



Minister for Education and Training  
Minister for Industrial Relations  
Minister for the Central Coast  
Minister Assisting the Minister for Finance



29 May 2007

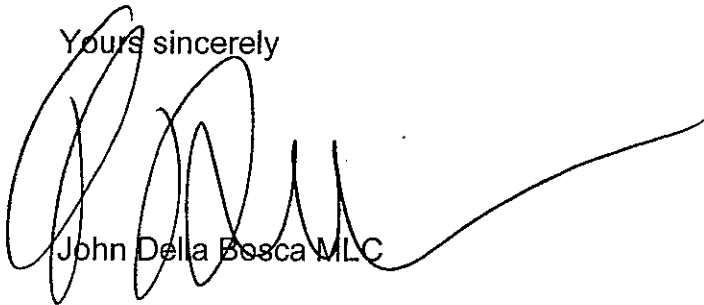
Ms Lynn Lovelock  
Clerk of the Legislative Council and the Clerk of the Parliaments  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Ms Lovelock

On 23 November 2006 the Legislative Council Standing Committee on Social Issues released Report No.39 *Impact of the Work Choices Legislation*.

In accordance with the Standing Orders, please find attached the Government's response to the recommendations of the Report.

Yours sincerely



John Della Bosca MLC

## **NSW Government Response to the Legislative Council's Inquiry into Work Choices**

The NSW Government welcomes the release of the final report from the Legislative Council's Committee on Social Issues' Inquiry into the Commonwealth Work Choices Legislation.

The Committee undertook an extensive examination of the many issues surrounding Work Choices. It received over 50 submissions from interested parties and heard testimony from over 70 witnesses. The Committee provided a thorough examination of the interrelationship between the Work Choices Act, the welfare-to-work changes and the then anticipated independent contractors legislation.

The New South Wales Government concurs with the key findings from this Inquiry including that:

- Work Choices will exploit the labour of the vulnerable, leading to a profusion of low-pay, poor quality work
- Work Choices will result in an economy characterised by low productivity
- Work Choices is likely to exacerbate the skills shortage by removing the incentive for employers to invest in training and development
- Work Choices is likely to lead to a reduction in workplace safety
- Work Choices has introduced complexity, paperwork and bureaucracy 'surely unique in the developed world' and
- Work Choices will fail to boost productivity and innovation and will result in disparity and inequity in wages, an increase in the number of low-paid jobs and more underprivileged people.

The Committee made the following recommendations:

### **Recommendation 1**

**That the NSW Government call on the Federal Liberal/National Coalition Government to repeal the *Workplace Relations (Work Choices) Amendment Act 2005* immediately.**

The NSW Government supports this recommendation and calls upon the federal government to completely repeal the Work Choices Act on the grounds that it is damaging to workers, businesses, the economy and society as a whole.

### **Recommendation 2**

**That the NSW Government, in consultation with the other states and territories, investigate whether it should provide additional resources to the Anti-Discrimination Board and the courts – notably the Chief Industrial Magistrate's court – to deal with unfair dismissal claims.**

The New South Wales Government will continue to monitor the levels of demand for the various services offered by the Anti-Discrimination Board and the Courts. The New South Wales Government will consider changes (or adjustments) to resources as and when necessary.

### **Recommendation 3**

**That the NSW Government establish an Office of the Workplace Rights Advocate, similar to that in Victoria, as an independent statutory body to assist employees, employers and independent contractors to negotiate pay and conditions under the new federal industrial relations system and to monitor unfair and illegal industrial practices.**

The NSW Government does not propose to establish an Office of the Workplace Rights Advocate. The NSW Government believes that many of the tasks that would be covered by an advocate body are being adequately performed by the Office of Industrial Relations. This Office provides a rigorous compliance and inspectorate service which investigates workplaces and businesses through complaints-based and targeted compliance approaches. In addition the Office of Industrial Relations has established the Fair Go Advisory Service which provides advice to employers and employees about the industrial relations changes. This service regularly refers callers and complaints to the relevant federal departments if their issue is covered by Work Choices. The Office of Industrial Relations closely monitors complaints of breaches of the Work Choices legislation reported in the media, and the response of the federal departments and agencies to these complaints.

### **Recommendation 4**

**That the NSW Government consider the provision of additional resources to the Office of Industrial Relations in order to boost its inspectorate and to enable the Office to provide advice and training seminars, and information and resource kits for community legal centres. The Committee encourages the Office to target training, information and support to rural and regional New South Wales in order to increase participation and skills of people living in those areas.**

The NSW Office of Industrial Relations provides a rigorous and effective compliance service supported by well-trained and professional inspectors. The Office has used its multi-skilled and flexible workforce to focus on providing better information and services to workers and businesses about the changes in industrial relations laws and coverage. It has maintained a solid presence in rural and regional New South Wales and regularly conducts seminars in these areas.

The NSW Government intends to extend these services through the Office of Industrial Relations Community Relations Program and Workplace Services Team.

### **Recommendation 5**

**That the NSW Government should consider developing a longitudinal study tracking wages and conditions of work in NSW, and consult with other states about achieving a common approach to this study.**

In 1990 and again in 1995 the federal Labor Government commissioned comprehensive and statistically reliable studies of Australian workplaces, known as the Australian Workplace Industrial Relations Survey (AWIRS). These highly respected studies enabled the central issues of an employee's working life to be charted and linked to a range of workplace characteristics.

Since 1995 no similar studies have been undertaken by the Howard Government. Due to this research vacuum created by the federal government, the NSW Government commissioned the Workplace Research Centre to undertake state-based benchmark research to monitor and evaluate the impact of Work Choices upon employees and businesses in the future. This is the first step in a longitudinal study aimed at examining the impact of Work Choices on workplaces in New South Wales. This study is known as the NSW Workplace Industrial Relations Survey (WIRS). A copy of the findings of the WIRS study is available at [www.industrialrelations.nsw.gov.au](http://www.industrialrelations.nsw.gov.au).

Queensland and Victoria have also undertaken comparable studies, and those results have been integrated with the results from New South Wales to provide an aggregated picture of workplace environments across the eastern seaboard of Australia.

The New South Wales Government is also supporting a further research proposal which would investigate the effect of Work Choices on the enforceable rights of workers in key industries and occupations. Further information on this research proposal is provided at Recommendation 8.

### **Recommendation 6**

**That in establishing an Office of the Workplace Rights Advocate, as set out in Recommendation 3, the NSW Government ensure that the Office pays explicit attention to the needs of disadvantaged groups.**

Please see the response to Recommendation 7.

### **Recommendation 7**

**That in examining the provision of additional resources to the Office of Industrial Relations, as set out in Recommendation 4, the NSW Government specifically consider the needs of disadvantaged groups.**

The NSW Government, through the Office of Industrial Relations, has recognised the need to reach and engage disadvantaged groups who may be unaware or unable to access its resources and services.

The Office of Industrial Relations has established a Community Relations Program which focuses on building strong relationships with representative organisations and

communities, including peak bodies and community leaders. The Community Relations Team has developed the following programs and tools focusing on disadvantaged groups:

1. *People from culturally and linguistically diverse communities:* This program involved the development of a fact sheet on industrial relations rights and entitlements translated into community languages including Chinese, Vietnamese, Korean, Spanish, Turkish and Arabic. The program also involves the ongoing delivery of culturally appropriate industrial relations messages via ethnic radio and other media.

2. *Young people recently employed or still looking for work:* This program involves the delivery of messages via youth radio programs, e-zines, other electronic media and an increase in face to face presentations on working rights delivered at TAFE and in high school classes. A website ([www.youngpeopleatwork.nsw.gov.au](http://www.youngpeopleatwork.nsw.gov.au)) focusing on young workers has also been launched to coincide with the commencement of the *Industrial Relations (Child Employment) Act 2006*.

3. *Small business owners, operators and employees from throughout NSW:* This program involves engaging relevant business networks via the Office of Industrial Relations' Workplace Services Team. The program involves the development of presentations for small business owners and operators and their accountants for delivery at business and community venues after business hours.

4. *People living and working in rural and regional areas in NSW:* This program involves engaging more staff from regional and rural locations of the Office of Industrial Relations to extend the reach of resources and services. As part of this program, the Office has initiated participation in numerous regional events in conjunction with a range of government, business and community agencies. In addition, the Office of Industrial Relations is running the *Working on the Land* program which provides help and assistance to employers and employees in rural NSW through a hotline and a series of seminars focusing on rural employment.

5. *Those affected by the recently introduced Welfare to Work legislation:* This program involves the development of presentations for women who are looking for work or training for work at TAFE colleges and Community Centres. The presentations focus on identifying transferable skills developed through managing the home.

6. *Aboriginal and Torres Strait Islanders:* The Office of Industrial Relations has an Aboriginal and Torres Strait Islander unit focusing on providing information and advice to employers and employees of this vulnerable group. The unit is conducting a series of seminars on the employment of indigenous staff, focusing on employment rights and responsibilities.

7. *NSW Carers Action Plan:* The Office of Industrial Relations participated in the development of the *NSW Carers Action Plan 2006-2011*, a whole of government strategy for supporting carers in NSW. The Office has received funding to implement its commitments to this plan by increasing employment flexibility for carers. These

initiatives include a research project on mature aged workers, seminars, print-based resources and a telephone advisory service.

*8. Maternity at Work:* The Office of Industrial Relations has prepared a guide for women workers and their employers about the taking of, and returning from, maternity leave. The guide has been fully revised to reflect the procedures and entitlements in both the state and federal industrial relations jurisdictions. 50,030 copies of the guide have been distributed so far this year to hospitals across the state.

*9. Electronic Resources:* The Office of Industrial Relations has established numerous electronic resources to assist employees to understand their pay and entitlements. The *Check Your Pay* tool allows employees to check that they are receiving the correct remuneration under NSW state awards. The *Compare What's Fair* tool allows employees presented with an AWA to compare the conditions of the AWA with the state award. The Office has also established a Fair Go Advisory Service hotline which provides advice to employers and employees about the federal industrial relations changes. During the first year of operation of the Work Choices laws, the Office of Industrial Relations answered 183,000 telephone calls from employers and employees. Of these, 6,600 required additional advice from a senior inspector.

*10. Girls at Work:* The Office for Women, in consultation with the Office of Industrial Relations and the Youth Action Policy Association, has developed *Girls at Work*. This resource is designed for use in schools to teach young people, and young women in particular, negotiation, conflict resolution and assertiveness skills. Due for launch mid-year, this resource responds directly to the changing industrial environment and the increased likelihood of young people having to bargain individually for their employment conditions.

*11. Outworkers:* The Office of Industrial Relations initiated the *Behind the Label* strategy to address the issue of exploitation of outworkers in clothing manufacturing and to foster an up-to-date competitive industry complying with the employment conditions required by law.

More than 1,000 outworkers attended training courses over the four years of the project. Successful participants received certification; in many cases a nationally recognised qualification. Many of these outworkers went on to obtain positions either within or outside the clothing industry, receiving better pay and conditions than in their previous employment.

The Office of Industrial Relations will continue to consider strategies for addressing the needs of disadvantaged groups in terms of the industrial relations changes.

### **Recommendation 8**

**That in considering the development of a longitudinal study tracking wages and conditions in NSW, as set out in Recommendation 5, the NSW Government also consider the capacity to monitor effects specifically in relation to disadvantaged groups.**

In a separate study to the WIRS, the New South Wales Government, in partnership with the Queensland and Victorian governments, has commissioned the Workplace Research Centre to undertake a study of enforceable rights in agreements and awards for key job categories pre and post Work Choices.

The study will track changes that have occurred since the introduction of Work Choices in awards and registered agreements.

The State Governments are especially concerned to understand the impact of the changes on the most vulnerable workers in the labour market. Such workers are likely to bear the brunt of any reduction in publicly defined labour standards. This incorporates the identification of the previous generation of agreements that predate Work Choices.

Findings are anticipated in the second half of 2007. It is expected that this research will be repeated in future years, to produce longitudinal results.

### **Recommendation 9**

**That the NSW Government call on the Federal Liberal/National Coalition Government to amend section 151(2) of the *Workplace Relations Act 1996*, to include people with a disability amongst the list of workers in a disadvantaged bargaining position.**

The NSW Government agrees with this recommendation. People with a disability experience significant barriers to entering employment and have employment participation rates significantly below those of workers without disabilities. It has been recognised that workers with a disability are often at a weakened bargaining position due to issues such as care requirements and possible discrimination. Therefore the NSW Government supports the inclusion of workers with a disability in the list of workers in a disadvantaged bargaining position for the purposes of s151(2) of the Work Choices Act.