

Fair Entitlements Guarantee Amendment Bill 2014

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Committee Secretary
Senate Education and Employment Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Re: Inquiry into Fair Entitlements Guarantee Amendment Bill 2014

Dear Committee Secretary,

Thank you for your letter to our President, Mr Wes McKnight, inviting NECA to submit comment for the Fair Entitlements Guarantee Amendment Bill 2014 Senate Inquiry.

The National Electrical and Communications Association is the peak industry body for Australia's electrical and communications contracting industry that employs more than 145,000 workers with an annual turnover in excess of \$23 Billion. NECA's membership consists of more than 4,000 businesses across Australia that sits within our state based chapters. In addition to employing executive and administrative staff at our state chapter and national offices, NECA employs more than 4,000 electrical apprentices through Group Training and Registered Training Organisations in each state of Australia.

We understand that the Amendment Bill's main purpose is to make amendments to the Fair Entitlements Guarantee Act 2012, following the May 2014 Budget announcement to align the maximum redundancy pay entitlement under the Fair Entitlements Guarantee Scheme (FEGS) with the maximum cap set by the National Employment Standards (NES).

The Fair Entitlements Guarantee Scheme, managed by the Federal Government's Department of Employment is a basic payments scheme for workers that cover certain unpaid employment entitlements when a job is lost through bankruptcy or insolvency of their employer. The scheme currently provides assistance for redundancy entitlements up to a maximum of four weeks' redundancy pay per year of service, with no cap on years of service.

This scheme is the successor to the General Employee Entitlements and Redundancy Scheme (GEERS), introduced by the Howard Government in 2001. GEERS maintained a maximum 16-week threshold on redundancy payments and this threshold was adopted as one of the National Employment Standards as a minimum entitlement for employees under the Fair Work Act 2009 by the Rudd Government.

NECA supports the decision of the Abbott Government to maintain a standard of 16 weeks on redundancy payments under the Fair Entitlements Guarantee Scheme to align and create consistency with the minimum entitlement of the NES. We believe this move creates a greater level of equity for redundancy payments and removes any uncertainty or ambiguity about an accepted standard.

However, we remain concerned that the amendments contained within the Fair Entitlements Guarantee Amendment Bill 2014 do not go far enough to address additional areas of inequity – in particular its application and eligibility at the small business level.

In Australia, under the Fair Work Act 2009, a small business employer is defined as having fewer than 15 employees, regardless of the nature and employment (part time/full time) mix within that business. By way of comparison, the European Union defines a small business employer as having 50 staff, whilst the United States defines a small business on an industry by industry basis with a general consideration of 250.

Redundancy payments under the NES are exempt for a small business employer operating with fewer than 15 staff members and NECA believes that further alignment of the Fair Entitlements Guarantee Act with the NES would address the inequity between the Government payment scheme and the standards outlined for private enterprise. NECA believe this move will ensure greater consistency and create much more of a level playing field across the economy and the electrical contracting and communications industry.

Further, we also ask the Government to consider that the definition of a small business employer under the Fair Work Act 2009 of fewer than 15 employees be amended upon a full time equivalent (FTE) basis. NECA considers that an FTE count of 15 is more equitable figure for the purposes of redundancy payments under the Act and we encourage the Government to consider amendments to the Fair Entitlements Guarantee Amendment Bill 2014 and the Fair Work Act 2009 to ensure a more realistic assessment and definition of a small business.

Therefore, NECA's position on the Amendment Bill is as follows;

- *NECA supports amendments contained within the Fair Entitlements Guarantee Amendment Bill 2014*
- *Believes that further alignment with the Fair Work Act 2009 is necessary to ensure that small business employers are exempt from the Fair Entitlements Guarantee Scheme*
- *Encourages the Government to reconsider the definition of a small business employer under both Acts, taking into account the mix and nature of today's modern businesses by applying an FTE count to the staff number definition of a small business*

Thank you again for the opportunity to provide a submission for the Senate's Inquiry into the Fair Entitlements Guarantee Amendment Bill 2014.

Yours faithfully

Suresh Manickam
Chief Executive Officer