



Office of Senator Chris Evans
Leader of the Government in the Senate
Minister for Tertiary Education, Skills, Jobs and Workplace Relations

Mr Oliver Moon
Chief Executive Officer
Combined Small Business Alliance of Western Australia Inc
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Dear Mr Moon

Thank you for your letter of 1 June 2011 to Senator Chris Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations, concerning the operation of the *Fair Work Act 2009* (the Act) and its impact on small business owners. The Minister has asked me to reply on his behalf. I apologise for the delay in responding.

Workplace relations policy is a key element in the Australian Government's overall economic and social agenda. Since coming to office, Labor has worked to modernise and simplify Australia's workplace relations arrangements to ensure that they do not impose an undue regulatory burden on small business owners.

Where the previous Government failed to achieve a seamless and streamlined workplace relations system for the Australian economy, the Act has ushered in a single national system for around 96 per cent of the private sector workforce. This is estimated to result in a net benefit to Australian business of around \$4.83 billion over the next 10 years. The Western Australian government is the only state government which has continued to maintain an overlapping regulatory framework for private sector workers.

Labor's workplace relations reforms encompass a legislated safety net of 10 National Employment Standards for all employees in the federal system, complemented by a much simpler modern award system. The safety net is designed to ensure that the new system strikes an appropriate balance between fairness for employees and flexibility for employers. Award modernisation has resulted in a 97 per cent cut in the number of pages of award regulation. Almost 4000 complex, outdated awards have been consolidated into 122 modern instruments.

Fair Work Australia (FWA), the new industrial umpire, is based around a user-friendly culture that moves away from the adversarial and often legalistic processes of the past in favour of less hidebound and formal processes. In contrast to its predecessor (the Australian Industrial Relations Commission), FWA is a modern, responsive and contemporary institution. Its operational framework is designed to minimise delays and speed up proceedings while still according the parties procedural fairness.

The Act's unfair dismissal provisions provide balance for small business, recognising the specific circumstances of small businesses owners in unfair dismissal cases. Compared with larger businesses, small business owners benefit from:

- a doubling of the minimum employment period from six to 12 months, during which time employees cannot take a claim for unfair dismissal, and
- a short and simple Small Business Fair Dismissal Code. Where an employer is found to have complied with the Code, the dismissal will be found fair.

Research on the new unfair dismissal conciliation process, conducted by TMS Social Research for FWA and released in November 2010, shows that satisfaction with the new process and with FWA conciliators is very high. For example, 88 per cent of employers reported that having the conciliation over the telephone was convenient and cost effective and 82 per cent of employers were satisfied or extremely satisfied with the cost effectiveness and efficiency of the conciliation process.

FWA will conduct a thorough and transparent review of the first 3 years of operation of the new unfair dismissal arrangements in 2012 and will particularly take into account the experience of employers of small and medium-sized businesses.

I trust the information provided in this response is helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Boyle', written in a cursive style.

Dr Michael Boyle
Chief of Staff

16 AUG 2011