

The Senate

---

Standing Committee on  
Education, Employment  
and Workplace Relations

---

Workplace Relations Amendment  
(Transition to Forward with Fairness)  
Bill 2008 [Provisions]

March 2008

© Commonwealth of Australia 2008

ISBN 978-0-642-71899-0

This document was produced by the Senate Standing Committee on Education, Employment and Workplace Relations and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

## Members of the Committee

### *Members*

Senator Gavin Marshall	ALP, Victoria	Chair
Senator John Watson	LP, Tasmania	Deputy Chair
Senator Sue Boyce	LP, Queensland	
Senator George Campbell	ALP, New South Wales	
Senator Mary Jo Fisher	LP, South Australia	
Senator Andrew Murray	AD, Western Australia	
Senator Glenn Sterle	ALP, Western Australia	
Senator Dana Wortley	ALP, South Australia	

### *Participating Senators*

Senator Mathias Cormann	LP, Western Australia
Senator Steve Fielding	FFP, Victoria
Senator Rachel Siewert	AG, Western Australia

### **Secretariat**

Mr John Carter  
Ms Lyn Beverley  
Ms Candice Lester  
Senate Education, Employment and Workplace Relations Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia  
Phone: 02 6277 3521  
Fax: 02 6277 5706  
Email: [eewr.sen@aph.gov.au](mailto:eewr.sen@aph.gov.au)  
Internet: [www.aph.gov.au/Senate/committee/eet\\_ctte/index.htm](http://www.aph.gov.au/Senate/committee/eet_ctte/index.htm)



# Table of contents

<b>Members of the Committee.....</b>	<b>ii</b>
<b>Terms of Reference .....</b>	<b>vii</b>
<b>Government Senators' Majority Report.....</b>	<b>1</b>
Reference .....	1
Conduct of the inquiry .....	1
Acknowledgments .....	1
Purpose of the bill.....	2
The terms of reference.....	2
Economic and social effects arising from the abolition of individual statutory agreements – brief notes on the terms of reference.....	2
Provisions of the Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008 .....	6
Terminating Australian Workplace Agreements.....	6
Individual Transitional Employment Agreements .....	16
Modernising industrial awards .....	17
Issues arising from the committee's consideration of the bill .....	17
Award modernisation .....	25
Conclusion.....	29
<b>Coalition Senators' Report.....</b>	<b>33</b>
Introduction .....	33
The terms of reference – lack of economic modelling.....	33
Drafting issues .....	34
Timeline for inquiry .....	34
Conduct of the inquiry.....	35
End to reform.....	35
Major policy flaws and drafting difficulties in the bill .....	36
Confusion arising from the use of ITEAs .....	41

Undertakings to employees pending approval of an agreement.....	46
The new no-disadvantage test .....	47
Award modernisation .....	49
The possibility of future industrial unrest .....	53
Difficulties faced by small contractors and micro-businesses .....	54
Local government concerns.....	55
Other issues.....	57
Conclusion.....	60
<b>Australian Democrats' Additional Remarks.....</b>	<b>61</b>
Introduction .....	61
Plus ca change .....	61
Unfair Dismissal (UFD) .....	62
Individual Statutory Agreements (ISAs).....	68
<b>Additional Comments by the Australian Greens.....</b>	<b>75</b>
Statutory Individual Agreements.....	75
The Award system.....	76
Other matters .....	78
The Bill.....	79
<b>Family First Additional Comments.....</b>	<b>85</b>
<b>Appendix 1.....</b>	<b>89</b>
<b>Submissions received.....</b>	<b>89</b>
<b>Appendix 2.....</b>	<b>93</b>
<b>Hearings and Witnesses .....</b>	<b>93</b>