

Employment Relations Law Reform Bill

Meat Industry Association Press Release

21 May 2004

Bill Falconer, Chairman of the Meat Industry Association (MIA) said today that “if the proposed changes to employment law currently being considered by Select Committee proceed they will provoke early and disruptive judicial clarification and have little longevity”.

“If you put these provisions into the Bill then you must expect that the unions and others will use them, otherwise what is the point?” Falconer said.

Total export receipts from the meat industry are around \$5 billion, from highly competitive markets throughout the world. The industry has some 20,000 employees, mostly seasonal, though the length of the season varies throughout the country. The industry operates 7 days a week during the season, standardly on the basis of multi-shifts. Meat processing and export companies rely heavily on collective agreements to give certainty to the export trade, and enhanced employee productivity. The vast majority of collective agreements are site rather than multi-site agreements. There are no multi-employer collective agreements.

“Blaming bad behaviour of a minority of employers, and unions, is not a justification for change”, Falconer said when recommending to Select Committee that the Bill not proceed.

In submitting on the Bill, Bill Falconer said:

“The Bill

1. The Association opposes the Bill in its entirety. It is designed to promote collective bargaining at the expense of the specific needs of the employer, and has the potential to curb productivity and to destroy a large part of enterprise differentiation, and would fail in what it sets out to do.
2. By and large employers, employees and unions have adjusted well to the Employment Relations regime with little fanfare, there has been no significant industrial action in the industry over the last 3 years, base rates and incentives for increased production have increased over the period, and there are no compelling reasons for change.
3. The Bill dilutes the value of employment agreements by prescribing what employers must place in agreements, and changing the established law on dismissals.

Good Faith

4. The Bill aims to put clearer parameters around the concept of good faith (active, constructive, productive employment relationship, among other things, responsive,

communicative, supportive) but will create uncertainty and confusion until there is judicial clarification.

Forcing Parties to Continue Unproductive Bargaining

5. Clause 11 compels parties to continue bargaining even if an impasse on major issues is reached. The parties should be able to decide when enough is enough, not the government, and if there is truly an impasse, look to their legal rights under legislation, or seek mediation.

Collective must be Agreed Unless a Genuine Reason not to Exists

6. Clause 12 means it is a breach of good faith not to conclude a collective agreement if for a non-genuine reason – thus clashing with s.33 of the Act, which says the principle of good faith does not require the parties to agree anything.
7. More importantly, used in conjunction with the provisions for mandatory meetings on multi-party collectives, and for the Authority to fix terms, this provision creates the potential for mandatory awards.
8. The last time awards and compulsory arbitration were prevalent; the meat industry suffered the worst industrial disputes in history.

Multi-Party Collectives

9. Clause 14 has the potential to most disrupt the meat industry with an almost unstoppable process from notice, through mandatory meetings, to best endeavour obligations on employers, culminating in an obligation on the employer to agree unless it has a genuine reason not to. The industry's experience of multi-employer collectives is that they inhibit and stifle innovation, modernisation and change, to the detriment of productivity and business performance.

Authority

10. The MIA supports mediation but only as a voluntary process based on the good faith of the parties.
11. The Bill invites interference by the Authority, and the MIA opposes the provision that allows the Authority, on the application of one party, to compulsorily fix terms without right of appeal.
12. This provision means that a third party, the Authority, may dictate commercial terms, and dilutes the value of negotiated agreements and employment relationships which have been built up over many years, and will encourage a break down in bargaining in the hope that arbitration by the Authority will produce a "higher" middle ground.

Free-loading

13. Clause 19 makes it impossible for an employer to deal with an employee who, for personal reasons, does not want to join a union – any endeavour by the employer to properly reward

such an employee would attract the accusation of freeloading and the consequences thereof.

Dismissals

14. Clause 37 dilutes or removes the ability of the employer to introduce its standards and house rules for good practice employment conditions, and substitutes the subjective judgement of the Authority.

Judicial Review

15. MIA opposes the limitation on review of the conduct of a case by an Authority member. Judicial review is an important check on administrative decision-making, and to ban it is to deny both employers and employees and unions a fundamental right to this safeguard.”

Further Information

A copy of the Meat Industry Association's submission on the Employment Relations Law Reform Bill is available at http://www.mia.co.nz/fact_file.htm

Contact for Enquiries

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