

THE LAW

Safety net guaranteed

Entitlements protected if bosses go bankrupt.

Employee rights to redundancy and other benefits if their employer goes bankrupt or insolvent will be confirmed by legislation passed by the federal parliament.

The Fair Entitlements Guarantee Bill 2012 guarantees payment for entitlements including redundancy, annual leave, long service leave, wages and payment in lieu of notice in cases where an employer is unable to pay these entitlements to their staff.

In such cases the government would provide an advance to the worker equal to their unpaid entitlements, and then take the employee's place as creditor to the company to seek recovery of the advance through winding up or bankruptcy proceedings.

Introducing the bill into parliament, Employment and Workplace Relations Minister Bill Shorten said this process would allow workers to promptly receive their full entitlements, rather than facing long delays and the risk of receiving far less than what they are owed.

"The bill will provide certainty for Australian employees who find themselves without a job and left out of pocket when their employer becomes

insolvent or bankrupt and cannot pay them the employment entitlements they are owed," Mr Shorten said.

The bill largely mirrors existing arrangements available to workers under the General Employee Entitlements and Redundancy Scheme (GEERS) currently administered by the Department of Employment, Education and Workplace Relations.

This process would allow workers to promptly receive their full entitlements

The bill seeks to enshrine these protections in legislation, rather than as an administrative arrangement, as well as make some minor changes to eligibility requirements to make it easier for workers to apply for payments.

Member for Mayo (SA) Jamie Briggs said the opposition largely supports placing the arrangements into law, given the GEERS was established in 2001 by the previous government.

Mr Briggs said there are a number of examples where companies have collapsed suddenly, often without the ability to pay their employees' wages or entitlements.

"Equally, there are times when employers and directors make bad decisions or deliberately make decisions which seek to unfairly treat their workers," Mr Briggs said.

"That is why we need protections in law in this country: to ensure that people are not unfairly treated. We do need a safety net, and we have always supported – I have always supported – the need for a strong safety net of entitlements for people in the workplace."

However the opposition has raised concerns about increases to the maximum payments that were available under the original GEERS, particularly relating to potential redundancy payouts for long-serving workers.

Shadow Minister for Employment Participation Sussan Ley moved an amendment to cap redundancy payments at a maximum of 16 weeks' pay, saying it is important to keep payouts at a limit in line with community expectations.

"As noted by the minister, the bill actually enshrines in legislation a redundancy package, calculated at four weeks per year of service, which would, we believe, set a new high bar that union bosses could use as a new high bar in enterprise bargaining," Ms Ley said.

"The Coalition maintains its fiscal prudence – its cautious approach – and we will keep the redundancy package as it is under GEERS now, in line with community expectations and capped at 16 weeks."

However Mr Shorten said workers would only receive payments equal to what they would be otherwise entitled to under their workplace agreement or other industrial instrument, with redundancy set at a maximum of four weeks per year of service.

Mr Shorten said the amendments put forward by the opposition may unfairly penalise long-serving workers who could otherwise be entitled to much larger redundancy payouts.

"Under the opposition's proposal, once you have basically done four

"The bill will provide certainty for Australian employees who find themselves without a job and left out of pocket"

THE LAW

FAILSAFE: Support for workers caught out by corporate collapses



years in a company, you get nothing more,” Mr Shorten said. “What the opposition will be doing with their amendments is enshrining a short-term view of people’s loyalty, saying that, at four years, that’s it.

“If you have worked as a machinist in an automotive components company for 20 years,

they are saying, ‘You might as well have only worked there for four years, because that is all we are giving you’.”

“We do need a safety net”

The opposition amendments were defeated and the bill passed the House and the Senate with the support of crossbench MPs. •



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STATUTE LAW

Legal spring clean

Tidy up for legislation.

Australia’s laws were recently scheduled for spring cleaning, with the passage of a bill to fix typos, punctuation errors and cross-referencing mistakes in about 150 pieces of Commonwealth legislation.

Obsolete laws such as the Treaty of Peace (Germany) Act 1919 will also be scrapped in a bid to tidy up the law book.

Attorney-General Nicola Roxon introduced the clean-up bill into the House of Representatives, stating that the aim of the Statute Law Revision Bill 2012 was to make the Commonwealth statute book simpler, clearer and easier to understand.

“Statute law revision bills have been used for the last 30 years to improve the quality of Commonwealth legislation,” she said.

“The bills do not make substantive changes to the law but still perform the important function of repairing minor errors ... which accumulated across successive government amendments.”

The Office of Parliamentary Counsel had the job of going through the acts, finding the errors and out-dated references to be fixed.

Proposed amendments include:

- inserting or deleting full stops and capital letters;
- replacing terms that no longer exist with the ones that replaced them;
- fixing incorrect cross-references;
- fixing incorrect punctuation;
- fixing typographical/spelling errors such as himself→himself; originally→originally;
- getting rid of redundant sections of acts;
- adding conjunctions at the end of the subparagraphs to make the acts consistent with current drafting practice;
- replacing specific references and definitions of certain aircraft with more generic references;
- removing specific references to ministers and departments with generic terms that will still be relevant even if the portfolio name changes; and
- repealing obsolete acts entirely. •