

Civil Contractors Federation Submission on Proposed Workplace Relations Reforms

Question	CCF Position	Responses
1. Insert a right to superannuation in the National Employment Standards	Conditional Support	<p>CCF Response</p> <p>CCF conditionally supports this proposal. However, if the right to superannuation was inserted into the National Employment Standards, there needs to be consistent rules and guidance between the ATO and FWO to ensure a level of consistency between the two entities, i.e. the rules set out in the Fair Work context need to closely align with what is set out by the ATO and mirror and support the over-arching channels enforced by the ATO. CCF would also support the FWO having the same power to recover underpayment of super as it has for the underpayment of wages.</p>
2. Reform of the 4-yearly review of superannuation default fund provisions	Not supportive	<p>CCF Response</p> <p>Given it is the APRA's role to conduct annual performance tests of MySuper Products, and in doing so, effectively conduct annual performance tests of the whole fund, CCF is of the view that this process is already being sufficiently undertaken and there is no need for the Fair Work Commission to conduct 4-yearly reviews. If the 4-yearly provisions are repealed, it would be necessary that Fair Work receive yearly reports from the APRA following their annual performance test and make decisions based on the results as to whether a default fund is still performing as it should be. The criteria of what constitutes a high performing fund should be set out by the APRA and the yearly reports should be transparent in presenting overall performance. More broadly however, CCF is of the view that given the complexity of</p>



		superannuation default funds, more prolonged consultation on this topic with major stakeholders is required.
3. Clarify the application of Fair Work Act protections to temporary migrant workers, including those working in breach of migration laws, noting that this can be a consequence of exploitation	Support	CCF Response CCF supports this proposal. Any legislative change should ensure an individual who has not gone through the proper processes should not be able to receive preferential treatment or receive support services over someone who has met all legal requirements.
4. Provide stronger access to unpaid parental leave so families can share work and care responsibilities	Comment	CCF Response As a general principle, at the outset, employers need a stable framework where both the FW Act and the PPL Act work cohesively together and any subsequent reform considers the impact on employers, workplaces as well as employee parents. CCF does have some concerns about all parental leave pay (“PLP”) being treated as flexible PLP and future changes to the FW Act. Currently, the FW Act limits the taking of unpaid flexible parental leave to 30 days during a 24 month period from the birth or placement of a child. To access flexible unpaid parental leave under the FW Act at the moment the employee must provide written notice to the employer of his/her intention to take the leave and then to provide further notice of the specific day/s to be taken 4 weeks in advance unless not practicable to do so, this in effect enables an employee to provide notice after the leave has been taken. The effect and impact of the current notice provisions as they apply to flexible unpaid parental leave are that they don’t properly account for the employers operations, workloads or the situation surrounding replacement employees when it comes to the provision of notice, hence CCF’s wariness at removing the 30 day cap on flexible unpaid



		<p>parental leave. We are concerned this would lead to more ad hoc requests by employees to access unpaid flexible leave for multiple blocks and single days without proper regard for the operational circumstances of the employer.</p> <p>CCF would oppose any removal of the unpaid flexible parental leave cap (currently 30 days) with the current low notification and notice threshold of the specific days the employees must advise the employer of accessing unpaid flexible parental leave. The impact on employers, co-workers and replacement employees requires more consideration and whilst we are supportive of a more equitable paid and unpaid parental leave scheme, the current notice provisions for unpaid flexible leave if the 30 day cap is extended are inadequate and would need to be reviewed.</p>
5. Clarify that when a workplace determination comes into effect, the enterprise agreement will no longer operate	No comment	<p>CCF Response</p> <p>CCF does not have any substantive comment on this proposal.</p>
6. Making pay deductions for authorised purposes an easier process for workers and businesses	Not supportive	<p>CCF Response</p> <p>CCF is of the strong view that there must be written authorisations for pay deductions to protect both employers and employees. CCF does not support a provision allowing an employer to make a deduction when the deduction amount varies, without a new written authorisation.</p>
7. Ensure that casual workers are treated no less favourably than permanent employees within the black coal mining	No Comment	<p>CCF Response</p> <p>CCF does not have any substantive comment on this proposal as it does not relate to our sector. CCF does point out however the need for care to ensure there are no unintended consequences that could flow over to the civil construction industry.</p>



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industry under the Coal Mining Industry (Long Service Leave Funding) Scheme		
General Comment		CCF is concerned with the short time frame given for industry to respond which prevents us from being able to give due considerations as part of any response. Fast tracking steps in the safety world leads to incidents occurring which could have been avoided with proper consultation, which is reflected in all safety legislation, as such a company could be accused of negligence should they do as what the government is currently doing with consultation. No doubt, fast tracking steps in changing legislation will also lead to mistakes being made leading to consequences to workers and employees.
Super generally		Any industry fund will support any moves to include super in industrial instruments. This does water down right of choice.

Chris Melham
Chief Executive Officer
Civil Contractors Federation (National)

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