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Mr Malcolm Greening
Workplace Relations Policy Group
Department of Education, Employment
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GPO Box 9879
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Dear Sir

The Australian Sugar Milling Council Pty Limited (ASMC) is a voluntary representative organisation and forum for owners and operators of raw sugar mills in Queensland. Its mission is to safeguard and promote the interests of sugar millers. There are 22 sugar mills and one juice mill in Queensland. The 10 companies that own those factories are all members of the ASMC and are constitutional corporations covered by the *Workplace Relations Act 1996* (the Act). The Queensland raw sugar mills employ approximately 5000 people.

Until the reform commencement, the Queensland sugar milling industry was covered predominantly by State industrial jurisdiction.

The Council has considered the *National Employment Standard Exposure Draft – Discussion Paper* and offers the following comments.

Maximum weekly hours

The Queensland Sugar Milling Industry operates on a continuous (24 hour, 7 days a week) roster for the approximately 22 weeks crushing season and then reverts to a 9-day fortnight roster for the non-crushing period. It works 8-hour shifts during the “nominal crushing season” of 52 weeks and works 36-hour weeks during the “nominal non-crushing season”.

When continuous crushing was introduced in the industry from the late 1980s (on various dates at different mills) the industrial parties varied the relevant State Awards (now NAPSAs) by consent to provide the above-mentioned 38-hour week average across the year for full time employees. Appropriate compensation was also provided in the awards for seasonal employees

Para 49 of the discussion paper states: -

49. The proposed maximum hours NES does not include rules dealing with the averaging of hours. The Government considers that averaging arrangements are better dealt with under modern awards which can set out industry-specific arrangements. Therefore, the proposed NES expressly allows modern awards to deal with averaging of hours arrangements.

The ASMC strongly endorses this sentiment and urges that this intention remain in any NES.

Requests for flexible working arrangements

Under the NES it seems that only a parent of a pre school-aged child can request flexible work arrangements with their employer and then, only until their last child reaches school age.

Para 68 of the discussion paper states: -

68. Flexible working arrangements could include a reduction in hours of work (e.g. part-time work), a change to non-standard start or finish times, working from home or another location, working 'split-shifts' or job sharing arrangements.

This totally ignores the flexible working requirements of the general working community or flexible working requirements that employers may have of certain employees.

The ASMC urges consideration of this facility being available to any employment situation with any employee where there is genuine agreement between the employer and employee.

Annual leave

The NES proposes no change to the existing standard quantum for annual leave.

The ASMC endorses that proposal.

Leave will accumulate progressively; to ensure maximum flexibility there is no rule about how leave may be taken and the employer will not be able to unreasonably refuse an employee's request to take paid "annual" leave. This is addressed at paras 140 & 146 - 148. This means a new employee could seek to take their "annual" leave after having worked only a few days or weeks. Para 149 advises that Fair Work Australia will provide general information and assistance to employers about what they think is reasonable or unreasonable refusal.

ASMC has a concern about the practical impact of employees taking leave without any long term planning, during the continuous shift work period (the crushing season) where leave taken results in overtime arrangements for covering vacancies in the shift roster. There is a WH&S impact and a cost impact in this. Some accommodation of "reasonableness" will need to be available in the deliberations of Fair Work Australia.

Para 162 of the discussion paper addresses the matter of the extra week's leave for shift workers.

ASMC suggests that this is presently satisfactorily covered in the *Workplace Relations Act* s.232(3), and urges that this provision be retained in the Act.

Members of the staff of the Australian Sugar Milling Council or from Member Companies would be available for further consultation on matters in the NES should the opportunity arise.

Yours faithfully

Peter H Warren
Manager Industrial Relations