
QUEENSLAND INDUSTRY SUBMISSION

Productivity Commission Inquiry into the Workplace Relations Framework

MARCH 2015



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SECTION 1: OVERVIEW

1.1 Overview

1. The Chamber of Commerce and Industry Queensland (CCIQ), the Queensland Tourism Industry Council (QTIC), the Queensland Hotels Association (QHA), Motor Trades Association Queensland (MTAQ), Clubs Queensland, and the Franchise Council of Australia (FCA) collectively welcome the opportunity to provide feedback to the Productivity Commission on Issues Papers 1 -5 inviting input into the effectiveness of Australia's current workplace relations framework.
2. This Inquiry affirms for Queensland's small businesses that the Federal Government is serious about its election commitment to examine Australia's workplace relations framework, and take the Productivity Commission's recommendations to the Australian electorate in 2016 to seek a mandate for much needed reform.
3. Our organisations are equally pleased the Federal Government has directed the Commission to undertake a wide-ranging inquiry into Australia's workplace relations regime. As the terms of reference clearly outline, this review is intended to cover both an assessment of the performance of the Fair Work Act 2009 (Cth) (FWA) as well as to provide recommendations as to what type of system might best suit the nation over the longer term.
4. Our Organisations collectively believe the Productivity Commission's review provides an opportunity to recommend a framework that better meets the needs of contemporary workplaces, fosters productivity, and improves competitiveness. As small business employs two out of five people in the workforce, it is critical that the Federal Government craft industrial policy settings that make it easier for small businesses to employ.
5. To this end, our organisations surveyed over 1,000 Queensland businesses to assess the impact of Fair Work laws, and the results of this survey are a comprehensive reflection of Queensland business views to which the Productivity Commission is urged to take into account when formulating its recommendations to government.
6. In addition to the survey, our organisations hosted an Industry Roundtable which brought together the Queensland Tourism Industry Council (QTIC), Queensland Hotels Association (QHA), Master Builders, Housing Industry Australia (HIA), Motor

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- Trades Association Queensland (MTAQ), Master Electricians, Clubs Queensland, and the Franchise Council of Australia (FCA) to discuss how, and in what ways, the current workplace relations framework impacted on their respective memberships.
7. This collaborative consultation amongst Queensland's leading industry associations resulted in a richness of qualitative data that forms the foundation of the contents of this submission.
 8. Further to this, CCIQ hosted several consultative forums across regional Queensland, meeting with small business owners and representatives in the Wide Bay region, the Sunshine Coast, Gold Coast, Cairns and Townsville, in order to document their insight and experiences regarding the Fair Work Act.
 9. The cumulative findings from the Workplace Relations Survey, the Queensland Industry Roundtable, and extensive small business engagement in the regions provides a unique Queensland small business perspective on priority aspects of the workplace relations framework as articulated by the Productivity Commission's terms of reference including the minimum wage adjustment process, penalty rates, unfair dismissals, flexible working arrangements, and the broader compliance burden.
 10. The survey results reinforce the need for reform to achieve greater balance in the Fair Work regime that is premised on the needs of small business.
 11. Overall, feedback from Queensland businesses has resoundingly indicated the need for a dramatic shift in approach to workplace arrangements in favour of greater balance within and throughout the system.
 12. Our Organisations argue that while some aspects of the WR system require subtle adaptation to contemporary workplaces, other aspects of the framework need significant adjustment in order to effectively deal with emerging economic, social, and demographic trends facing Australia's working landscape.
 13. To illustrate, the labour market in Australia has most recently seen a sharp rise in youth unemployment and shifts in employment demand, such as reduced market needs for low and medium skilled workers. Other noteworthy shifts in workplace trends include the continual adjustment of notions of the 'traditional workplace', an expanding aging population, and a lessening of the relevance of the union movement as the primary representation of employee rights in the workplace. All this is taking place alongside greater reliance on technology and increased global interconnectedness, which is invariably changing the characteristics of traditional service delivery.

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14. Our Organisations believe that these changes, and others, call for a significant re-think as to how Australia's workplace relations framework can best serve the needs of employers, employees, and the broader economy into the future.
 15. Most importantly however, our Organisations encourage the Productivity Commission to consider the stark correlation between the rigidities in the current workplace relations system and staggering youth unemployment figures when making its recommendations to the Federal Government. At present, youth unemployment (13.9 per cent) sits at a rate double that of adults (6.3 per cent), with total youth labour under-utilisation sitting around 30 per cent.
 16. Since the introduction of the Fair Work Act, the rate of inactive young people in the labour market has reached historical highs. Workplace reforms such as increased minimum work engagement periods and ongoing increases in junior rates of pay act as examples of award rate disincentives discouraging businesses from taking on young workers. Additionally, penalty rates and onerous unfair dismissal laws are making employers cautious of taking on new employees or opening longer hours.
 17. This worrying trend demonstrates the need for a serious national conversation about how to make it easier for business to employ, devoid of political ideology and union scaremongering, and based on fact.
 18. A workplace relations framework that sensibly re-establishes a balance between employers and employees will greatly improve the chances of young Australian's entering the workforce. From the day to day benefits of Australia's youth relishing in the dignity of work, to the broader economic benefits to the nation's balance sheet, the time is now to initiate the kinds of reforms that will see a more competitive and prosperous Australia.
 19. The focus on workplace relations needs to get back to putting in place the best policy and legislative framework possible in response to the needs of employers, employees, and trends in the broader economy.
 20. Queensland and Australia must move away from a regime that seeks to protect employees against the worst case of employer, to the detriment of the vast majority who do the right thing by their workers.
 21. Our State's economic prosperity is contingent on a balanced workplace relations framework that meets the needs of contemporary Queensland workplaces.
 22. The following submission contains a series of sensible recommendations that reflect the changes Queensland employers have told our Organisations they want

to see in the FWA or any future workplace relations legislation that comes into existence.

SECTION 2: IMPACT OF THE FAIR WORK LAWS ON QUEENSLAND BUSINESS

23. Queensland employers have told our organisations that Australia's workplace relations laws significantly impact on the productivity, sustainability and competitiveness of their businesses. Although Queensland is one of the nation's most prosperous states, with wealth stemming in particular from the resources, agriculture and tourism industries, Queensland is not immune from the soft economic conditions that prevail throughout the Australian and global economy.
24. Skills shortages, low workforce participation and unemployment are afflicting regional Queensland in particular. All over the state, employers tell our Organisations that they need to be able to use all possible levers available not only to remain profitable, but to stay afloat and keep employees in their jobs.
25. Queensland businesses believe the current Fair Work laws allow little flexibility and generally apply a 'one-size fits all' model to the diverse range of businesses in this country.
26. On behalf of small businesses in Queensland, our Organisations collectively urge the Productivity Commission to incorporate the views and experiences contained herein, and make the kinds of recommendations to government that will encourage workplace productivity, sustainability and competitiveness for Queensland and Australia.

2.1 Queensland business perspectives on Australia's workplace relations system

27. The *Fair Work Act 2009* (FWA) and modern awards, which commenced in 2009, ushered in a new system that dramatically altered workplace relations arrangements for thousands of employers and employees in Queensland, with modern awards ushered in on 1 January 2010.

28. The following section provides feedback to the Productivity Commission from Queensland businesses gathered through over 1,000 survey responses of our collective membership base, and CCIQ’s regional engagement forums on the Fair Work Act.

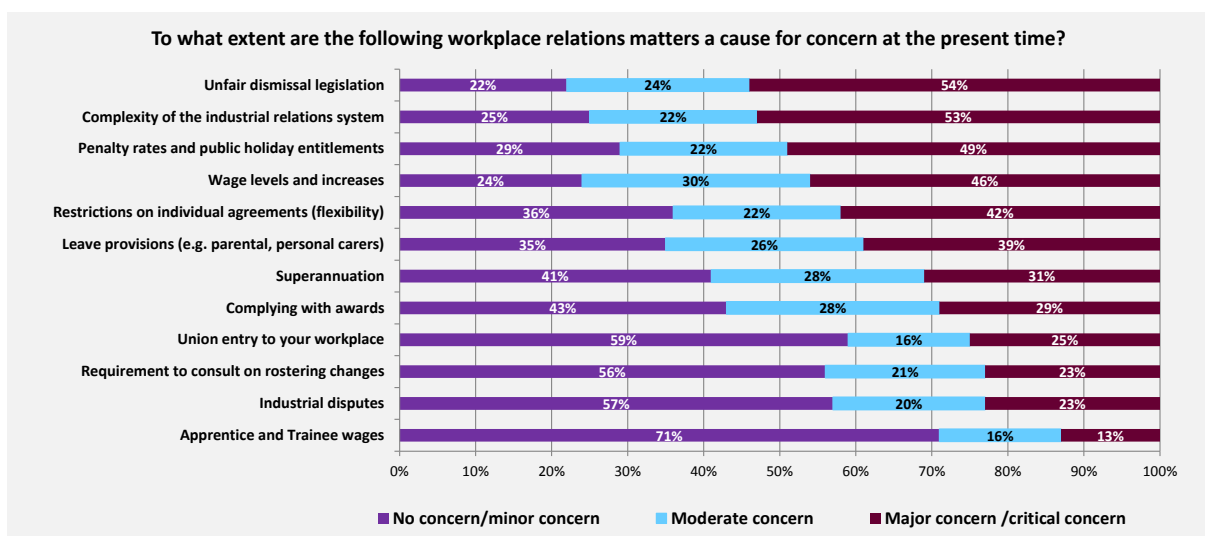
Given the richness of data in both quantitative and qualitative forms, CCIQ is happy to make available the data set to the Commission for their own usage.

2.2 Top issues for Queensland businesses

29. Workplace relations are one of the most significant issues facing Queensland businesses as it directly shapes their employment and operational arrangements, and influences their cost bases. The Workplace Relations Survey identified the top five workplace relations issues for Queensland businesses as:

1. Unfair dismissal legislation
2. Complexity of the industrial relations system
3. Penalty rates and public holiday entitlements
4. Wage levels and increases
5. Restrictions on individual agreements (flexibility)

30. A significant proportion of Queensland businesses expressed major to critical concern with the current unfair dismissal legislation (54 per cent) and the overall complexity of the industrial relations system (53 per cent). Labour costs are also a point of contention with businesses indicating major to critical concern in relation to penalty rates (49 per cent) and the annual wage process (46 per cent). The lack of true flexible working arrangements was also raised as a significant issue (42 per cent).



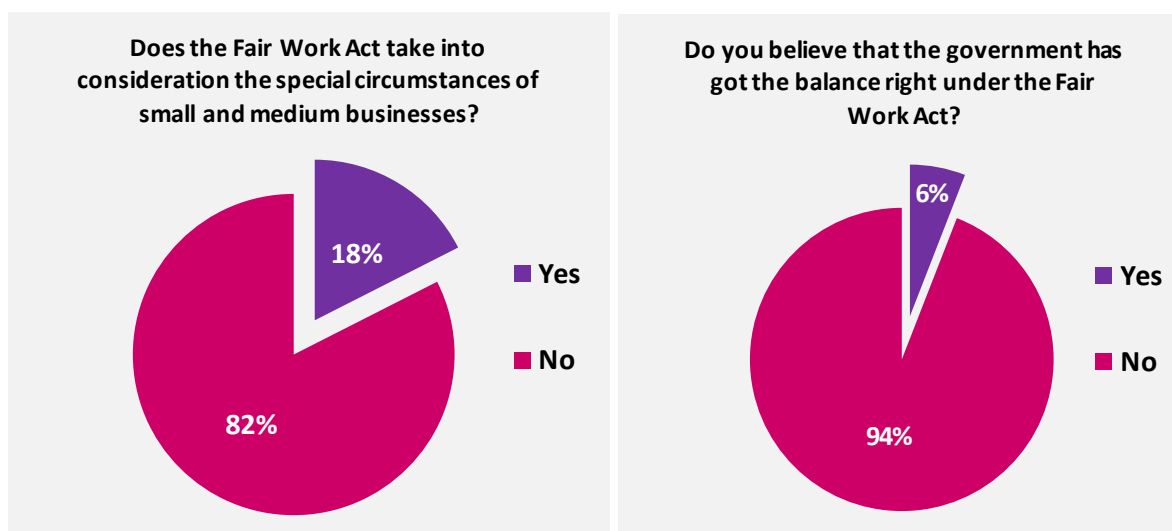
Source: Workplace Relations Survey – February 2015

“As a small business owner, I have been reluctant to take on new employees for fear of unfair dismissals. In the past, employees have sought settlement money as a first resort to discourage the matter going to the Fair Work Commission. Even in instances where the employee was, on the facts, objectively in the wrong, I have paid over \$12,000 just to be able to get on with running my business.”

- Gold Coast Business Operator in the Hospitality sector

2.3 Small business interests

31. The majority of Queensland businesses (84 per cent) believe that the Federal Government has not got the balance right under the Fair Work laws and that the pendulum has swung too far away from employers.
32. Looking more specifically at Queensland’s small and medium businesses the survey found that 82 per cent believe the current workplace relations system does not take into consideration their unique circumstances. Of these respondents, 94 per cent believe that the Federal Government has not got the balance right under the Fair Work laws and that the pendulum has swung too far away from employers.
33. In sum, the survey results demonstrate that businesses believe much more needs to be done to provide an appropriate balance between the needs of employers and employees.



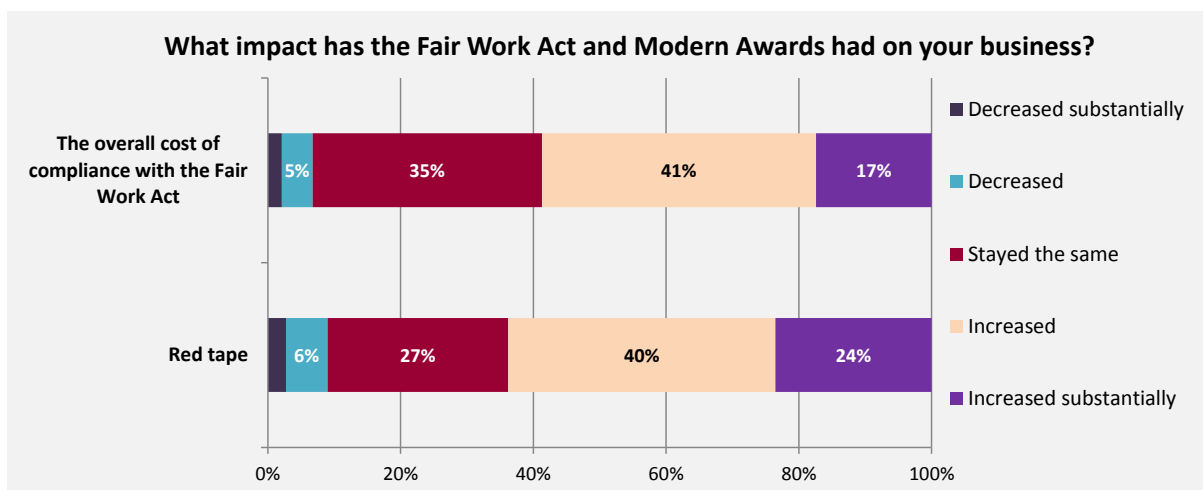
Source: Workplace Relations Survey – February 2015

2.4 Impact on business operating arrangements

34. Red tape associated with the Fair Work laws has increased or substantially increased for 64 per cent of Queensland businesses. In addition, a significant proportion of Queensland businesses (58 per cent) indicated that their overall cost of compliance with the Fair Work Act has increased or substantially increased. This result is especially worrying in the context of challenging trading conditions and subdued consumer demand.

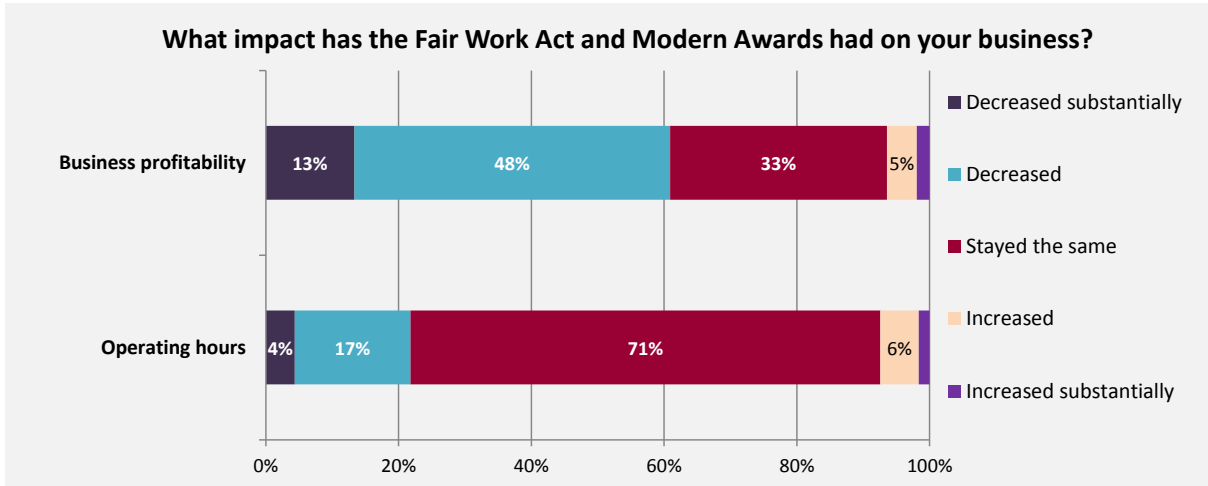
“Wage and labour on-costs, continual rises in electricity prices and insurance premiums, payroll tax, worker’s compensation, in addition to penalty rates and ongoing increases in the level of award wages all add up to negatively impact our profitability and our flexibility. It is so expensive to run my business, I’m hesitant to grow or expand.”

- Cairns Business Operator



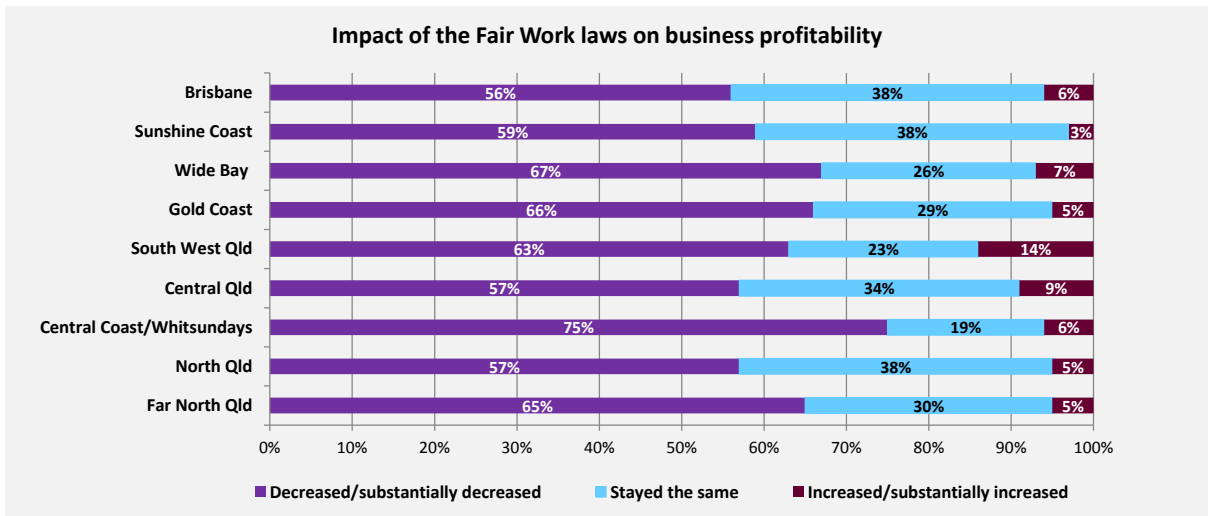
Source: Workplace Relations Survey – February 2015

35. The burden associated with the current Fair Work laws has also eroded business profitability and viability. The survey reveals that profitability has decreased or substantially decreased for 61 per cent of Queensland businesses under the Fair Work laws, even though operating hours for the majority of these businesses (71 per cent) has stayed the same. The findings suggest that staffing cost pressures and rising business input costs are continuing to squeeze profitability.



Source: Workplace Relations Survey – February 2015

36. The impact of the Fair Work laws on profitability appears to be greater in regional areas, with a higher proportion of businesses outside the Brisbane area recording decreased profitability.

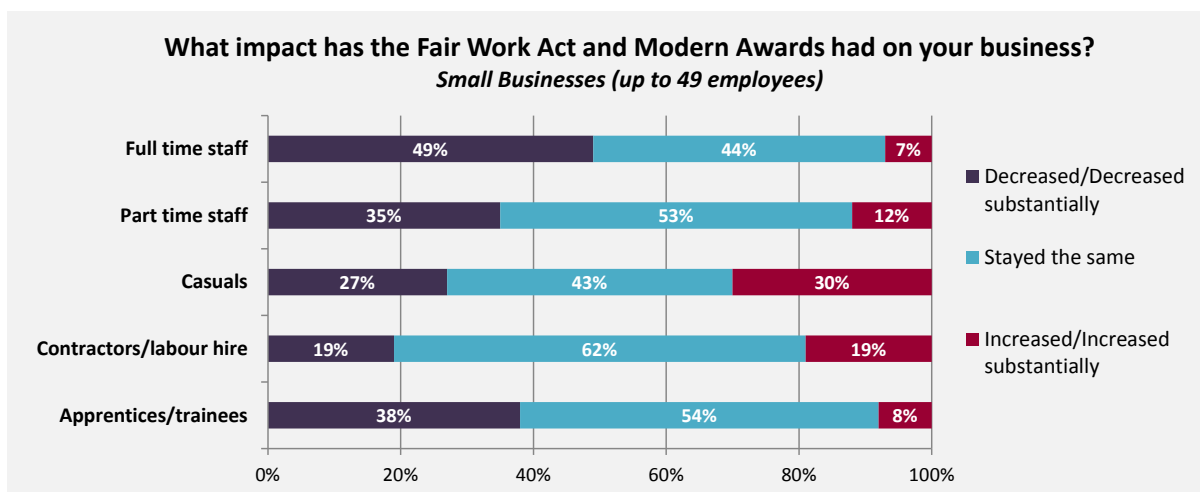


It is best for me to employ casual staff as opposed to taking on part-time or permanent employees. There are more incentives to employ casual. Unfortunately, taking on students and backpackers doesn't help families who need an income, but right now it is the only sustainable employment model that will keep my business open."

- Sunshine Coast Café owner / operator

2.5 Impact on staffing arrangements

37. The Fair Work laws have adversely impacted the staffing arrangements of Queensland small businesses, with nearly half decreasing the number of full time staff and just over one-third decreasing their part time staff as a result of the FWA modern awards. This decline has not been replaced by other types of employment, with the majority of businesses keeping steady the number of casuals and contractors. As a result, Queensland small businesses are reporting that their overall employment levels are either steady or shrinking.



Source: Workplace Relations Survey – February 2015

38. The survey findings align with the rise in trend unemployment in Queensland (currently at 6.5 per cent) and high youth unemployment (14 per cent). Access to apprenticeship opportunities is particularly important for building the skills of young people, yet 38 per cent of survey respondents decreased the number of apprentices and trainees in their businesses. While there are other contributing factors (e.g. removal of employer incentives to hire apprentices), the survey findings suggest the Fair Work laws are also affecting business hiring intentions, particularly with respect to the loading up of 1st and 2nd year apprentice rates.

SECTION 3: THE WORKPLACE RELATIONS FRAMEWORK

3.1 Workplace relations laws matter to business

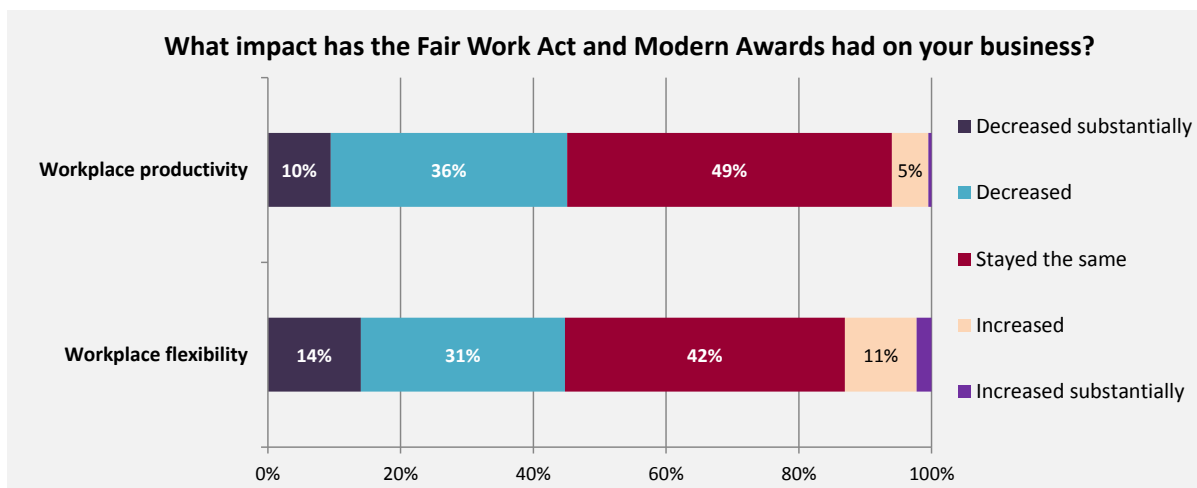
39. Our organisations believe we need a workplace relations system that is simple and easy to use. Australia currently has a highly regulated and prescriptive system that regulates all aspects of the employment relationship and beyond. Indeed, the Fair Work system appears to focus on social outcomes at the expense of economic outcomes. Not only has this approach undermined the capacity of employers to take on employees, but has created a system which legislates for the worst case scenario in which all employees are victims that require protection, representing a huge detriment and cost to the majority of employers who do the right thing.
40. Further, it is clear that the Fair Work regime is not conducive to achieving improved economic and employment outcomes. This affects all businesses, whether they are small, medium or large. Failure to initiate change and improve the current situation puts investment and future projects in Australia at risk, with our international competitors likely to reap the benefits while their Australian counterparts are mired in red tape, industrial unrest and a general lack of flexibility. Those workplaces operating in a purely domestic environment are equally vulnerable as profit margins are whittled away by unsustainable wage increases, penalty rates, unfair dismissal laws and hikes to the mandatory superannuation guarantee.
41. Our Organisations understand that many businesses are already being hurt by the effects of an uncompetitive Australian dollar (albeit less so in recent months), uncertain global economic conditions, and a lack of consumer confidence. A workplace relations regime is not the only factor influencing productivity, sustainability and competitiveness in the workplace, but it is a major one that needs to be addressed through proper channels, such as the Productivity Commission's review into workplace relations reform.
42. The following section outlines Queensland business views as collated from the Workplace Relations Survey on Fair Work issues such as flexibility arrangements, wages, employer superannuation increases, penalty rates, unfair dismissal, and interactions with the Fair Work Commission and the Fair Work Ombudsman.
43. It also provides a series of sensible recommendations that the Productivity Commission ought to use as a guide when formulating recommendations for further comment.

3.2 Flexibility arrangements

44. A modern workplace relations system must allow employers and employees to negotiate individual arrangements that meet both parties' needs and allow for the adaption of workplace arrangements to the circumstances of a particular business.
45. While flexibility is important in all workplaces, it is key in small and medium enterprises (SMEs) in Queensland, which often have 'niche' requirements that derive from financial or operational considerations. The mechanism for providing flexibility is through modern awards and enterprise agreements in the form of IFAs, which allow an employer and employee to make an agreement with respect to an employee's hours, pay rates and allowances. However, they are also subject to restrictive conditions - in particular; IFAs cannot be offered as a condition of employment.
46. As it stands, IFAs are the key mechanism to deliver flexibility in employment arrangements, and have significant potential to deliver this flexibility to both employers and employees. This potential is being stifled by strict limitations on their use and their narrow scope. However, at the same time unions also seek to introduce matters that fall outside the employer/employee relationship. It is essential that the mechanisms put in place to improve productivity and deliver flexibility achieve the desired results to ensure businesses and their employees can adapt to new and changing circumstances.
47. There is a strong case for improving the effectiveness of Individual Flexibility Agreements. Indeed, almost 60 per cent of all Queensland businesses surveyed indicated they would support making Individual Flexibility Agreements a condition of employment. Flexible arrangements can be mutually beneficial – affording opportunity for employers to respond to changing market conditions as well as meeting the needs of employees' individual circumstances.
48. While flexibility is an intended goal of the workplace relations system, feedback from Queensland businesses suggests that this outcome is not being achieved. Workplace flexibility has decreased or substantially decreased for 45 per cent of Queensland businesses as a result of the Fair Work laws and a further 42 per cent of businesses have noticed no improvement at all.

“Improve flexibility provisions and reduce restrictive practices to enable workers to be more productive”

– Survey Respondent, Brisbane



Source: Workplace Relations Survey – February 2015

49. The lack of workplace flexibility at a firm level has directly affected business productivity. Only 5 per cent of Queensland businesses recorded improvement in productivity under the current Fair Work laws. This is an alarming result given the fundamental aim of the workplace relations system is allocation of labour resources to their most productive use. Business owners need freedom to identify arrangements that increase the take-up of innovative practices that make best use of workers skills and expertise.

“Individual flexibility arrangements that don’t require the BOOT test to be purely financial. This would allow us, for example, to give casuals greater than 38 hours without having to pay overtime. The advantage for them would be the ability to work extra hours during high season, to compensate for the lesser hours available to them in the off season. This means we don’t have to employ extra staff during the season (all on 38 hours), which also means less staff having to share the lesser hours during the off season”

– Survey Respondent, Far North Queensland

Recommendation: Amend the FW Act to better provide for the negotiation and implementation of individual flexibility arrangements (IFAs) that give genuine flexibility to employers and employees:

- Ensure IFAs can be offered as a condition of employment;
- Allowing IFAs to contain trade-offs between financial and non-financial benefits;
- Increasing the scope of flexibility terms to include a greater number of matters to which an IFA may relate (i.e. those matters that are directly relevant to the employment relationship), and limiting the scope of matters that rest outside of the direct relationship between employer and employee;
- Creating a defence to an alleged contravention of the IFA provisions with respect whereby an employer will not be guilty of a contravention where they reasonably believed that in creating an IFA, they had met their statutory obligations (for example, to leave the relevant employee better off overall).

“The ability to negotiate with each employee and for the employee to be able to choose what works for them also. Currently employees may be happy with a different arrangement to the NES but we can't offer it regardless that we both agree with the end result”

– Survey Respondent, Gold Coast

3.3 Wages

50. The minimum wage process impacts on the competitiveness of all businesses, but particularly those in award-reliant industries. A key consideration for the Productivity Commission with respect to the minimum wage in Australia is implementing a system that allows businesses to remain competitive in the global marketplace. This does not involve a ‘race to the bottom’ – rather, our Organisations are calling for a sensible acknowledgement that the minimum wage setting process must be appropriately geared to ensure that wages are set at a level that is affordable, does not erode profitability, and should not impact on the long-term sustainability of businesses.
51. With respect to the competitiveness of minimum wages on a global scale, Australia currently has the most regulated and highest minimum wages (converted in the \$US) in the Organisation for Economic Cooperation and Development (OECD). The minimum wage in Australia is well above other OECD countries including Japan, the United Kingdom, the United States and New Zealand. It is important to note that the minimum wage also only represents the base wage cost of employees, with additional on-costs including penalty rates, allowances, loadings, workers’ compensation premiums, payroll tax, superannuation and associated administration costs.

3.3.1 Wage increases compared with other economic indicators

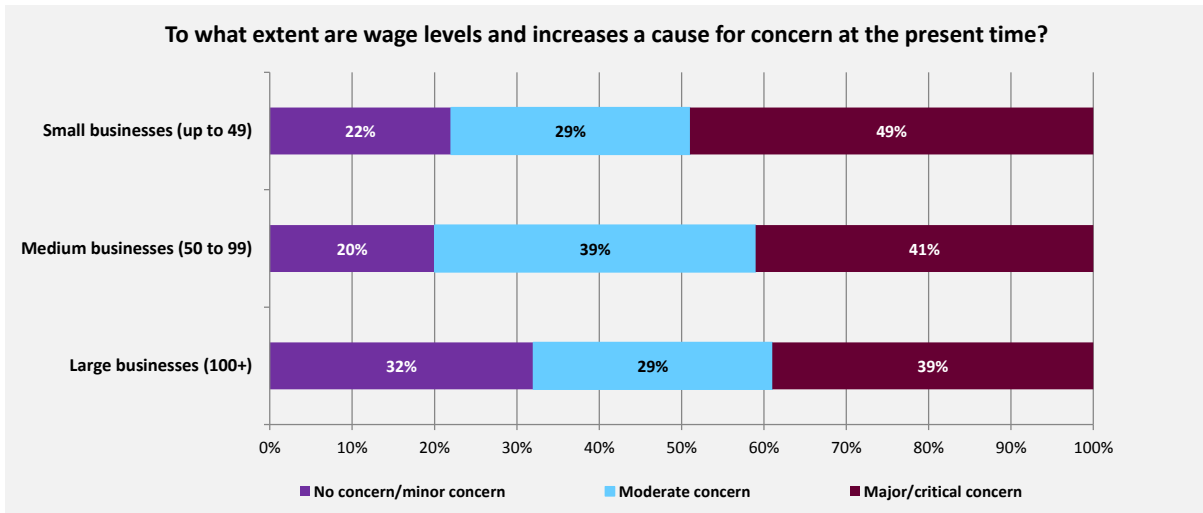
52. Further, minimum wages have been growing at a substantial pace in Australia. The national minimum wage (NMW) has progressively increased each year since 2009-10. In 2010-11, the NMW was increased \$26 per week to \$569.90. In 2011-12 there was a 3.4% increase to \$589.30. In 2012-13, the NMW increased to \$606.40. In 2013-14, another 2.6% increase to \$622.20 and this year, NMW increased by 3% to \$640.90 per week. Across the space of five years, the NMW has increased a total of 17.8% or \$97 per week, outpacing all other economic indicators (see over).
53. Such increases have significant impacts on the small business community, affecting both employment and growth. Pressures on businesses such as the uncompetitive

Australian dollar, the ongoing impacts of drought on the agricultural sector, persistent natural disasters such as cyclones, and already high unemployment continue to make the day to day job of running a small or medium business challenging, particularly in industries such as tourism, hospitality, retail and manufacturing.

	2009/10 (no weekly increase)	2010/11 (\$26p/w increase)	2011/12 (3.4% increase)	2012/13 (2.9% increase)	2013/14 (2.6% increase)	2014/15 (3.0% increase)	2009-10 to 2014-15
National Minimum Wage	\$543.90	\$569.90	\$589.30	\$606.40	\$622.20	\$640.90	17.80%
Consumer Price Index (Brisbane)	94.8	97.7	100	102.3	104.9	107.5	13.40%
Wage Price Index (Qld)	103.3	107.3	111.3	114.7	117.7	120.6	16.70%
Productivity Index 1 (GDP / hours worked)	95.1	94.6	96.9	100.0	101.5	104	9.40%
Productivity Index 2 (Gross value added per hour worked market sector)	93.0	93.2	96.6	100.0	101.8	104.3	12.20%

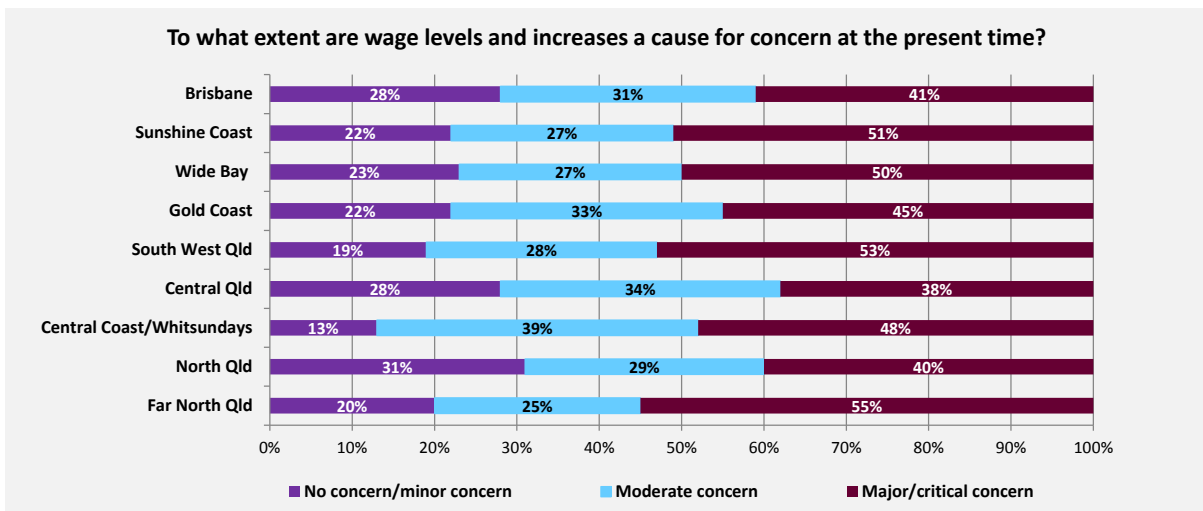
Source: ABS Catalogue 5206.0, 6401, 6345.0 & MYFER

54. Concerns have also been raised that rising wages in Australia are outpacing inflation and productivity growth. There are concerns that wages are rising at a much faster pace than the price of goods and services, particularly in award reliant industries. Queensland employers are frustrated by the fact that the increasing costs of employment resulting from the FW Act are not being offset by productivity gains. This has implications for the ongoing viability of businesses if these costs continue to increase with no associated offsets or trade-off benefits for the business. These increasing costs are pricing some businesses out of the market, either encouraging them to move part or all of their operations overseas, close their doors or decrease their number of employees.
55. The survey results reveal that wage levels and increases are a major to critical concern for almost half (49 per cent) of Queensland small businesses. It is also apparent that small businesses are more sensitive to wage cost pressures, with a lower level of concern amongst medium businesses (41 per cent) and large businesses (39 per cent).



Source: Workplace Relations Survey – February 2015

56. The survey shows the level of concern about wages is generally greater outside Brisbane, with the exception of the Central and North Queensland regions where downturn in the resources sector has been a predominant influence on labour market conditions. A large proportion of businesses in Far North Queensland (55 per cent) and South West Queensland (53 per cent) indicated major to critical concern about wages at the present time.

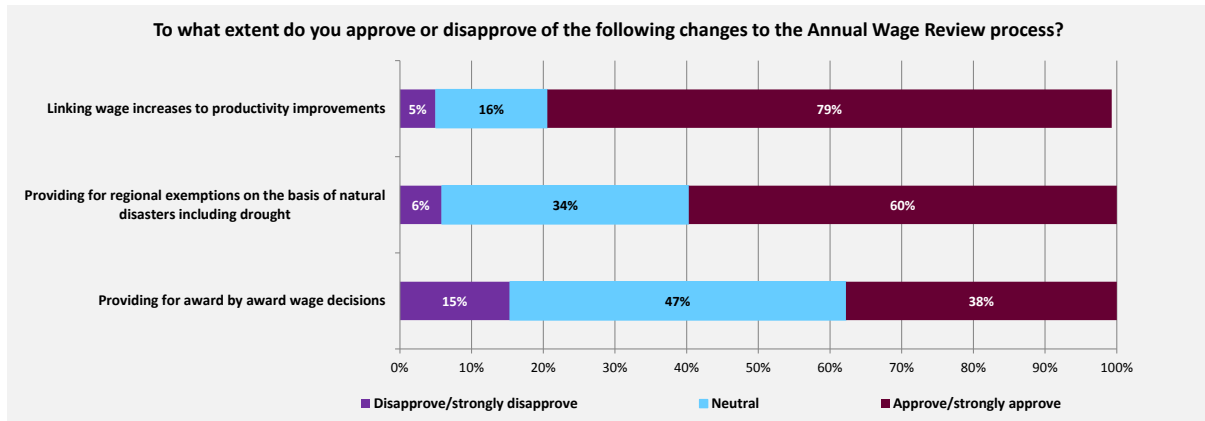


Source: Workplace Relations Survey – February 2015

“With costs to small business rising and profits/margins dropping, we can't afford to pay the increasing rates of super, wage increases and restrictions on staffing”

– Survey Respondent, Sunshine Coast

57. When asked about options for reforming the annual wage review process, an overwhelming majority of Queensland businesses (79 per cent) indicated approval for linking wages increases to productivity improvements.



Source: Workplace Relations Survey – February 2015

58. Productivity at the firm level is directly affected by the annual minimum wage setting process. To be productive, businesses need a competitive wage structures that encourage a shift towards higher value products and services and provide incentives for workers to move to more productive arrangements. Yet, Australia’s annual minimum wage setting process has resulted in increases to the minimum wage above the rate of productivity growth. This is despite an underlying downward trend in Australia’s and Queensland’s productivity performance over the past decade, which has been worse than most other developed economies.
59. Queensland small and medium businesses are very sensitive to the impacts of minimum wage changes given the high concentration of minimum wage and award-reliant jobs amongst these businesses, particularly in the hospitality and retail sectors.
60. In the longer term, sustained increase in the real minimum wage requires increases in the rate of productivity growth for employees in these positions. This cannot be achieved within the confines of the current Fair Work Commission’s annual wage review process.

3.3.2 Junior rates of pay and increases in apprentice wages

61. Of particular concern to our organisations is the growing youth unemployment crisis emerging across Australia, which in some part can be attributed to the significant labour costs for employing juniors under 21 years of age. For example, the decision by the Fair Work Commission to increase the rate of pay for 20 year old retail workers to bring their pay rates in line with the adult wage gives employers little incentive to take on junior workers and train them up under the existing workplace relations framework.
62. On 1 July 2014, 20 year old retail workers' pay entitlements changed from currently paid 90 per cent of the adult rate, to 95 per cent of the adult rate. From 1 July 2015, this will increase to 100 per cent of the adult rate. The implications of the ruling are wide-ranging, particularly for an industry already dealing with the twin challenges of international competition and high fixed costs. Businesses argue the ruling also presents a tight transitional period for implementation of the increase, which has come on the back of increases to the minimum wage and increases to award wages following the 2013/14 Annual Wage Review.
63. Employers will now be required to pay entry level retail workers around \$68 more per week under adult rates of pay (in addition to the AWR increase), which is highly likely to set a precedent for further increases to junior wage rates for 18 and 19 year olds. While large retailers have been paying 20 year olds adult wage rates in accordance with enterprise bargaining agreements, it is the case that smaller retailers have adhered to the lower award rate – because they simply could not afford to pay the bargained outcomes that their larger counterparts do. Under this decision, the capacity of employers to pay mandated wage increases is once again being ignored.
64. Further cause for concerns is Queensland's apprenticeship commencement numbers, which are down 25.5% year-on-year. The Federal Government has been less than kind to employers in the last few years, with commencement and completion incentives to employers being removed, and first year and adult apprentice wage rates significantly increased by the Fair Work Commission.
65. In late 2013 the FWC varied more than 50 modern awards containing apprentice wage rates and conditions of employment. Table 1 (below) summarises the significant changes to apprentice wage rates, which became effective 1 January 2014.

66. Our Organisations urge the Productivity Commission to consider the cost and time impost of hiring an apprentice when undertaking recommendations affecting apprentice wage rates.

Table 1:

Wage Rates	Current	Change
First year apprentice who has completed year 12	42%	55%
Second year apprentice who completed year 12	55%	65%
Third and fourth year apprentices		No change
First year adult apprentice	4 year 81% of L5	80% of tradesperson rate
	3 year 80% of L5	
Second year adult apprentice	4 year 85% of L5	The higher of the national minimum wage (\$622.20) or the lowest adult classification
	3 year 88% of L5	

Source: CCIQ Employer Assistance – December 2013

“I would like the Fair Work Act to consider the implications of their increases in costs with consideration to small business. Medium to large businesses in our industry can cope with these increases more than we can because these businesses operate with large quantities and therefore can still manage to operate with a profit. Small business does not have the same luxury”

– Survey Respondent, Sunshine Coast

3.3.3 Exemptions for disaster prone industry sectors

67. Our Organisations urge the Productivity Commission to take into consideration the impacts of natural disasters when making recommendations in relation to the minimum wage and modern award review processes. Most pertinent for Queensland business are the impacts of drought on farmers and businesses in the agricultural supply chain, which are far-reaching and are not simply restricted to the period in which the drought is officially declared.
68. Currently, Queensland is experiencing a significant drought event, with 79 per cent of the state drought declared (the largest area ever recorded). Around half of Queensland’s agricultural industry (21,590 businesses or 48.8 per cent) are located in what are drought declared areas. Key impacts of natural disasters such as drought include a significant reduction in or no capital expenditure, loss of skilled staff and loss of crops and livestock. As the agricultural industry is a key economic driver in many rural communities, the impact of drought on the industry has significant ripple effects that can result in higher unemployment rates, reduced rural populations, and reduced economic activity.
69. The impact in Queensland of the most recent drought is still being felt by agricultural producers and related businesses, particularly in South West

Queensland. Additionally, as Queensland is a de-centralised and geographically expansive state, the cost of fuel in drought conditions is still impacting the vast majority of agri-business.

70. With these points in mind, our Organisations urge the Commission to consider circumstances where annual increases in the minimum wage may be deferred for farmers and agri-business affected by the ongoing impacts of the drought, in addition to the Agricultural Award qualifying as exempt from the award review process.
71. In addition, our Organisations encourage the Productivity Commission to make similar exemptions for regions in Queensland that are impacted by cyclones, which have devastating effects on regional businesses.
72. At present, there is no capacity for the Fair Work Commission to take into consideration factors such as natural disasters, and our Organisations strongly argue that extenuating circumstances such as ongoing drought and exposure to the destructive effects of cyclones warrant exemption from the minimum wage adjustment for a given period.

Recommendation: implement changes to Australia's minimum wage setting process to ensure that it reflects the key considerations of productivity, economic growth and business conditions, particularly in award reliant industries. This involves:

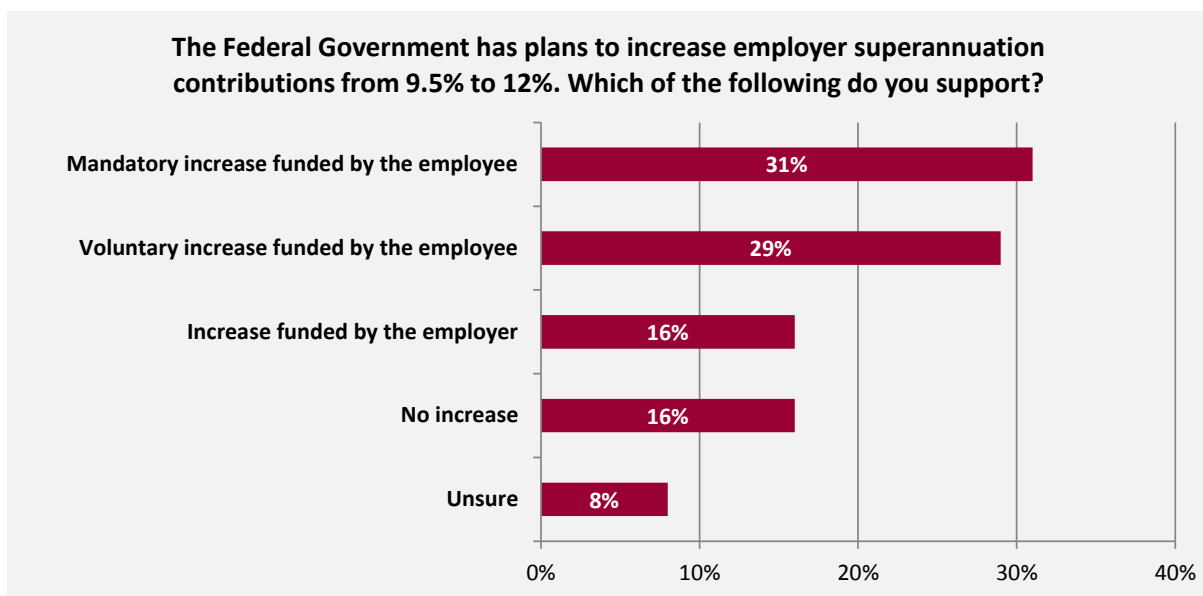
- A requirement that Annual Wage Reviews must take into account employers' capacity to pay any proposed wage increase; the economic and business conditions within those industries in which the minimum wage has the greatest impact; and the flow-on impacts of the decision;
- Implementing mechanisms to ensure phased annual instalment increases to the mandatory superannuation guarantee levy are offset in future increases to the National Minimum Wage (NMW);
- Implementation of linking productivity in award-reliant industries to correspond with wage increases; and
- Exempting industry sectors exposed to natural disasters from award review processes until such time as the effects of the disaster are declared to have ceased.

3.4 Employer superannuation contributions

73. Ensuring Australia has the right retirement incomes policy is one of the most important economic issues facing Australia's ageing population. The number of people aged 65 years and over will almost double over the coming decades, rising from thirteen per cent in 2006 to between 23 per cent and 25 per cent in 2056. Funding the cost of retirement for these Australians will be further compounded by the fact that by 2050, there will be only 2.7 working age Australians for every one

aged 65 or over, as compared to five working age Australians for each citizen over 65 today. This demographic shift will place immense strain on the nation's tax, welfare and health systems, highlighting the need for superannuation policy to be fiscally sustainable over the longer term.

74. Queensland businesses generally support Australia's superannuation policy, which aims to share responsibility for superannuation between individuals, employers and government. However, they do not support the increase in the mandatory superannuation guarantee that is not tied to productivity increases or corresponding wage trade-offs, as this demonstrates an increasing reliance on employers to be the sole funders of their employee's retirement.
75. Most Queensland businesses (60 per cent) believe that employees should have greater responsibility for funding their own retirement through superannuation rather than increasing compulsory employer contributions. There is support amongst the Queensland business community for a mandatory superannuation increase funded by the employee (31 per cent) or a voluntary increase funded by the employee (29 per cent).



Source: Workplace Relations Survey – February 2015

76. Additional incentives and initiatives are required to encourage individuals to embrace the responsibility for building appropriate retirement savings and enabling retiring workers to enjoy a higher standard of living in retirement. The Productivity Commission should consider the following policies to encourage private retirement

savings, enhance Australia's superannuation pool and provide assistance to employers to fund the mandatory superannuation guarantee:

- *Mandatory employee contributions:* There needs to be additional initiatives requiring employees to provide mandatory contributions to their superannuation savings. This will ensure that employees are more aware of their superannuation savings, encouraging them to take greater responsibility for their retirement income. As employees are the major beneficiaries of higher retirement incomes, it is entirely appropriate that they should bear at least some of the costs and responsibility associated with providing that additional support.
- *Mechanism for employers to fund increases in superannuation obligations:* The Federal Government's initiative to raise the superannuation guarantee must be accompanied by a means to fund the mandatory increase. This could be achieved by directing the FWC (through amendments to the FW Act) that increases to the mandatory superannuation guarantee be offset in future increases to the NMW.
- *Soft compulsion* - A compromise to mandatory employee contributions is soft compulsion, whereby retirement savings are increased by automatically increasing the individual employees superannuation contributions, but allowing the individual to opt out of this arrangement.
- *Government co-contributions:* There should be an extension of government initiatives to help eligible individuals to boost their super savings by providing a super co-contribution payment to match an individual's personal contributions.
- *Tax Incentives:* The 'traditional' way of encouraging voluntary savings for retirement has been through tax incentives. A standard policy that aims to encourage private, voluntary retirement savings is to give preferential tax treatment to pension plans. That is, tax incentives aim to increase the return on pension savings subsequently providing a higher net rate of return on savings which will encourage people to save more.
- *Financial education:* Private saving activity by Australian households has been steadily deteriorating since the introduction of compulsory retirement income savings. A clear message must be sent to employees that they still need to save for their retirement.

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- *Encouraging longer participation in the workforce:* The recent move to remove the maximum age limit for the superannuation guarantee to encourage workers aged 70 and over to remain in the workforce longer is welcomed by employers, as is the continued implementation of initiatives to enhance the participation of mature aged workers in the workforce.

Recommendation: Introduce measures to grow Australia's superannuation pool to ensure the challenges faced by Australia's ageing population are met and that employees have a greater understanding about the importance of retirement income. This requires:

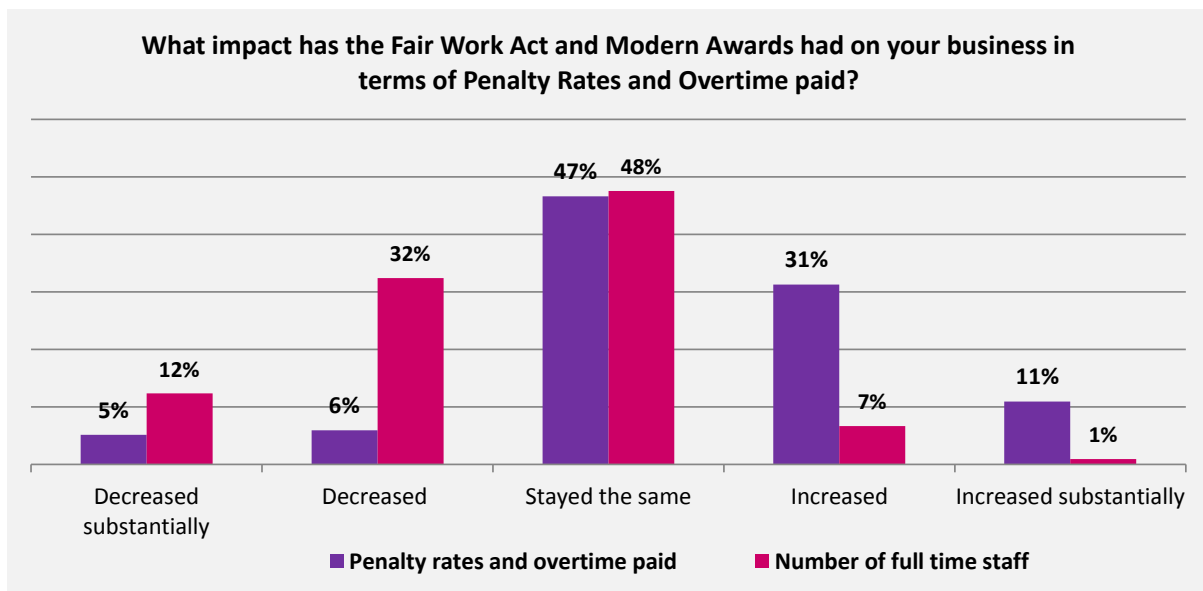
- The introduction of employee contributions through soft compulsion;
- More initiatives to encourage voluntary employee contributions, and savings measures that enhance the responsibility of employees to fund their own retirement – this may including tax incentives, government co-contributions and educational campaigns about the function and importance of superannuation;
- Mandatory wage trade-offs for the increases to the mandatory superannuation guarantee; and
- Initiatives to boost workforce participation.

3.5 Penalty rates

77. Many employers have raised concerns regarding the impact of penalty rates and increased employer obligations surrounding allowances on the competitiveness and profitability of their business. These concerns emanate from businesses that operate seven days a week or outside of the traditional concept of 'normal trading hours' (9am to 5pm Monday to Friday), including the retail, tourism, accommodation, hospitality and agricultural industries. Increased wage costs have resulted in businesses closing for longer periods or reducing staff numbers, which have negative flow on effects for employees, communities and the economy.
78. Current Fair Work laws define shifts that attract penalty rates as 'unsocial' and those who work during such hours should be compensated accordingly. This claim is not only false, but makes broad assumptions about the nature of individual lifestyles and choices, whereby particular employees prefer to work during the evening or on weekends. Employees want flexibility too.
79. The policy behind penalty rates represents a failure to recognise the requirements of central industries for workable terms and conditions of employment. The current penalty rate regime inhibits economic growth by providing a disincentive to employers from having longer trading hours or offering staff additional hours.
80. This is of serious concern to businesses facing increased global competition including from online businesses that are accessible by consumers 24 hours a day,

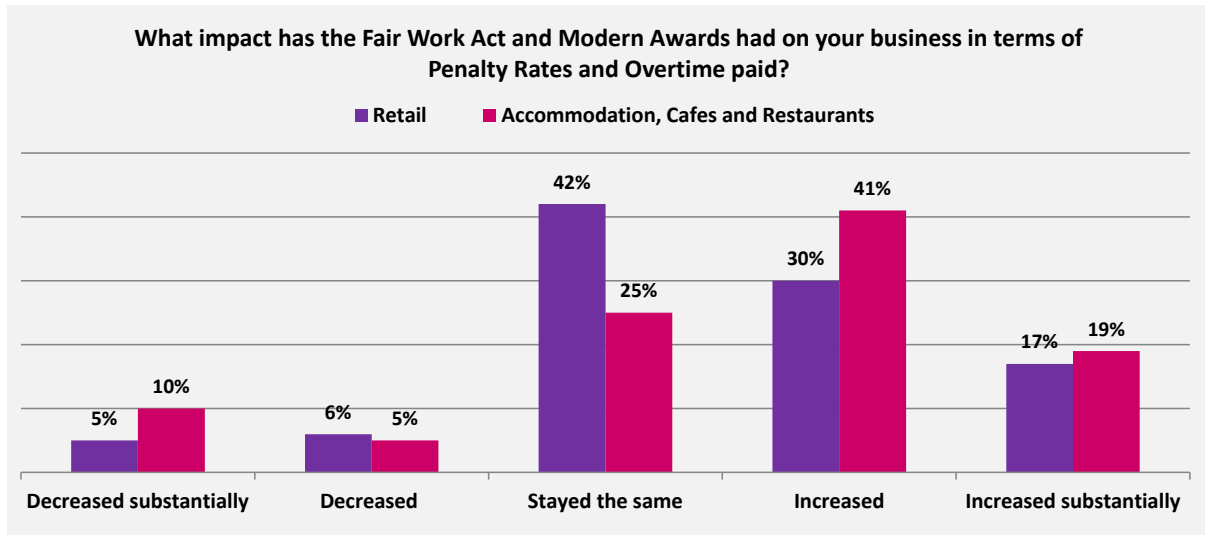
seven days a week. The current regime is also impacting on some businesses' ability to trade profitably at times when many consumers now prefer to shop, for example, later in the evenings or on Sundays. While there have been legislative proposals to relax penalty rate requirements for industries for which extended hours are considered typical, such as tourism, retail and hospitality, this approach does not account for the clear trend towards a general expansion in hours of operation and trading across a variety of industries.

81. Our Organisations collectively call for changes to alter the operation of penalty rates so as to allow for greater flexibility in businesses that operate for seven days a week or outside 'standard' trading hours.
82. As evidenced by the Workplace Relations Survey, the penalty rates and overtime paid under the Fair Work laws continues to adversely impact Queensland businesses. A significant proportion of businesses (42 per cent) indicated that penalties and overtime paid had increased or substantially increased under the Fair Work laws.
83. At the same time, 44 per cent of businesses noted that they have decreased or substantially decreased the number of full time staff. Taken together, the results suggest that rising labour cost loadings are affecting business decisions about staffing hours and negatively impacting employment.



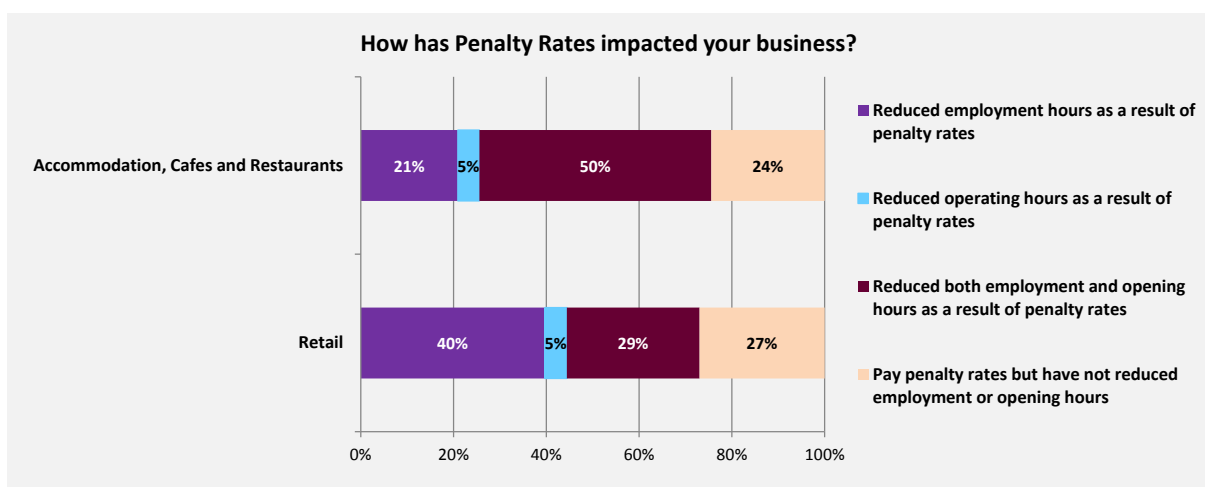
Source: Workplace Relations Survey – February 2015

84. The survey results also confirm that the impact of penalty rates and overtime paid is more acute for businesses in the hospitality and retail sectors. In particular, 60 per cent of hospitality businesses and 47 per cent of retail businesses indicated that penalty rates and overtime paid had increased or substantially increased.



Source: Workplace Relations Survey – February 2015

85. When asked specifically about penalty rates regulation, Queensland businesses indicated there have been negative impacts in terms of reduced operating hours and reduced employment. The results were also more severe for small and medium businesses. Micro businesses with up to 5 staff were the most affected, with 83 per cent of these businesses recording reduced operating and employment hours. In contrast, a lesser proportion of large businesses (53 per cent) were negatively impacted by penalty rates.

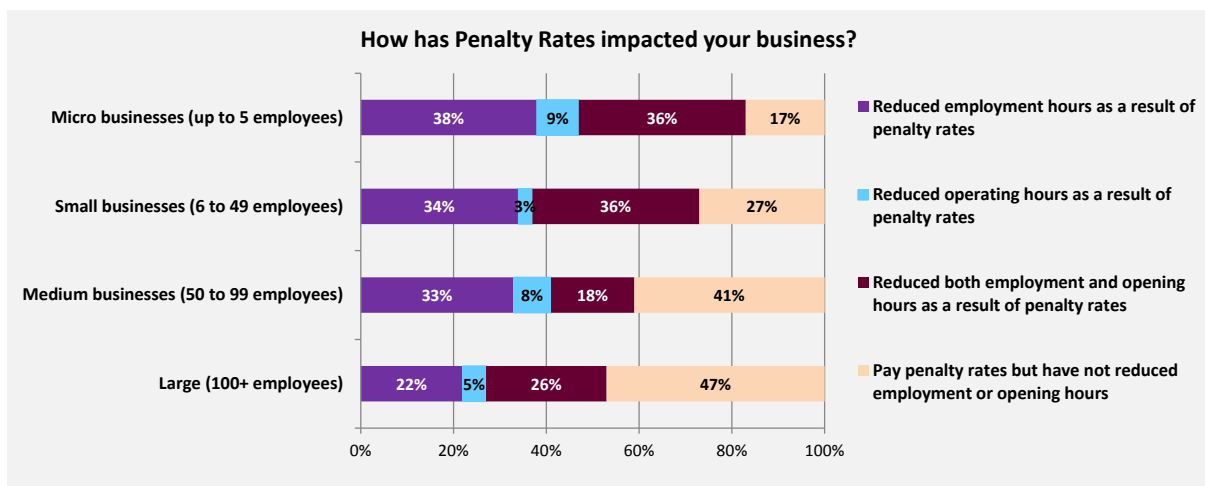


Source: Workplace Relations Survey – February 2015

86. The penalty rates system appears to influence employment decisions more so than business decisions about operating hours. Across all size categories, less than 10 per cent of businesses chose to reduce just operating hours in response to penalty rates. As a consequence, businesses are in situations where they have insufficient staff to maintain customer service standards and the quality of their service offerings may be severely compromised.

“If the public want retail open 7 days for their convenience then we as employers should be able to have the same pay structure over the seven days. Or be able to charge more on weekends and public holidays. If competition drives retail, then maybe competition should drive wages”

– Survey Respondent, Sunshine Coast



Source: Workplace Relations Survey – February 2015

87. The impacts of the current penalty rates system is further exacerbated when looking more closely at small businesses within those penalty rate sensitive sectors, namely hospitality and retail. The survey results show the majority of small businesses in the hospitality sector (76 per cent) and retail sector (74 per cent) reduced operating hours and employment hours as a result of penalty rates.

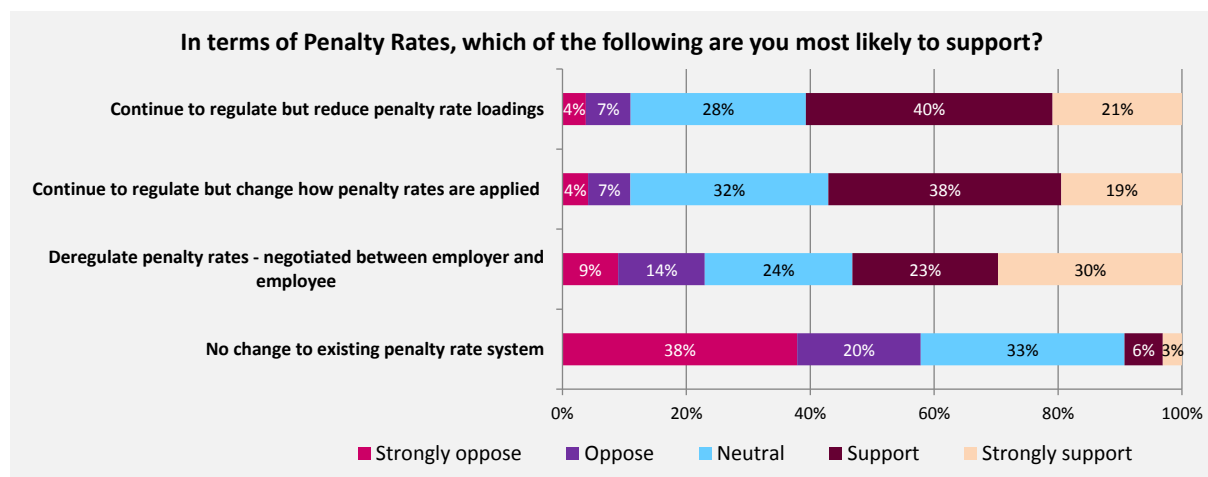
“I would like to see penalty rates apply where an employee is required to work more than 38 hours on a 7 day roster, not just because hours happen to fall on a weekend or holiday. Tourism is a 7 day per week operation and businesses shouldn't be penalised for providing weekend services”

– Survey Respondent, Sunshine Coast

88. Overall, the survey results confirm that the current system of penalty rates is preventing Queensland businesses from tailoring their staffing arrangements in response to the peak demand periods for their products and services. Not surprisingly, there is a strong desire for reform, with only 9 per cent of Queensland businesses indicating support for retaining the current penalty rates system.

“Penalty rates should apply for hours outside normal daily hours and more than 5 consecutive days in the working week. The notion of Saturday and Sunday for some businesses is not relevant”

– Survey Respondent, Far North Queensland



Source: Workplace Relations Survey – February 2015

89. The majority of Queensland businesses (61 per cent) would support or strongly support the continued regulation of penalty rates but with reduced loadings. This reform option enjoys even greater support amongst those businesses operating in the hospitality (80 per cent) and retail sectors (70 per cent). Reducing penalty rate loadings can be easily implemented and would create an incentive for businesses to increase employment hours.

90. There is slightly less support (57 per cent) for changing how penalty rates are applied. Feedback from respondents suggests that much more detail is needed on how a redesigned penalty rates system would be applied to better gauge the business community’s support. For example, this might include varying the shifts, days of the week, public holidays that attract penalty rates and their loading.

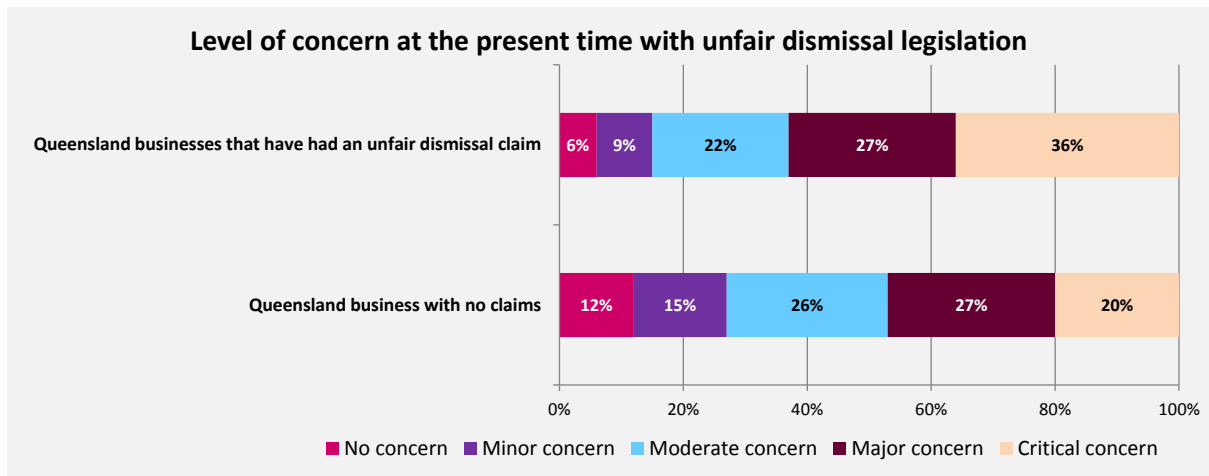
91. When asked about deregulating penalty rates, 53 per cent of Queensland businesses indicated support for negotiated arrangements between employer and employee. The result does not imply that penalty rates should be removed altogether. On the contrary, feedback from businesses responding to the survey

points to general acceptance of penalty rates as legitimate labour cost. The support for deregulating penalty rates reflects the desire amongst Queensland businesses for alternative approaches that involve specific arrangements for each industry and tailored to the scope of jobs under each award.

Recommendation: Increasing the scope in the current system to allow for greater flexibility with respect to the operation of penalty rates, particularly for those businesses that operate seven days per week or outside 'standard' trading hours.

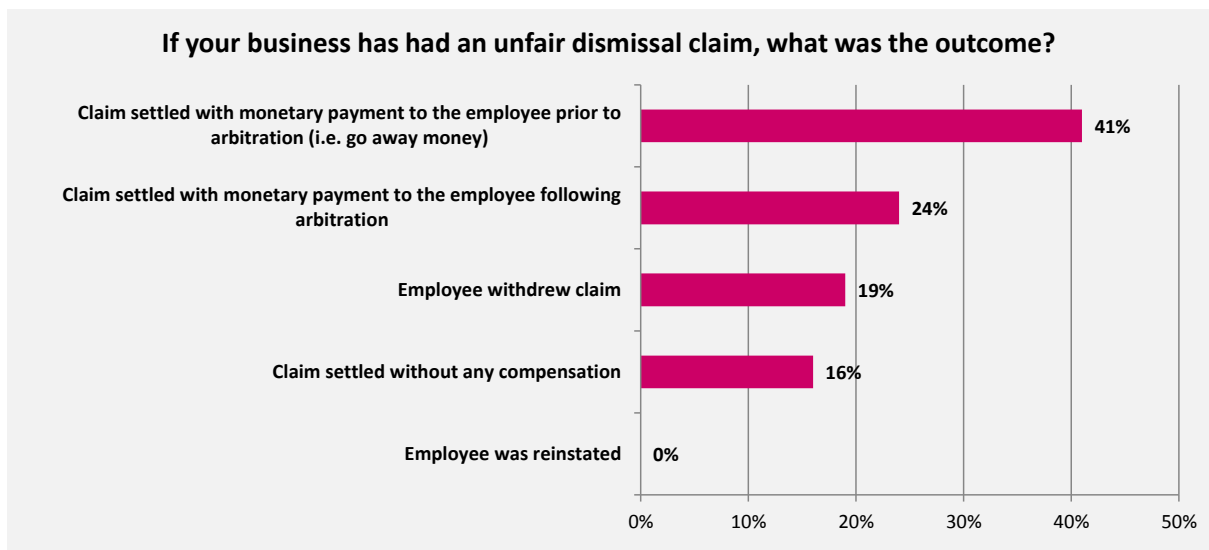
3.6 Unfair dismissal

92. It is important that every workplace relations system protects the rights and responsibilities of its employees. Our organisations recognise that while most employers do the right thing, there are a small minority that do not. However, it is essential that our system does not penalise the vast majority of law-abiding employers.
93. Unfair dismissal is the number one workplace relations issue for Queensland businesses. The survey results highlight that the current unfair dismissal legislation is having adverse impacts on all businesses regardless of their direct exposure to an unfair dismissal claim.
94. In particular, 63 per cent of Queensland businesses that have had an unfair dismissal claim expressed major to critical concern with the current unfair dismissal legislation. Feedback from these businesses points to the difficulties of making employment decisions for fear of allegations, the onerous requirements to demonstrate employee underperformance and a reluctance to hire new employees on a permanent basis.
95. Even among those businesses that have not had any claims, 47 per cent indicated major to critical concern with the current legislation. These businesses believe the current system creates a disincentive to employ because it is too easy for employees to make unfair dismissal claims and the outcomes of claim procedures are unpredictable.



Source: Workplace Relations Survey – February 2015

96. In terms of the outcomes of unfair dismissal claims, Queensland businesses highlight increasing levels of compensation being paid to employees. Of those businesses that had an unfair dismissal claim, 41 per cent settled the claim with monetary payment to the employee prior to arbitration, in other words, “go away money”. There remains a high propensity amongst Queensland businesses to settle claims rather than spend considerable time and funds going through the procedural requirements of responding to claims, irrespective of whether these claims are valid.



Source: Workplace Relations Survey – February 2015

97. Further, a quarter of the “go away money” outcomes were paid for by small businesses with up to 20 employees. This calls into question the effectiveness of the Small Business Fair Dismissal Code. Our Organisations note the evidence

required to demonstrate compliance with the code is in itself a costly and time consuming task, which leads many small businesses to settle claims expediently with go away payments.

98. The survey findings highlight the need for a simpler unfair dismissal process that encourages investigation of claims based on merit.

“Employers should not be assumed to be guilty and have to prove their innocence to the Fair Work Commission”

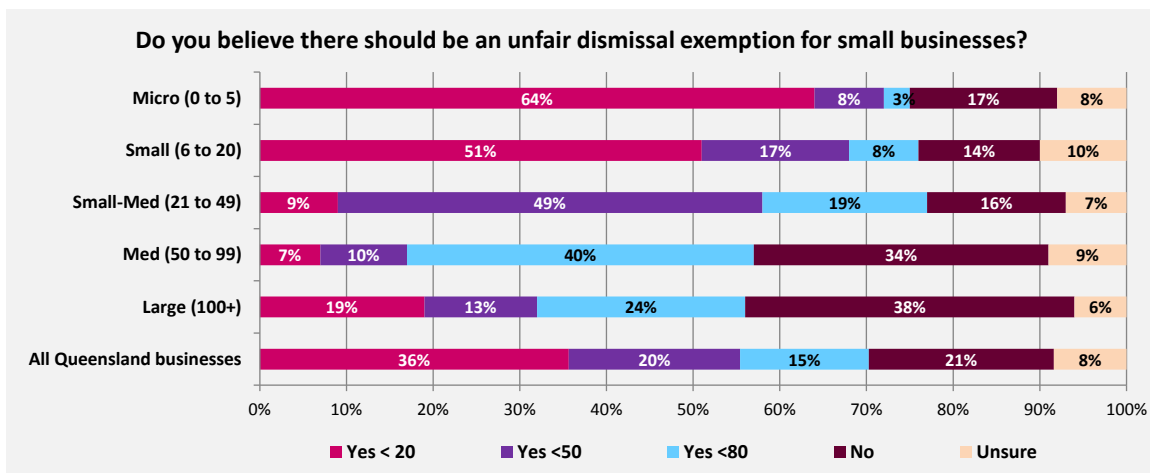
– Survey Respondent, Brisbane

99. There is substantial support (70 per cent of businesses responding) for a true unfair dismissal exemption for small business. Not surprisingly, the level of support varies according to the size of the business and the proposed threshold for the unfair dismissal exemption.

“I feel the employees have all the rights, all the back up and all the support and as a small business owner, I have all the risks. I can be taken for unfair dismissal, found innocent and still be out of pocket”

– Survey Respondent, Gold Coast

100. For instance, 64 per cent of businesses employing up to five staff would support an unfair dismissal exemption for small businesses with up to 20 employees. Similarly, 49 per cent of businesses that currently employ between 21 and 49 staff would support an unfair dismissal exemption for businesses employing up to 50 people.
101. The level of support reduces as the size of the business increases. However, even for large businesses employing more than 100 staff, there is majority support (56 per cent) for some form of unfair dismissal exemption.



Source: Workplace Relations Survey – February 2015

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102. The strong support for granting small businesses an exemption in relation to unfair dismissal claims is not designed to encourage ‘hiring and firing’ at will, but to enable small businesses to employ more staff in the knowledge that they are able to dismiss employees where they have a valid reason for doing so. An exemption is also consistent with the fact that small businesses struggle more with compliance given that they generally lack the resources available to larger enterprises, including human resources and workplace relations advisers.
103. Concurrently, it is essential that a heavier onus be placed on employees to demonstrate that their dismissal was harsh, unjust or unreasonable. Unfair dismissal laws should not penalise an employer where an employee has been terminated for a valid reason. The FWC should dismiss claims where this is the case, and should not take into account factors outside the employment relationship.
104. As a further deterrent, application fees for lodging unfair dismissal claims need to be increased. Amendments should be made to the FW Act to ensure that unfair dismissal claims are not unnecessarily prolonged. To this end, the FWC should be able to dismiss applications where an applicant fails to comply with the FWC’s directions or orders. Where unfair dismissal claims are dismissed, all costs should be payable by the employee and/or their representative (unless there are exceptional circumstances) and penalties must be applicable where the FWC determines a claim to be false, vexatious or significantly exaggerated.
105. Lastly, our Organisations believe action needs to be taken to reduce the increasing propensity of ‘go away’ payments, and deliver a system where employers are able to make the management decisions necessary for meeting other responsibilities, enhancing productivity and the competitiveness of their businesses, while also respecting the rights of their employees.

“Employees should not have to be performance managed for up to 8 months before being dismissed. The employer is scared to dismiss that employee until all the ‘correct’ process is followed. The situation is strangling small business. If an employee in a small business cannot do their job, they should be able to be dismissed so the business can be profitable and employ people that want the work”

– Survey Respondent, South West Queensland

Recommendation: Access to unfair dismissal claims should be subject to reasonable limits that restore balance to the employer-employee relationship. This requires the following:

- A true unfair dismissal exemption for small businesses;
- Dismissal of claims where the Fair Work Commission (the FWC) determines that termination of employment was based on valid grounds;

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- Providing that the FWC may only consider issues relating to the employment relationship when determining claims;
 - Making higher fees payable on lodgement of an unfair dismissal application; and
 - Giving the FWC discretion to make costs orders and issue penalties against applicant employees and/or their representatives where the claim is determined by the FWC to have been false or vexatious.

3.7 General Protections Claims

106. Queensland businesses are also increasingly concerned about the rising number of general protections claims. The general protections provisions have significantly extended the capacity for employees and unions to litigate in the federal courts. Anecdotally, there are also suggestions that the uncapped monetary remedies available under this part of the Act, as opposed to unfair dismissal claims, have led to applicants 'shopping' the FW Act for remedies.
107. The broad scope of issues that can be canvassed under a general protections claim is of significant concern to employers. The general protections provisions of the FW Act provide that an employer must not take any 'adverse action' against an employee or a potential employee because the employee or potential employee has exercised or proposes to exercise a 'workplace right'. A 'workplace right' includes a broad range of matters, including:
- Union involvement;
 - The right to request flexible work arrangements;
 - The right to make complaints about their employment;
 - The right to make enquiries about pay; and
 - The right to request information about further disciplinary action.
108. Adverse action can include dismissing, suspending or demoting employees (with or without pay), as well as not hiring a potential employee. Because of the broad scope of these issues and definitions, the laws remain highly controversial.
109. Overall, general protections claims are providing a much easier way for employees to make a claim against their employers, with more time to lodge a claim compared to unfair dismissal provisions. They constitute a more attractive option due to the availability of uncapped compensation payouts and there are also reports of these claims being misused to circumvent unfair dismissal laws or for malicious reasons. However, this is difficult to verify given the lack of powers held by the FWC to deal with frivolous and malicious claims.

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110. Currently, the majority of claims made under the general protections provisions relate to dismissal cases. Considering there are already unfair dismissal provisions included in the FW Act, there is a strong case for removing the general protections provisions to alleviate the current concerns that are being raised.
111. If the provisions are not repealed, at the very least the reverse onus of proof should be removed or weakened, requiring the claimant to prove their case. Further, an employee's workplace right must be the 'sole or dominant' reason for adverse action being taken, with the central consideration in determining the reason for the adverse action being the subjective intent of the person who took the alleged adverse action. If the person who took the adverse action did not intend to do so because of an employee's workplace right, it is bordering on the absurd that the FWC or a court could be allowed to infer some level of 'subconscious' objective intention to the contrary.
112. Costs implications and financial penalties should also be introduced where a claim is determined to be false or vexatious. These measures allow employers to make necessary and good faith employment action and decisions, including performance management, demotions and suspension and termination of employment.
113. Finally, the maximum remedy available for a successful claim should be consistent with the amount available in an unfair dismissal claim, and capped at 26 weeks' pay.

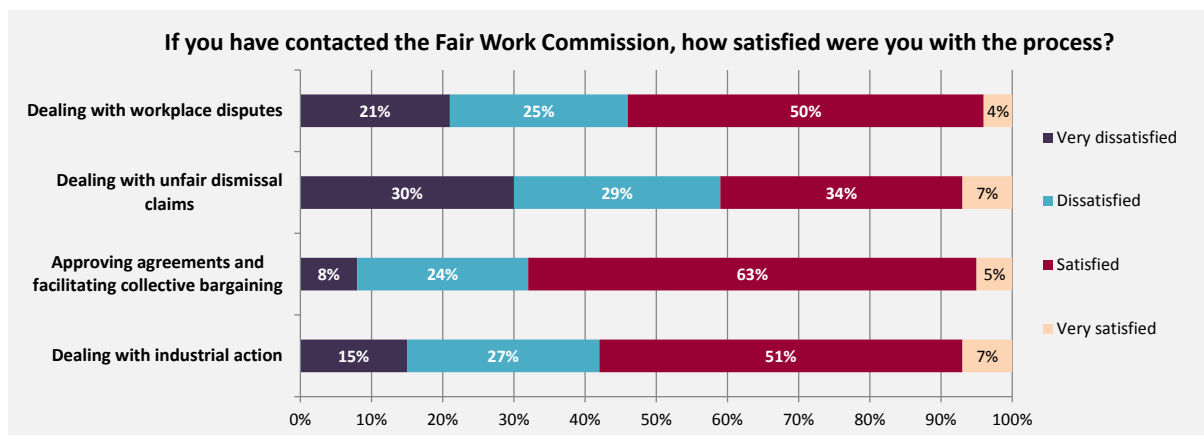
Recommendation: Access to general protections claims should be subject to reasonable limits that restore balance to the employer-employee relationship. This requires:

- Providing that prohibited adverse action will have only occurred where an employee's workplace right was the sole or dominant reason for the adverse action being taken;
- Providing that the subjective intention of the person who took allegedly adverse action should be the main consideration in determining the reason for that action;
- Removing the reverse onus of proof requiring employers to demonstrate that they did not take adverse action because of an employee's workplace right. If it is not removed, the applicant should have to establish that adverse action occurred before there is any presumption that the action was for a prohibited reason;
- Making higher fees payable on lodgement of a general protections application;
- Capping available compensation levels at 26 weeks' pay, the maximum remedy available for unfair dismissal claims; and

- Giving the FWC discretion to make costs orders and issue penalties against applicant employees and/ or their representatives where the claim is determined by the FWC to have been false or vexatious.

3.8 Interactions with Fair Work Commission and the Fair Work Ombudsman

114. The FWC and the FWO both play a key role in the regulation and enforcement of the Fair Work legislation. Historically, a strong industrial tribunal has been essential to the smooth functioning of the system it presided over, while Australian employers value and respect the role of an independent and well-informed FWO to assist with and monitor compliance in the workplace. Given the scope of the Fair Work system, and that it applies to the majority of Australian businesses, it is perhaps even more important that both these structures are seen to be efficient, effective and fair, while providing correct and timely assistance and direction required by both employers and employees.
115. The survey results suggest there is considerable scope for improving business interactions with Fair Work Commission. There was a high degree of frustration with dealings to do with unfair dismissal claims (59 per cent dissatisfied) and workplace disputes (46 per cent dissatisfied). Queensland businesses believe advice received from Fair Work Commission is inconsistent and lacks impartiality.



Source: Workplace Relations Survey – February 2015

116. Queensland businesses consider interactions with the Fair Work Ombudsman to be slightly better, with a lower level of dissatisfaction (41 per cent). However, the majority of Queensland businesses (60 per cent) have not been in contact with the Fair Work Ombudsman. This low level of engagement suggests the Ombudsman

service is not functioning as it should to inform and assist businesses in meeting their workplace obligations.

117. More support is required to ensure timely, accurate and consistent advice can be provided when required to ensure better understanding of the Fair Work system by employers. Our organisations support improving the accessibility and useability of the FWC and the FWO by employers who engage with the service. Employers should not be forced to obtain expensive legal and other professional advice in order to ensure they are complying with the current regulation.
118. It is important that an improved customer engagement process is implemented as a matter of urgency to meet these needs. Businesses also believe that improvements are required within the FWC to significantly reduce the current approval times for workplace agreements and allow for electronic platforms for negotiating and approving agreements, further decreasing the cost and impacts on businesses, their employees and the economy.

<p>Recommendation: Increase the accessibility and reliability of the advice and assistance provided by the FWC and the FWO for employers.</p>
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SECTION 4: CONCLUSION – A VISION FOR A BETTER SYSTEM

119. Queensland businesses have resoundingly told us that they want a workplace relations framework that meets the needs of contemporary workplaces and positively impacts on their productivity, sustainability and competitiveness.
120. In this submission, our Organisations have identified the essential elements that comprise a successful framework. These measures are those that Queensland businesses believe are the building blocks of an effective workplace relations policy – for now and in the future.
121. Implementing the above recommendations requires common sense reforms premised on the reality that every business is different. A workplace relations system that reflects the recommendations herein will move away from a ‘one-size fits all’ model for workplace relations in Australia. The way in which employees are engaged, their productivity and the flexibility of workplace practices are critical to this objective.
122. Queensland businesses’ vision is for a workplace relations framework that:
- *Reduces red tape and compliance costs:* Queensland businesses want a simple, effective and relevant workplace relations system that does not exceed what is necessary to achieve the desired results, both for

employers and employees. Reducing the prescriptive nature of the current legislation to allow for the adoption of best practice methods will go a long way towards allaying the current compliance costs and enhancing the capacity of employers to focus on running their businesses and putting in place the positive measures that better serve them, their employees, and their workplace as a whole. For example, employers don't want the safety net removed, just more flexible so that it can apply to a broader range of circumstances and doesn't operate to prevent them from hiring.

- *Embraces workplace flexibility:* The workplace relations system needs to embrace flexibility as the key factor for delivering mutually beneficial outcomes. While 'flexibility' is often used with respect to workplace relations without any accompanying explanation of what it entails in this context, this submission has clearly detailed how to attain flexibility in workplaces, and why flexibility must underpin changes to our workplace laws. We need a workplace relations system that can be tailored to the needs of extremely diverse and dynamic workplaces that are responding to constantly fluctuating economic conditions. This includes recognising that businesses must be allowed to directly negotiate with employees, the importance of casual working arrangements to huge sectors of the economy, and the need for a simplified awards system.
- *Delivers the appropriate balance between employers and employees:* It is essential to provide a system where the rights of employees (and their union representatives) are balanced against the rights of employers, with adequate protections put in place to ensure the sustainability and fairness of the system. This is vital to ensuring fair and equitable practices in every workplace, where employers have clear duties to treat employees in a fair and decent manner. Managerial prerogative must return as one of the central principles underpinning our workplace relations system: employers need the ability to make the management decisions necessary to enhance the productivity and competitiveness of their businesses, without fear of retribution.
- *Delivers productivity improvements:* Enhanced wages and conditions need to be offset by delivering equal benefits to employers through higher efficiency or productivity improvements. Interference of third parties in the management of businesses would be minimal. Under the Fair Work

system, the notion that wage and superannuation increases, and improvements to conditions of employment should not be tied to corollary increases in productivity has flourished. Our organisations know that employers cannot afford this approach without reducing staffing levels, cutting staff hours and downsizing their operations. These increases in the costs of employment must either be offset by productivity improvements, or be far more modest in size.

123. Workplace relations impacts on every business, in every industry and in every region. Inaction on this issue is no longer an option and Australia's economic prosperity is contingent on ensuring the right workplace relations framework is in place to meet the needs of contemporary Queensland workplaces.
124. Queensland employers frequently tell us that Australia's workplace relations laws have a significant capacity to impact on the productivity, sustainability and competitiveness of their businesses. Yet so often, these concerns are ignored or rejected outright by those with the power and responsibility for creating a regulatory environment that is conducive to prosperous workplaces.
125. CCIQ believes this is wrong – for too long, governmental approaches to workplace relations have been framed around ideology and politics. Queensland businesses cannot afford this continued inaction. While we are one of the nation's most prosperous states, we are not immune from the soft economic conditions that prevail throughout the global economy. Our daily struggle is not being helped by rigid laws that allow little flexibility, and seek to apply a 'one-size fits all' model to the diverse range of businesses in this country.
126. Since the commencement of the Fair Work Act 2009, CCIQ has been proactively analysing the operation of the Fair Work system and working with our members to determine the key frameworks and outcomes they require.
127. What we know as a result of that interaction is that the system is not working, and that change is required.
128. This Submission underpins the way forward for putting in place a workplace relations system that gets the balance right, benefiting employers, employees and the economy.
129. The time for change has well and truly arrived. Our Organisations are calling on the Productivity Commission and the Federal Government to take strong and decisive action to undertake the reforms that are necessary to boost workplace productivity, sustainability and competitiveness for Queensland and Australia.

Survey Method

The analysis undertaken by CCIQ in the preparation of this report is based on 1,038 survey responses from Queensland businesses. The survey was conducted between 11 February and 3 March 2015 to inform our feedback and participation in the Productivity Commission's inquiry into workplace relations.

