



ACCI POLICY STATEMENT

WORKPLACE RELATIONS POLICY

PRINCIPLES OF WORKPLACE RELATIONS POLICY

ACCI supports a workplace 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 operation 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; and
- 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; and
- the development of detailed proposals for legislative change.

THE POLICY FRAMEWORK

Important steps were taken down the path towards genuine reform of Australia's workplace relations system, with the passage of the Australian 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 workplace relations system;
- the right of Australians to freely associate or not associate with unions and employer organisations is genuinely protected; and
- 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; and
- provisions for agreement making continue to be unduly complex, and place too great an emphasis on compliance issues.

In addition to legislative challenges such as these, ACCI recognises that the formal workplace relations system (embodied in federal and state legislation) constitutes only one part of the key to genuine 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 workplace 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; and
- 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 Workplace Relations

The Australian Government and each State Government (other than Victoria) have established separate workplace

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 Australian and State Governments to agree on the terms of legislation to be enacted jointly. In this way the involvement of the States 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:
 - the duration of the dispute;
 - the effects on the employer's business and the employees concerned; and
 - 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; and
- 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 as well as 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, or the equivalent;
- one week's paid sick leave, or the equivalent;
- twelve months' unpaid parental leave after twelve months' continuous service; and
- 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; and
- the desirability of reducing the number of unions or agents involved.

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 workplace level, rather than through tribunals or courts and without recourse to industrial action.

Modern Workplace: Modern Future 2002-2010

The ACCI Workplace Relations Policy forms the basis of a ten-year Blueprint for the Australian workplace relations system, entitled *Modern Workplace: Modern Future 2002-2010*. This Blueprint was released by ACCI in November 2002 and is a detailed plan for the implementation of the ACCI Workplace Relations Policy over this decade. Bound copies and summary pamphlets of *Modern Workplace: Modern Future 2002-2010* are available from the ACCI secretariat. The Blueprint can also be accessed through the ACCI web site www.acci.asn.au. The ACCI Workplace Relations Policy should be read in conjunction with the *Modern Workplace: Modern Future 2002-2010* Blueprint.

Blueprint Objectives

- co-operation, not conflict;
- employers and employees empowered to work together;
- workplace decisions based on shared interests;
- prosperous businesses;
- more jobs;
- better incomes;
- higher living standards;
- greater employment security; and
- lower unemployment

How the Blueprint Gets Us There

- higher productivity;
- more workplace agreements;
- costs of employment better linked to workplace circumstances;
- flexible employment conditions;
- business confidence to employ new staff;
- choices for employers and employees – both as groups and as individuals;

- less employment regulation; and
- quick settlement of disagreements

What the Blueprint Proposes

- allowing most decisions about work to be made in the workplace;
- an *Employment Regulation Standard* to prevent the build-up of new laws and improve the quality of employment law;
- considering harmonising commonwealth and state workplace relations systems;
- considering bringing state industrial tribunals within the framework of a harmonised system;
- less regulation by governments and parliaments;
- incorporating pro-employment objectives into industrial regulation;
- supporting small businesses and non-unionised employees to fully participate in the system;
- less red-tape when making workplace agreements;
- over time, a single approving authority for workplace agreements;
- a federal Workplace Agreements Act;
- a federal Minimum Conditions Act;
- simplifying award regulation by industrial tribunals;
- ending the system of unions making extreme claims on employers to access industrial tribunals;
- recognising the representative and service role of unions and employer bodies on behalf of member employees and employers;
- closing loopholes to better protect voluntary unionism and genuine freedom in agreement making;
- limiting the 'right to strike';
- banning compulsory union bargaining fees;
- promoting choices and outcomes in agreement making;
- allowing 'opt out' rights for best practice workplaces;
- a single federal minimum wage targeted at the low paid;
- maintaining youth wages;
- supportive wage structures for workers with disabilities;
- higher wages and conditions through higher productivity;

- work and family balance through flexibility and choice;
- easing the burden of unfair dismissal laws on employers, including small business;
- minimising employer costs of termination and redundancy;
- supporting private entrepreneurship and contracting;
- encouraging performance pay and employee share ownership;
- restricting the growth of discrimination and related laws;
- retaining the existing safety net scheme for unpaid employee entitlements on insolvency;
- preventing compulsory increases in employer superannuation levies;
- reducing employment on-costs;
- option for term appointments for new Australian Industrial Relations Commission (AIRC) commissioners;
- making industrial tribunals less adversarial and more inquiry-oriented;
- recognising both the AIRC and other forms of dispute resolution;
- providing for more voluntary, rather than compulsory, mediation, conciliation and arbitration;
- speedier enforcement to prevent unlawful conduct;
- giving the policy intention of the law more weight in court interpretation;
- examining less-costly mechanisms to recover monies owed to employees;
- maintaining consultation with employer and employee representatives on government workplace policy or laws; and
- Australian Government participation in the Governing Body of the International Labour Organisation.

For further information:

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