



# Push to lock penalty rates

**EWIN HANNAN**  
INDUSTRIAL EDITOR

JULIA Gillard has moved to make it harder for companies to abolish the penalty rates of employees, under proposed changes to the federal workplace laws that employers denounced as a “kick in the guts” to the small-business sector.

Workplace experts last night described the Prime Minister’s announcement as “largely symbolic”, saying it was an attempt to wedge Tony Abbott and did not enshrine penalty rates as a minimum standard for every worker.

In a third concession to union leaders in seven days, Ms Gillard said the government would insert a new modern awards “objective” in the Fair Work Act to “protect” penalty rates, and claimed the policy would “improve the living standards and the working conditions of the insecure millions”.

Under the proposal, penalty rates, overtime, shift work loading and public holiday pay would be “definite, formal considerations” of the Fair Work Commission when it was setting award rates and conditions.

Ms Gillard told an ACTU jobs summit in Canberra the government would “make it clear in law” that employees who work shift

work, unsocial, irregular, unpredictable hours or on weekends and public holidays should receive additional remuneration.

Union leaders, including ACTU president Ged Kearney, immediately challenged the Opposition Leader to match the commitment, but Mr Abbott played down the announcement, saying the commission already took the matters into consideration.

“It is not really a new announcement, it is just another gesture and we support ensuring that workers get a fair go,” he said, adding that the “pay and conditions of decent hard-working people of Australia will be safe under the Coalition”.

Employer groups attacked the proposal, saying it would prevent the commission from starting with an open-mind when considering employer applications to reduce or abolish penalty rate entitlements in different industries.

University of Adelaide law professor Andrew Stewart said the proposal would reduce the commission’s discretion and “make it harder to get rid” of penalty rates.

Professor Stewart who advised the government on the drafting and structure of the workplace

laws, said the move was “largely symbolic”.

“It’s designed to make it look as if the government is responding to the ACTU’s insecure work campaign which, of course, they’re not,” he said. “The second thing it’s designed to do is to put pressure on the Coalition to tie its colours to the mast.”

Australian Chamber of Commerce and Industry chief executive Peter Anderson said the move stopped the commission from considering employer attempts to scrap or reduce penalty rates from a “neutral stance”.

“This is a big-ticket item for the union movement,” he said. “It is not a superficial proposal. This will have the profound effect of basically killing the prospects of industry to have a fair day in court to seek penalty rate relief,” he said.

Australian Industry Group chief executive Innes Willox said the proposal would put unreasonable restrictions on employers and employees who trade off penalty rates for longer leave provisions.

Greens workplace spokesman Adam Bandt said Labor should “move beyond rhetoric”.