



SENATOR GRANT CHAPMAN
Liberal Senator for South Australia

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“Workplace Relations Update”

Acknowledgements

Mr Stephen Myatt, Director, Engineering Employers Association, South Australia

Ladies and Gentlemen

Introduction

Thank you for the invitation to join you today to provide an update on the latest developments in workplace relations matters.

Before I do this, I would like to acknowledge both the Engineering Employers Association and the Australian Industry Group who I know enjoy a strong working partnership.

I understand the Association was established in 1986 to represent the interests of employers in the metal and engineering manufacturing sector in South Australia, although it existed in other guises from the 1920s.

And of course the Australian Industry Group was formed in 1998 and represents some ten thousand employers across a range of sectors, although its origins date back to 1873.

This is a good opportunity for me to express a vote of thanks for the active role that the Association and the Industry Group play in representing employers. The scale of workplace relations reform would not be possible without such bodies assisting employers with the mechanics of implementing these reforms and in consulting openly with the Government on the shape of reform.

Preparing Australia for future challenges

I should preface an outline of the proposed workplace relations reforms with a brief run-down of the compelling arguments underlying the moves to reform.

Australia faces a number of challenges for the future, and the way in which we address these challenges will determine whether or not we continue the prosperity which we enjoy today. And that's important because at present Australia has:

- 10 million people in jobs at historic highs.
- Unemployment at an almost 30 year low.
- Real wages have increased by more than 14% over the last decade.
- Inflation within that band which the Reserve Bank regards as acceptable. And;
- Interest rates a far cry from what I can recall of 17 and 18% home loan mortgage rates, let alone 21 and 22% business interest rates for small business.

So, with Australia enjoying this prosperity, some ask the question in that colloquial way, if it ain't broke, why does it need fixing? The reality is that looking at what we've achieved is not going to equip us to address the challenges that Australia faces in the future.

I'll speak to two of those challenges today. The first is the continued competition which we face in this country, and the second is the consequences of an ageing population.

We live in a competitive environment. We live increasingly not just in a national economy operating across State and Territory borders, but we live in an environment of fierce global competitiveness. And the world doesn't simply stand still. The reality is that we have to continue to compete, to attract capital, to export our goods and services in order to sustain the standard of living which we have today.

Australia's automobile industry is one example. That industry is one in which, as you know, we have to be able to compete to export overseas if we want to retain the jobs in Australia. The industry in Australia turns a car off the assembly line every couple of minutes, whereas in the UK, a developed country where wages and conditions are at a standard of being as good, if not better than Australia, a car is being turned off the assembly line every 34 seconds. The difference in productivity between 34 seconds and two minutes is significant. And it's not about driving wages down, as our critics wish to contend, it's about working smarter so that we can actually compete and continue to retain and increase the jobs available to Australians.

And the second challenge which we face is Australia's changing demographic profile – that is, the ageing of our population. Baby boomers are starting to retire from the workforce. We've been reproducing at a rate less than we need to replace ourselves for the last 35 years, and the consequence is a contraction starting to occur in the growth of Australia's workforce.

As you know, we have workforce shortages at the present time, and this will compound in the future – so much so that we could be facing a shortage of as many as 300,000 employees in Australia in just five years time. And we know for the entire decade of the 2020s that the net growth in the Australian workforce for that entire 10-year period will be less than it is currently in one year.

Therefore, reliance upon population growth alone is not going to sustain economic growth. As the Productivity Commission pointed out recently, it's going to be participation in the workforce of those of working age, hence the Government's Welfare to Work reforms, and increasing our productivity growth that's going to sustain economic growth in this country – not just for the next few years, but for the next 40 to 50 years. And so working smarter and making some changes to the workplace relations system is a critical ingredient in ensuring that we actually meet the challenges of the future.

So, the clear choice here is to either do nothing and see Australia's relative competitiveness and living standards decline, or to address these factors in a responsible way and prepare Australia for the future. When faced with this compelling evidence there is only one real choice here and that is to address these challenges now.

Plans for reform

Allow me now to outline the key elements of the proposed changes that the Government announced recently, with the relevant legislation scheduled to be introduced into the Parliament next week on the 2nd November. The Government is committed to see this legislation passed through the Senate this year.

Minimum conditions in agreements

The proposed changes to the workplace relations legislation will enshrine for the first time a set of minimum conditions in the federal legislation. People say there's going to be no protections, but in fact for the first time there will be enshrined in federal legislation a set of minimum protections, and these will include minimum wages, four weeks annual leave, sick leave, personal leave, carers leave, and a 38 hour ordinary week. These things will have to be a feature of any agreement entered into whether a collective or an individual agreement for that agreement to be valid.

Wages

The proposed changes largely leave the structure of wages in place. That is, the various classifications of wages will be retained. Casual loadings will be retained. Junior wages will be retained. The legislation will actually introduce wages for apprentices where they're not provided for within the State systems at the present time with a view to encouraging more of our young people to take up apprenticeships and more businesses to take on apprentices. We'll retain wages for the disabled, for people who worked in what we used to call sheltered workshops. So the structure of wages will remain pretty much as it is. But what the Government is changing is the way in which the minimum wages are set in this country because at the moment it is unsatisfactory.

At the moment a dispute has to be created on paper in order to have the Industrial Relations Commission resolve that dispute. And so this year, as happens every year, we had a claim of \$26.60 from the ACTU. The ACTU admits in the Commission that it's an ambit claim. And then you have a counter claim from the employer groups, usually of 9 or 10 or 11 dollars. And then every year, give or take a dollar or two the Commission delivers a decision which is roughly halfway between the two claims.

That is an arbitrated outcome and an excellent article by Heather Ridout, the chief executive of the AIG that appeared in last Friday's Financial Review outlined all that is wrong with this system. The Government wants to replace this process with a process of economic analysis, of a rigorous look at the way in which minimum wages are not only set but the effect and the impact of changes in the minimum wage, particularly on the ability of people who are low-paid to continue to have a job, and the ability of those people who are still unacceptably locked out of the workforce to get a job.

Although unemployment is approximately 5% in Australia at the present time, there are some tens or if not hundreds of thousands of Australians who haven't got a job. Australia can still do better and help those people who haven't got a job to get a start in life and actually to be able to be part of the economic life of this country. So part of the role of the new Fair Pay Commission will be to analyse the way in which we set minimum wages and the impact of those, particularly on the low-paid and unemployed, and on small business.

Many small businesses, including no-doubt people here this morning, face a choice of working those extra hours to eight and nine o'clock at night or working all day Saturday

and Sunday, or of employing someone to do some of that work. This is often a marginal decision. And so the Fair Pay Commission should be able to look into the impact on an ongoing basis of changes in the minimum wage on small business, and their ability to employ other Australians? At the moment these types of questions are not being answered and the Government believes they should be.

Employees prefer agreements

The reality in Australia is that workers have been fleeing the awards in their droves. Ten years ago some 70 per cent of the workforce in the federal system was employed under an award. Today it is less than 20 per cent. And the reason why people have moved from awards to agreements – both collective and individual – is because from their perspective, they're better off. They get paid on average 13 per cent more under agreements than they do under awards, and in fact get paid more under individual agreements than they do under collective agreements. They also prefer the better outcomes for family flexibility.

The award system will be retained for those who want to stay on the award system through their unions. Over time I suspect the numbers of awards will continue to decrease, but it'll be there for those who want it.

Ongoing role for the AIRC

The Australian Industrial Relations Commission will have an ongoing role, but it will reflect its original purpose, and that is a dispute resolution body. These changes encourage alternate dispute resolution so that parties resolve their own disputes rather than simply falling back on the Commission.

Protection against unlawful termination

Employees will be protected against unlawful termination. An employee should not be terminated on the basis of some discriminatory ground, for example, because they're pregnant, or because they've got family responsibilities, the colour of their skin, or their religious beliefs.

But the Government will exempt small and medium business from unfair dismissals, which have been largely abused over the last 10 years.

You will all be aware that it's common practice to pay so-called go away money for someone who makes a claim for unfair dismissal, even if the claim is without merit. The result is that employers can spend 10 or 20 thousand dollars fighting a claim which they can win but will be no better off. That's not good policy and that's why the Government will introduce this exemption.

One national system

The Government also proposes to do is to move towards one simpler national system. The current system in Australia was designed to deal with the problems of the massive industrial disputation and disruption of the 1890s.

This is hardly going to take us through and meet the challenges that we face over the coming decades. As I said at the outset, increasingly we operate as a national economy in this country and even as part of an international economy. One simple system of national industrial relations is better than having the complexity and the confusion that we've got at the present time.

Businesses which operate in more than one Australian State should not have to grapple with the complexity and duplication that comes with having to negotiate through various awards and a different set of legislative requirements in each state – besides it being a waste of resources, Australia is just not big enough for that.

Just last week the Minister for Employment and Workplace Relations, Kevin Andrews, called upon the Premier of South Australia, Mike Rann, to refer the State industrial relations powers to the Commonwealth and noted that this would save South Australia 15 to 16 million dollars a year – and we all know that there are plenty of areas that saving could be channelled into.

Simplification of agreement making

The Government also plans to simplify workplace agreement making. Firstly, if we have a system in which we change the basis of agreements, then we can also change the process by which agreements are entered into. And the key reform in this package is to uncouple the awards from agreements. Even though the number of people covered by awards in the federal system is down to less than 20%, the award nonetheless remains an inflexible and rigid core of agreement making. That's because of the 20 allowable matters that flow through the so-called no disadvantage test and are therefore fixed as a core of agreement making. The proposal is to uncouple that by replacing the 20 allowable matters with the new Australian Fair Pay and Condition Standard – the wages, the 38 hour week, the annual leave, the personal leave, the carers leave, et cetera. By doing that we uncouple the two. But if you don't have the 20 allowable matters then you don't need a cumbersome certification process in the Industrial Relations Commission.

So for both collective and individual agreements, employers will simply be able to lodge or register their agreement and that in itself will be an increased efficiency for business in Australia. And beyond that we propose to allow an agreement – again, either collective or individual – to run for a maximum period of five years, rather than the current three years. Five years is a sensible period in which businesses can make an assessment about the national economy and the macro economic conditions of the State and the nation, their business and the prospects in their particular industry sector. It's also important for major infrastructure projects that take four or five years to build.

What the reforms won't do

There is a lot of scaremongering going on at the moment. For example, in the context of the need - which no-one disagrees with, to achieve a healthy balance between work and family, it has been claimed by some that Australians are now working longer hours than ever before. The truth is that over the past twenty years the average number of hours worked have actually declined. The average working hours in 1987 was 35.6 hours, whereas in May 2005 the average working week was 34.6 hours. There are various reasons for this, including increased workforce productivity, the growth in part time work which has been bolstered by the entry of more women into paid work, and the promotion of greater flexibility through the Government's reforms. So it always pays to check the facts before diving in and accepting what some who don't want Australia to move forward would have you believe.

So at this point allow me then to recap on what the reforms won't do.

- They won't cut minimum award classification wages.
- They won't remove the protection against unlawful termination.
- They won't abolish awards.

- They won't remove the right to join a union.
- They won't remove the right to lawful protected or industrial action when negotiating an agreement.
- They won't outlaw union agreements.
- They won't abolish the Australian Industrial Relations Commission.
- They won't abolish the protections that exist in awards.

Changes to awards

I will speak briefly now about changes to awards. The reforms propose that in future new awards, four allowable matters be removed – namely long service leave, jury service, notice of termination and superannuation provisions. Employees on existing awards, they will continue to receive those benefits. It is not that employees will no longer have access to these benefits. Rather, for new awards these things are already covered by other legislation – long service leave is covered, for example, by legislation at the State level.

Beyond that, the reforms propose that things like public holidays, rest breaks, incentive-based payments, and annual leave loadings be protected in agreement making in this way. That means that unless it is specifically agreed otherwise then the default provision in agreements will be what's contained in the relevant award. If the relevant award under which an employee is employed contains, for example, provisions for public holidays, as awards do contain, or provisions in relation to overtime or penalty rates, if you as the employer in negotiation and agreement with the employee do not agree otherwise, then the default provision will be what's contained in the award at the present time. That gives protection to employees, but at the same time allows a degree of flexibility.

A continuation of reforms already underway

So you will appreciate that these are important changes. They're big changes, but they're fair changes. And what they seek to do is to build on the successive reforms that have been undertaken to unlock Australia's potential. Reforms that have been designed to strengthen the economy in this country so that we can continue to increase jobs and to create higher wages.

Can I remind you that the first steps in these changes were actually started under the Keating Government back in 1993 with the Industrial Reform Act. What Paul Keating envisaged, particularly after emerging through the recession we had to have, was a move away from the rigidities of the award system to agreement making, by allowing people to enter into collective arrangements at an enterprise level rather than just have conditions imposed through the existing arbitration and award system. He also envisaged the eventual replacement of awards with agreement making in order to move forward.

In 1993 the Liberal Party and the National Party supported Paul Keating and the reforms, and can I remind you, so did Kim Beazley. So it's very strange now that we have a leader of the Federal Labor Party who, having supported the beginning of these reforms in 1993, is now prepared to vote against them. Kim Beazley is simply going with the flow, and unfortunately, the flow at the present time is what the union bosses are telling him to do – opposition to any reform, even though they know themselves that we have to move forward.

Encouraging employers to become familiar with the changes

So what we have and what we are looking for is a simpler, fairer system than we've got at the current time. A system that builds on the changes that we've had, and there's a lot more detail that I don't have time to go through this morning.

The Government recently released a 15 page summary of the reforms and a 67 page document which sets out the detail at considerable length. I encourage you all as employers to obtain not only the 16 page document, but if you're interested and you're an employer for example and you want to know how this is going to affect you, to look at the 67 page document. I have copies of the 15 page document here today and the larger document can be obtained by ringing the 1800 number or going to the Work Choices website and downloading it.

Concluding remarks

I will finish on this note. If you look around the world and make a comparison of those countries that have still got highly regulated labour markets, then there's one striking feature of them. Let me give you three examples: France, Spain and Germany. The unemployment rate in those three countries today is at or above 10 per cent. Across the English Channel to the United Kingdom, which has a more deregulated system of labour relations today than we have, and indeed will still have a more deregulated system of labour relations when we've finished all these reforms, the unemployment rate is closer to 4 per cent. Indeed, Tony Blair told the Trade Union Congress when he was first elected Prime Minister of Great Britain, that the one thing he was not going to do was to roll back the reforms that Margaret Thatcher had put in place in that country. And the reason he wasn't going to roll them back was because he could see, as he told them, that those reforms were good for jobs, were good for competition, and were good for the economy, and therefore the wellbeing of the people of the United Kingdom.

To roll back is to give up. It's not to face the challenges. We have to move forward. There is a choice here. A choice between a country which continues to thrive, in which we can all enjoy the standard of living that we have today and do the best to ensure that our children have got it in the future, or to stand still and go backwards. We've made our choice, and that's to move forward.

I wish you every success for a productive conference. Thank you.

ENDS