2022 FEDERAL ELECTION POLICY STATEMENTS

WORKPLACE RELATIONS POLICY – THE SAFETY NET OF MINIMUM CONDITIONS

Key Points

- Australia's industrial relations system is far too complicated.
- The safety net of minimum conditions needs to be modernised to reflect the needs of contemporary workplaces.
- Matters that are primarily dealt with in the National Employment Standards (NES) in the *Fair Work Act* should be largely removed from awards.
- The *Fair Work Act* should be amended to require that employers and employees to whom awards apply have access to certain minimum levels of flexibility. The minimum levels of flexibility should include:
    - The ability to agree on flexible part-time employment arrangements, with the ability to readily adjust ordinary hours on any day by agreement.
    - The ability for day workers who are working remotely, to work outside the spread of hours in the relevant award and to break up their work periods, provided that their employer agrees.
    - The ability for an employee to enter into an Individual Flexibility Arrangement (IFA) with their employer, with an optional lodgement and approval process so that both parties can have certainty that their IFA passes the Better Off Overall Test and is legally enforceable.

Policy Approach

Our industrial relations system is intended to be fair to all parties. However, it not fair that the system is so complicated that even many major corporations with sophisticated payroll systems are making payroll errors leading to multi-million dollar underpayments. What hope does a small business have in being confident that it has complied in all respects with relevant awards and workplace laws given the complexity of the system?

During the recovery from the pandemic and beyond, businesses and employees will need more flexibility, not less. Hybrid work models are currently the norm in many industries due to the pandemic and are set to stay the norm in workplaces where employees are able to work productively from their homes.

The safety net of minimum conditions needs to be modernised to improve flexibility and fairness for employers and employees, and to reflect the needs of contemporary workplaces.

Australia's so called 'modern' award system is far from perfect – and far from being modern. Much of the system is still a relic from the past.

Matters that are primarily dealt with in the NES should be largely removed from awards and replaced with references to the NES provisions, just like what has occurred with casual

employment definitions and casual conversion provisions. A similar approach should be taken with annual leave, personal/carer's leave and other topics that are primarily dealt with in the NES. Employers and employees should only be required to look in one place to determine key safety net obligations and entitlements. Some amendments to the *Fair Work Act* will be necessary to implement this approach, but there is no reason why this cannot occur.

Some amendments should also be made to the *Fair Work Act* to require that awards are sufficiently flexible to address the needs of employers and employees in contemporary workplaces.

The reforms in Schedule 2 of the original IR Omnibus Bill provide a framework for this approach even though those reforms were overly modest. They only dealt with part-time employment, work location and work duties in a small number of industries, and only for a two year period.

Given the needs of employers and employees in contemporary workplaces, the *Fair Work Act* should be amended to require that employers and employees to whom awards apply have access to certain minimum levels of flexibility, including:

1. The ability to agree on flexible part-time employment arrangements, with the ability to readily adjust ordinary hours on any day by agreement.

2. The ability for day workers who are working remotely, to work outside the spread of hours in the relevant award and to break up their work periods, provided that their employer agrees.

3. The ability for an employee to enter into an IFA with their employer, with an optional lodgement and approval process so that both parties can have certainty that their IFA passes the Better Off Overall Test and is legally enforceable.

No doubt there are plenty of other issues that could be looked at but these three would make a meaningful difference in delivering much needed flexibility to employers and employees.