

EMPLOYMENT STANDARDS POLICY

ACTU CONGRESS 2000

1. Policy Framework

1.1 The key issues for the ACTU over the next three years in raising the employment standards for Australian working people are:

- i) Reasonable working hours;
- ii) Work and family balance;
- iii) Employment security;
- iv) Casual employment rights; and
- v) Protection and portability of employee entitlements.

1.2 The ACTU will focus on these issues through:

- i) Collective bargaining campaigns;
- ii) Changes to award rights; and
- iii) Legislative change.

1.3 As part of the campaign, the ACTU will:

- i) Continue to produce the electronic *This Working Life* bulletin;
- ii) Part-sponsor a second *Work Time Life* Conference; and
- iii) Develop a protocol for new employment standards based on adapting European Directives to Australian circumstances.

2. Working Hours

2.1 The ACTU will encourage affiliates to bargain for:

- i) In appropriate industries, reducing standard hours to 36 together with increased employment opportunities;
- ii) Increases to paid leave entitlements, such as reduced qualifying periods and portability of long service leave, paid paternal leave, increased personal carer's leave, and additional rostered days off;
- iii) Caps on actual hours worked, including, with the agreement of employees, on overtime;
- iv) Rosters which meet the needs of workers and their families, as well as employers, taking into account fatigue management principles, health and safety, family responsibilities and workload and staffing issues; and
- v) Improved rights in development and implementation of rostering and of performance monitoring systems in the workplace.

2.2 The ACTU, will in conjunction with unions, seek award variations in the Commission to establish a reasonable maximum working hours standard appropriate to the industry and/or enterprise.

3 Work and Family Balance

3.1 The ACTU will develop guidelines for bargaining over a range of work and family issues. (see Women and Unions policy).

3.2 The ACTU will seek award variations in the Commission to:

- i) increase paid personal/carer's leave and improve access to accrued leave for family purposes;
- ii) extend access to paid maternity/parental leave; and
- iii) extend unpaid maternity/parental leave to regular casuals.

3.3 The ACTU will seek legislative change to increase access to paid maternity/parental leave.

4 Employment Security

4.1 The ACTU will encourage union bargaining for contract and labour hire workers to receive the same pay and conditions as directly employed workers at the enterprise.

4.2 The ACTU will pursue full enforcement of all legal obligations relating to contracting out and transmission of business.

4.3 The ACTU will seek legislative change for employment security in line with the Industrial Legislation policy.

5 Casual Employment Rights

5.1 The ACTU will encourage affiliates to bargain for:

- i) 'A maximum period for the engagement of casuals and their conversion to permanent employment';
- ii) Access to leave entitlements (including maternity and long service leave) for casuals;
- iii) Minimum and maximum hours of work for casual and part-time employees; and
- iv) Loadings that provide adequate compensation for insecurity, flexibility and absence of entitlements.

5.2 The ACTU in conjunction with unions will seek award variations in the Commission to establish the employment rights set out in subclause 5.1 as award standards.

6 Protection and Portability of Employee Entitlements

6.1 The ACTU will encourage unions to bargain for protection and portability of entitlements, including through employer contributions to industry trust funds.

6.2 The ACTU will, in conjunction with unions:

- i) support award variations in the Commission to establish as an award standard a requirement for employers to make contributions equal to employees' accrued entitlements to a trust fund, or to make other arrangements ensuring payment in case of insolvency; and
- ii) support affiliates making applications to the Commission for orders which establish this standard in their particular awards.

6.3 The ACTU will seek legislation for a scheme to protect employee entitlements as set out in the Industrial legislation policy.

6.4 The ACTU condemns those employers who avoid their responsibility to pay workers their legal entitlements in the event of company closures and liquidations. Workers have a right to know that their entitlements to long service leave, annual leave, redundancy and superannuation are accrued and available to them when their entitlements fall due.

6.5 The Corporations Law should be changed to enhance the capacity of employees to recover entitlements owed and to discourage corporate activity

designed to avoid paying entitlements. In addition to the proposed changes to the Corporations Law announced by the Federal Government, the following amendments are necessary to protect employees' entitlements:

- i) company directors should be made personally liable for unpaid employee entitlements;
- ii) employee entitlements should rank first in the order of priority following any liquidation or administration fees;
- iii) redundancy payments should be deemed to be a debt for the purposes of insolvency; and
- iv) related companies should be treated as a single entity for the protection of employee entitlements.

6.6 The ACTU believes the Federal Government's recently announced Employee Entitlement Support Scheme is inadequate and fails to address the core problem. Peter Reith's scheme does nothing to resolve the avoidance of employers' responsibility for payment.

6.7 The ACTU supports the need to establish comprehensive protection to workers' entitlements, with the obligation being with the employer, not tax payers, through trust fund arrangements and amendments to the Corporations Law.

6.8 The ACTU calls on the State Labor Governments to fully support test cases for the establishment of award-based trust funds.

6.9 Further, as a matter of urgency, and in the absence of a comprehensive employer-funded scheme, the ACTU calls on the State Labor Governments to immediately introduce a transition scheme to fully compensate workers for entitlements lost as a result of the inadequate federal scheme.

6.10 The ACTU calls on affiliates to collectively campaign to achieve the above.

7. Labour Hire Firms

7.1 The ACTU will campaign to strengthen the regulation of labour hire firms to ensure that only those firms that fully comply with industrial, taxation, OHS and immigration laws are able to continue operating.