



17<sup>th</sup> November, 2024

Senator the Hon Murray Watt  
Minister for Employment and Workplace Relations  
Parliament of Australia  
Canberra, ACT, 2600

**RE: INCREASING THE SMALL BUSINESS THRESHOLD IN THE FAIR WORK ACT**

Dear Minister Watt,

We are writing to ask the Government to increase the threshold for ‘small business’ in the Fair Work Act from 15 to at least 25 employees, and to release the Fair Work Ombudsman’s interim report into how small businesses are defined across Commonwealth legislation.

Small businesses in our communities are facing extremely challenging economic circumstances, with costs continuing to rise and consumer spending stagnant. 45% of small businesses have considered shutting their doors in the last 12 months alone and 40% said they anticipate a reduced or significantly reduced profit in this financial year.<sup>1</sup>

Small businesses have consistently told us that the volume and complexity of employment law is a major challenge. This complexity has increased significantly in the last 2 years, as a result of changes to the Fair Work Act such as the introduction of a ‘Right To Disconnect’ and changes to how casual workers are employed. In a recent survey, 82% of small businesses said that they were struggling with the level of regulatory compliance.<sup>2</sup>

Small businesses are the backbone of our economy and account for 98% of all businesses in Australia. They are among our most dynamic firms and are key to driving productivity and economic growth.<sup>3</sup> Government policy should be directed towards making it easier for small businesses to create jobs and prosperity for our country.

However, this is not currently the case. Instead, the regulatory burden that we are placing on small businesses is too high. Unless we do more to support them through these challenging economic times, we risk losing many small businesses forever.

One of the simplest ways to reduce the regulatory burden on small businesses would be to increase the threshold for businesses subject to the Fair Work Act from 15 employees to at least 25. This change would provide relief to small businesses across Australia and would more appropriately reflect the limited resources that they are able to deploy to handle complex legislative requirements.

Raising the threshold of what constitutes a small business would allow owners to focus on serving their customers, rather than wading through burdensome red tape that often does little to support employees. The practical impacts for affected employers would include:

- Entitling more businesses to an exemption from multi-employer bargaining;
- Granting more small employers an exemption from paying for union workplace delegates to take time off to undertake union training;

<sup>1</sup> Australian Chamber of Commerce and Industry (2024) – 2024 Small Business Conditions Survey

<sup>2</sup> Australian Chamber of Commerce and Industry (2024) – 2024 Small Business Conditions Survey

<sup>3</sup> e61 (2023) – Multi-employer bargaining: A barrier to firm growth? (Research Note No.2)



- Providing greater access to safe harbor provisions under the new wage theft laws, which is crucial due to the complexity of modern awards and the Fair Work Act;
- Delaying the commencement of 'Right to Disconnect' obligations until 2025 to allow more small businesses to prepare for the change;
- Relieving excessive administrative requirements around the provision of the Casual Employment Information Statement to employees; and
- Extending the delay until employees can access the unfair dismissal regime from 6 to 12 months.

Such a change would have strong support in parliament and the broader community. Many of us argued for this change to be made during the most recent tranche of industrial relations legislation, and this same proposal has recently been put forward by the Australian Chamber of Commerce and Industry – which represents 400,000 member organisations across the country. Similar logic was accepted by the government when it increased the threshold to 20 staff for small business exemptions in its multi-employer bargaining laws.

We understand that the Fair Work Ombudsman is currently undertaking a review of the definition of 'small business' across all Commonwealth legislation, following an agreement with the Senate crossbench earlier this year. We also understand that an interim report has now been provided to the Government.

However, we are concerned that your recent statements suggest the Government is not willing to consider changing the definition of 'small business' in legislation such as the Fair Work Act – irrespective of the review's outcomes. This would be against the spirit of the commitment made by the Government earlier this year.

In addition to seeking your commitment to raising the threshold for 'small business' in the Fair Work Act from 15 to at least 25 employees, we also ask that you release the Fair Work Ombudsman's interim report. This would help to demonstrate the Government is acting in good faith on this issue.

We would welcome the opportunity to discuss this suggestion with you. Given the interest in this issue among our constituents, we may release this letter publicly in due course.

Yours sincerely,

**Allegra Spender MP, Member for Wentworth**

**Kate Chaney MP, Member for Curtin**

**Kylea Tink MP, Member for North Sydney**

**Zali Steggall OAM MP, Member for Warringah**

**Dr. Helen Haines, Member for Indi**

**Dr. Monique Ryan, Member for Kooyong**

**Dr. Sophie Scamps, Member for Mackellar**

**Zoe Daniel MP, Member for Goldstein**