

## **NES Exposure Draft Submission**

### **GC 31**

#### **Workplace Relations Policy Group**

Department of Education, Employment and Workplace Relations  
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#### **BSCAA Submission on Redundancy**

The Building Services Contractors Association of Australia Inc is a national body, comprising over 1,200 employers, many of which employ significant numbers of contract cleaners, security guards, traffic controllers and a range of other building services contractor employees.

The organization has been in existence for over 45 years, only changing name through name changes occasioned by growth and amalgamations.

The BSCAA would argue that its employees, in the main, are unique, in particular, those employed in the Cleaning Division, which is the largest by far of the employee groups.

We wish to make a submission in respect of the issue of redundancy in particular, one of the 10 key areas, addressed by the discussion paper headed National Employment Standards Exposure Draft.

The area of concern to this organization, is the discrete contractual arrangements, under which both the employer may operate and also his or her employees. Contracts are tendered for and won across a very wide spectrum.

Staff may be employed on a permanent basis, accruing all normal entitlements and receiving the full range of benefits under such arrangements.

A significant number of staff are employed on casual and temporary arrangements, based often on the small to large amount of work to be done on a regular basis and therefore many employees work to suit both their own time frames and availability, as well as the contractual needs of a client.

Quite often, there is a changeover with contracts, for any number of reasons and this may or may not result in the employee being offered ongoing employment, in say a building, for example, by a new successful contractor, or otherwise.

Contractors also may employ a complex workforce across a very wide range of buildings and premises, which in turn, may or may not allow for transfer of an individual from one workplace to another, based on the complexity of the current contracts and the workforce at the time.

The cleaning industry requires quite often, Certificate level qualifications, particularly in a number of areas involving occupational health and safety considerations, chemical management and a wide range of other key needs, including machinery operation. Again, the spectrum is so broad as to make it impossible to generalize and also complicates issues regarding transfer of an employee from one workplace to another, upon the loss of a contract.

It is the BSCAA's position that vast majority of contracts of employment employed within our industry are discrete i.e. employees are only offered employment for a specified period at a specific work site for as long as the service contract is in existence. As such contracts of employment in our industry reflect the fact that they are fixed term contracts and not continuous for an indefinite period. Redundancy provisions should not be applied when a contract changes hands but only be available as per the true intent of the provision.

It is clear that redundancy provisions were never envisaged to apply to situations such as those that occur frequently within the cleaning industry i.e. changing of contractors resulting from competitive tendering. As with long service leave, there has been a significant problem for companies being able to adequately provision for this contingent liability. It is asserted that redundancy provisions are unfairly applied and have the potential to significantly disadvantage businesses in the context of contract change over.

We therefore wish in summary, to draw to the attention of the Government, our concerns about the uniqueness of the contractual framework within which we work and to argue therefore, that redundancy does not truly apply, particularly in relation to changeover within contracts.

Yours sincerely,

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Chief Executive Officer  
Building Service Contractors Association of Australia