact with temporary migration and regional labour programs, creating layered compliance responsibilities that intersect with NES and award frameworks.

Environmental exposure is materially higher in primary production sectors. Flood, drought, bushfire and biosecurity events can delay harvests, damage infrastructure and interrupt workforce accommodation.

Where environmental disruption affects revenue cycles, payroll obligations remain constant. Clear disaster-related guidance for roster adjustments and leave interactions would assist regional employers in complying confidently with NES requirements.

Agriculture illustrates a broader structural theme: employment standards must remain strong while being administratively clear and operable in seasonal, weather-exposed and regionally constrained environments.

Appendix F – Consolidated References (APA-7)

1. Submission to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training

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2. Improving clarity, guidance, and interpretive consistency supports the objectives of Section 3 of the Fair Work Act by promoting both fairness and economic viability.

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3. Australian Bureau of Statistics. (2024). Labour force, Australia, detailed industry data.

<https://www.abs.gov.au/statistics/labour>

4. Australian Bureau of Statistics. (2024). Employment by industry and sector.

<https://www.abs.gov.au/statistics/labour/employment-and-unemployment>