

AUSTRALIAN WORKPLACE AGREEMENTS, MINIMUM LEGAL STANDARDS

568. Mr A.P. O'GORMAN to the Minister for Consumer and Employment Protection:

I draw the minister's attention to complaints by some workers that they are forced into unfair Australian workplace agreements under the Employment Advocate's ruling that employees can choose not to be paid penalty rates. What has the minister been able to do to have the Commonwealth uphold the required minimum legal standards for AWAs?

Mr J.C. KOBELKE replied:

I thank the member for the question. I know that people in his area have complained to him, as they have complained to me, about the use of Australian workplace agreements to bypass the minimum standards that are required.

Mr M.W. Trenorden: You have advised industry to go to those.

Mr J.C. KOBELKE: No, never.

Mr M.W. Trenorden: Yes, you have.

Mr J.C. KOBELKE: No, the Leader of the National Party is wrong. The point I am making - the Leader of the National Party does not understand this - is that the Employment Advocate has introduced new guidelines under which an AWA can pass the no-disadvantage test by the employee choosing to work certain unsociable hours and not be paid the penalty rates required under the award. That is totally contrary to everything I know of industrial law in this State and in this nation. The legal advice I have received is that the use of choice to simply give away standard rights has no standing at law. Therefore, the guidelines being issued by the Employment Advocate are subverting the Workplace Relations Act. I raised this on Friday in Adelaide.

Mr D.F. Barron-Sullivan: You are so much on the nose out in the small business sector.

Mr J.C. KOBELKE: The Deputy Leader of the Opposition thinks the law should be breached. I am saying the law should be upheld. The Deputy Leader of the Opposition does not give a fig about upholding the law of this nation. As far as he is concerned, if people can take advantage of workers by breaking the law, he does not have a problem with that. However, I do. I believe the law of this State and of this nation should be upheld to protect the rights of the ordinary working men and women of Australia. That is the point I made to Minister Abbott in Adelaide last Friday. I believe that under his tutelage, the Employment Advocate is not sticking to the Workplace Relations Act. The Act contains a very simple provision so that the Office of the Employment Advocate can refer a matter to the Australian Industrial Relations Commission for determination if there is concern that there may be a breach of the Act, but so far the Employment Advocate - and similarly Minister Abbott - has been unwilling to do that. My legal advice is that the federal Government, through its agencies, is breaching its own Act, and the federal Government will not put it to the test. If we are to have an upholding of law and order, it should apply to everyone and not selectively, as the Liberals like to do.