# ACCI LABOUR RELATIONS POLICY

## PRINCIPLES OF LABOUR RELATIONS POLICY

ACCI supports a labour relations system that is characterised by decentralism and voluntarism, under which primacy is given to the interests of the direct employer and employee parties to the employment relationship. ACCI believes that only employers and employees can select the approach that best suits their particular circumstances and maximises their prospects of reaching appropriate agreements of highest mutual benefit.

## POLICY OBJECTIVES

ACCI's overarching policy objectives are:

- to achieve legislative reform which will permit greater flexibility and efficiency in the opera-tion of the enterprise.
- to convince all political parties, and the community in general, of the necessity for further labour market reform.
- to remove misconceptions and concerns about the effects of labour market reform
- to secure coordination of legislative measures taken at Federal and State levels.

Specific, immediate policy objectives include:

- the promotion of freedom of choice for employers and employees in their workplace arrangements.
- the active promotion and encouragement of the use of enterprise agreements, individual agreements and other options including internal regulation agreements.
- a reduction in the influence of awards and tribunals.
- the promotion of enterprise development, productivity and efficiency.
- the encouragement of participative management approaches.
- the encouragement of performance based remuneration.
- the development of detailed proposals for legislative change.

## THE POLICY FRAMEWORK

Important steps were taken down the path of genuine reform of Australia's labour relations system, with the passage of the Federal Government's *Workplace Relations* reform package in 1996. For the first time:

- employers and their employees are able to form agreements which genuinely suit them free of the interference of third parties (if that is their wish).
- employees are able to form agreements on an individual rather than collective level under the federal industrial relations system.
- the right of Australians to freely associate or not associate with unions and employer organisations is genuinely protected.
- Australian businesses are better protected from vexatious and damaging industrial action.

However, despite the welcome and long overdue changes to the main industrial statute, considerable challenges remain:

- the system continues to be unduly complicated and prescriptive.
- the award system continues to have too great a role vis-à-vis agreements.
- provisions for agreement making continue to be unduly complex, and place too great an emphasis on employer and compliance issues.

In addition to legislative challenges such as these, ACCI recognises that the formal labour relations system (embodied in federal and State legislation) constitutes only one part of the key to genuine industrial reform for the future. There is also a need for genuine reform in the thinking of both Australian employees and their employers at the workplace level.

ACCI strongly believes that any workplace reform must be organic and driven 'from below' by the needs and desires of Australian employees and employers.

ACCI's labour relations policies and strategies reflect the importance of workplace change as a driver of legislative reform. ACCI will seek to place an enhanced emphasis on changing workplace attitudes and practices in pursuing its policies and strategies.

***The Legislative Framework***

The legislative framework should be changed in order to implement the objectives of:

- labour market flexibility.
- productivity orientated wage determination.
- decentralisation.
- freedom of choice.
- an enterprise emphasis.
- individualised approaches.
- a reduction in complexity.

All of these factors have to be addressed in a more rigorous manner than is currently the case in Australia, in order to build more competitive and efficient workplaces capable of sustaining and increasing our standard of living.

***Rationalisation of Federal/State Systems of Industrial Relations***

The Federal Government and each State Government have established separate labour relations systems. While co operation between the different systems has increased in recent years, unnecessary and artificial conflict still frequently occurs.

The current Federal/State systems should be rationalised through the enactment of complementary Federal/State legislation or, in the absence of such legislation, through other means which would lead to the implementation of ACCI policy. The rationalised system should reflect the regional nature of Australia, through the establishment of State Divisions of a single tribunal. Those divisions should comprise the existing State tribunals and local matters should be dealt with by members of those tribunals.

The best approach would be for the Federal and State Governments to agree on the terms of legislation to be enacted jointly. In this way the involvement of State Governments in the legislation and any future legislation would be maximised, in that their agreement to change would be required.

### *Conciliation and Arbitration*

Subject to a few exceptions, conciliation and arbitration within the formal system should be an essentially voluntary process. The element of compulsion should be largely removed from the system and employers and employees should be encouraged to find their own solutions to differences and to enter into voluntary agreements.

The circumstances in which arbitration is compulsory should be confined to:

- the maintenance of essential services.
- intractable disputes which on the application of an employer are found by a Full Bench to require arbitration, having regard to:
    - i. the duration of the dispute.
    - ii. the effects on the employer's business and the employees concerned.
    - iii. consequential effects of the dispute and its continuation.
- a claimed unfair dismissal (subject to a balance between employer and employee rights and the exemption of small business).

While there is access to compulsory arbitration in relation to a dispute or issue there would be no immunity from common law or other remedies against industrial action available through the Courts or elsewhere.

### *Awards and Agreements*

Awards and agreements should in future be made binding only on identified employers and their employees. There should be no common rule awards.

Awards and agreements should have a fixed period of operation and:

- termination should not take effect until either party gives notice.
- the parties may agree to their continuation in whole or in part.
- a Full Bench may order their continuation in the limited circumstances in which conciliation and arbitration is ordered.

Enterprise level agreements, whether individual or collective, should be encouraged by allowing their implementation with a minimum of scrutiny. An agreement should simply be filed with a statutory officer and should only be subject to the requirements that it contains no less than the defined minimum standards, and as well a grievance procedure. Such agreements should override any existing awards or agreements, whether in the Federal or State jurisdictions.

### *Minimum Standards*

The legislation should specify certain minimum standards which should be of general application; no award or agreement should provide, at the time it is made or entered into, for less than those minimum standards or their equivalent.

The minimum standards should comprise:

- a minimum hourly wage for adults.
- a minimum hourly wage for juniors.
- four weeks' paid annual leave.
- one weeks' paid sick leave.
- twelve months' unpaid parental leave after twelve months' continuous service.
- equal pay for men and women workers for work of equal value.

The minimum hourly wage for adults and the minimum hourly wage for juniors should be fixed following consideration of recommendations made by the tribunal or other independent body at the request of the responsible Minister. In this process account should be taken of the need to allow for appropriate flexibility in actual wage rates.

***Representation of Employees***

The tribunal, when dealing with disputes about representatives of employees, or determining representational issues, should be required to take into account:

- the wishes of employees and employers.
- the effective operation and viability of the enterprise or enterprises affected.
- the desirability of reducing the number of unions or agents involved.

***Representation of Employers***

The effective implementation of this total package will require complementary changes in the current arrangements for employer representation.

***Sanctions and Industrial Action***

Industrial action should be prohibited during the life of an award or agreement. It would be desirable to fix a 'negotiation' period of 30 or 60 days during which the parties would be required to undertake negotiations and would be bound to any existing commitments. If during that period they agree to arbitration, there should be a peace obligation and any previous award or agreement should be extended until it is replaced by the arbitrated outcome.

Legislation should place substantial restrictions and limitations on industrial action. Secondary action should be prohibited through the *Trade Practices Act 1974*, and common law remedies should be available. There must be sufficient remedies against and protection of businesses from unlawful industrial action, and absolute protection of employers from industrial action relating to union membership or coverage.

There should be an absolute prohibition on industrial action in essential services or industrial action which is designed to effect an alteration in established rights, that is, the terms of an existing award or agreement.

Where the Commission undertakes voluntary arbitration on an agreed basis or in the other limited circumstances in which arbitration might take place there should be statutory remedies to enforce the decisions and processes of the Commission.

Procedures should be prescribed or adopted for the settlement of industrial disputes. These procedures should emphasise the desirability of resolution being achieved at a workplace level, rather than through tribunals or Courts, and without recourse to industrial action.