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Federal Member for Newcastle**

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**SPEECH IN THE FEDERAL PARLIAMENT**

**FAIR WORK BILL 2008**

**Ms GRIERSON** (Newcastle) (7.18 p.m.)—I have great pleasure in rising today to speak on the [Fair Work Bill 2008](#). This is the legislation through which we are delivering a fair and balanced workplace relations system—the one we promised to the Australian people at last year’s election.

We know that, undeniably, the Australian people found Work Choices abhorrent. I surveyed my electorate in late 2006 and found that 84 per cent of the people had an extreme dislike of Work Choices. A year later, in November 2007, the people of Newcastle and the people of Australia rejected Work Choices and the Howard government at the ballot box. And now, in November 2008, we are debating the legislation that implements the will of people on this issue.

That is a pretty good feeling, and it reflects the success of our democracy in promoting balanced and sensible governance and representing the will of the people and allowing them to shape the future of this nation. The Australian people knew Work Choices was extreme and mean spirited, and they responded accordingly.

Labor promised a simpler and fairer system to ensure that Australia is competitive and prosperous while maintaining workplace rights and minimum standards—the standards of dignity and decency. Firstly, we have delivered simplicity. I think anyone who has looked at the legislation would absolutely congratulate the Deputy Prime Minister on giving us just over 600 pages—not 1,500 pages as we saw in Work Choices. It is 600 pages that people can understand. It is a synthesis of such complex issues into a very readable piece of legislation. In that way it certainly reduces the compliance burden on business.

The legislation brings together the functions of seven existing agencies under the roof of the new Fair Work Australia. I have to say that that is a really efficient model. These functions include setting and adjusting the minimum wage; varying awards; ensuring good-faith bargaining; facilitating multi-employer bargaining for the low paid; dealing with industrial action; approving agreements; and resolving disputes and unfair dismissal matters.

Fair Work Australia will have a full suite of dispute resolution powers and will be able to exercise those powers at the request of just one party—and that is the way it should be. So we will no longer see disputes dragged out because one party refuses to come to the mediation table. There is no benefit to the productivity of the nation from that. Productivity flows from harmonious workplaces where both employers and employees know and respect each other's rights and responsibilities. We did see some disputes during the time of Work Choices, and there were some in my electorate that showed obstinacy and no good will or good faith.

As I said, productivity flows from harmonious workplaces, where both employers and employees know and respect each others' rights and responsibilities. The fair work divisions of the Federal Court and the Federal Magistrates Court will also operate as the independent judicial arm of Fair Work Australia and will include a new low-cost, informal procedure for small claims of up to \$20,000—a great innovation.

Labor made an election commitment to establish a Fair Work Australia office in my electorate of Newcastle. I look forward to this facility being able to provide local services to workers and businesses in my region and to young people particularly having easy access. Fair Work Australia will be complemented by the Fair Work Ombudsman, which will promote cooperative workplace relations and compliance by providing education, assistance and advice. From 31 January 2010, a specialist building and construction division within Fair Work Australia will replace the Australian Building and Construction Commission. The Hon. Murray Wilcox QC will report by the end of March 2009 on matters relating to the new specialist division. This is in line with the commitment Labor made in good faith at the 2007 election, and we will meet that commitment. Many of my constituents have raised concerns about the coercive powers of the ABCC, as has a Senate committee and a Federal Court judge. We will consider the Wilcox and Senate committee recommendations thoroughly and I am sure we will get the best outcome for workers and the industry.

The second major part of the Fair Work Bill that I wish to refer to is the establishment of a comprehensive safety net of employment conditions. There are 10 National Employment Standards that will apply to all employees and cannot be overridden, and there will be modern awards that provide conditions over a further 10 subject matters. The 10 National Employment Standards cover: maximum weekly hours of work; requests for flexible working arrangements; parental leave and related entitlements; annual leave; personal, carers and compassionate leave; community service leave; long service leave; public holidays; notice of termination and redundancy pay; and fair work information statements—all matters that people in the workforce are intimately involved in and concerned about.

The 10 matters included in new modern awards are: minimum wages and classifications; types of employment; arrangements for when work is performed; overtime rates; penalty rates; annualised wage or salary arrangements; allowances; leave related matters; superannuation; and procedures for consultation, representation and dispute settlement. Any agreement made must leave every employee better off overall than the applicable award. An agreement cannot remove National Employment Standards conditions and wages cannot fall below minimum wages at any time. That is

a far cry from the Work Choices era, with the AWAs of that time being notorious for ripping away so called 'protected' conditions. We have ensured there will be no new AWAs and that there is a genuine safety net that can never again be ripped out from under Australian workers. This is a key part of the new fair enterprise bargaining framework established within this legislation and it goes to the heart of our new fair and balanced workplace relations system.

Enterprise bargaining that drives productivity is good for workers and employers and it is certainly the best way forward for the economy. It is also inherently democratic. If a majority of employees want to bargain collectively, they can. If they want to be represented by a union, they can be. All parties must bargain in good faith, and arbitration is available if they do not bargain in good faith. All enterprise agreements must be approved by Fair Work Australia to ensure there is genuine agreement and that they do not contain any unlawful content or contravene the National Employment Standards.

Fair Work Australia will apply the better off overall test, or the BOOT test, to ensure that each employee covered by the agreement is better off overall in comparison to the relevant modern award. It will also be able to facilitate multiple-employer bargaining for low-paid workers and those who have not historically had access to the benefits of collective bargaining. If all of this sounds very fair and reasonable, that is because it is very fair, very reasonable and certainly very inclusive. It is about responding to the Australian people and restoring the rights that they lost under Work Choices.

Another right that was dumped under Work Choices was the right to protection from unfair dismissal. In the survey that I did in Newcastle, the fear of unfair dismissal was the single biggest concern expressed about Work Choices, and it is easy to see why. Firstly, Work Choices removed unfair dismissal protection for workers in workplaces of fewer than 100 people. Secondly, there was the infamous 'operational reasons' clause that pretty much allowed any excuse to give someone the sack. By contrast, the Fair Work Bill provides unfair dismissal protection for the vast majority of workers. To get the balance right, a worker must have been employed for 12 months in a small business of fewer than 15 workers or for six months in a larger business before an unfair dismissal claim can be made. The legislation provides for faster, fairer and less formal processes to resolve unfair dismissal claims. Again, conciliation, mediation and cooperation are the hallmarks of the Fair Work Bill.

This legislation recognises the legitimate and important role that unions play in our society and it ensures that employees have the right to be represented by a union. I am delighted to see that they will be assured of a continuing role. They helped to create this great country, including the freedoms and the rights that we enjoy. This is about the basic right to freedom of association that Work Choices attacked and almost destroyed. The bill restores a fair balance between the right of workers to meet with their union and the right of employers to run their businesses without interference. It recognises the important advocacy and representational role that unions play in our society, particularly for the most vulnerable workers: women, young people, migrants and newly-arrived people in this country.

I think that there is a great entrepreneurial power in the collective. We have seen that already in the historic role played by some unions in establishing benefits like superannuation and health funds for workers and their families. I would think that if we get the balance right in this legislation we will see that that approach can be expanded by unions rather than there being an emphasis on past industrial action. Protected industrial action will continue to be available only during negotiations for an enterprise agreement and only when participants are genuinely trying to reach agreement. Secret ballots to authorise industrial action will be retained. Action in pursuit of matters that do not pertain to the employment relationship will not be protected action.

Once again, this is the type of balanced approach that Australian people want. They voted for the pendulum to be swung back to the middle and we are delivering that. With this legislation we are restoring the safety net that Work Choices ripped away. We are rejuvenating the award system that Work Choices left to rot. We are restoring the right to collective bargaining that Work Choices effectively undermined. We are driving a stake through the unfair AWAs that were at the very heart of Work Choices. We are restoring the unfair dismissal protections that Work Choices destroyed. We are allowing the unions to play the legitimate role that they simply could not undertake with Work Choices. We are putting back in the game the independent umpire that Work Choices sidelined. And we are creating a truly national system for the private sector through cooperation that Work Choices failed to achieve through coercion. We are restoring to the people of Australia a country that they can be proud of: the land of the fair go, the land of equality and opportunity. I commend the bill to the House.