Queensland Nurses' Union

Fair Work Amendment Bill 2012

Submission to

the Senate Education, Employment and Workplace Relations Committee

November, 2012

Introduction

The Queensland Nurses' Union (QNU) thanks the Senate Education, Employment and Workplace Relations Committee (the Committee) for providing the opportunity to comment on the *Fair Work Amendment Bill 2012* (the Bill). In this submission we comment very briefly on the proposed changes.

About the QNU

Nurses and midwives[1] are the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNU - the union for nurses and midwives - is the principal health union in Queensland. The QNU covers all categories of workers that make up the nursing and midwifery workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 49,000 financial members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

Comments on Proposed Changes

The QNU has considered the changes proposed by the Bill and attaches a table with comments where appropriate.

Change to the Act	Comment
Change the name of Fair Work Australia to the Fair Work Commission (FWC).	The QNU is of the view that the name of Fair Work Australia should revert to the Australian Industrial Relations Commission to represent more appropriately the business of the tribunal and to avoid confusion arising from the use of 'FWA' as an acronym for both the tribunal and the Act it administers.
Require the FWC to review default superannuation fund terms of modern awards every four years.	We do not oppose this change
Provide that enterprise agreements cannot be made with a single employee.	We do not oppose this change
Provide that a union official from one union cannot act as a bargaining representative where that union does not have coverage.	We do not oppose this change
Prohibit terms which enable employees to opt out of an enterprise agreement.	We do not oppose this change
Provide that an applicant for a scope order fully informs other bargaining representatives.	We do not oppose this change
Clarify the form and content requirements contained in notices of employee representational rights.	We do not oppose this change
Extend the time limit for lodging unfair dismissal applications with the FWC.	We do not oppose this change
Shorten the time limit for applying to the FWC to mediate or conciliate dismissal related disputes.	The QNU is of the view that the 60 day time limit for general protections claims should remain. Applications made under this section often require detailed evidence that needs a more substantial timeframe for compilation. Therefore: We ***do not support*** this change.
Clarify that workplace rights apply to persons including employees, employers and contractors	We do not oppose this change

Enable the FWC to dismiss an unfair dismissal application in certain circumstances.	We do not oppose this change
Provide for the FWC to order costs against a party and/or their representative in unfair dismissal matters.	It is the QNU's position that the tribunal must remain low cost, informal and accessible to Australian workers and their representatives.
Clarify that protected action ballots can be conducted by electronic voting methods.	We do not oppose this change
Clarify the eligibility of certain employees who are union members and who are acting as bargaining representatives to be included in a protected action ballot.	We do not oppose this change
Require protected action ballots to be conducted expeditiously.	We do not oppose this change
Enable stay orders to be made by presidential members.	We do not oppose this change
Require FWC members to disclose a conflict of interest to persons making submissions in a matter, as well as to the President.	We do not oppose this change
Clarify the mechanism by which matters may be referred to a Full Bench when it is in the public interest to do so.	We do not oppose this change
Allow for the appointment of the General Manager and acting Commissioners.	We do not oppose this change
Establish a process for handling complaints against FWC members.	We do not oppose this change
Provide for the development of a code of conduct for FWC members.	We do not oppose this change
Clarify that the Act is generally a 'no costs' jurisdiction (including in appeal proceedings).	As previously stated, it is the QNU's position that the tribunal must remain low cost, informal and accessible to Australian workers and their representatives
Make a technical correction; and make amendments consequential on changing the name of Fair Work Australia.	We have commented previously on a preferred name for the tribunal

To provide for the establishment of an Expert Panel within the FWC to exercise certain functions in relation to the assessment of default superannuation funds for inclusion in modern awards and annual wage reviews.	We believe that although this provision will offer a more transparent industrial process that enables the tribunal to become the full decision maker with the assistance of an expert panel, we believe that FWA should only take into account the legitimate interests of employers and employees. Clause 44 of the Bill in relation to Subsection 620(1) of the FW Act proposes (at p. 22) to allow: 3 Expert Panel Members who have knowledge of, or experience in, one or more of the following fields: 14 (i) finance; 15 (ii) investment management; 16 (iii) superannuation. The QNU believes that these expert panel members must be completely independent and not represent commercial interests. Neither should the selection of the fund be in the interests of the employer where they may receive inducements from the institution they select. We continue to oppose the ability of employers to opt out of arrangements. Therefore the QNU ***does not support*** any arrangement that enables: • commercial involvement to influence the decision making; or • employers to unilaterally opt-out of the award system on the matter of superannuation or any other award provision.
Create two statutory positions of Vice President.	We do not oppose this change