

## INQUIRY INTO IMPACT OF COMMONWEALTH WORKCHOICES LEGISLATION

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**Theme:**

**Summary**

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**NATIONAL COUNCIL OF WOMEN NSW Inc. SUBMISSION TO THE  
INQUIRY INTO THE IMPACT OF THE COMMONWEALTH WORK  
CHOICES LEGISLATION TO THE STANDING COMMITTEE ON SOCIAL  
ISSUES.**

I present to the Members of the abovementioned inquiry my submission on behalf of National Council of Women NSW Inc. It is mainly based on a report done by my colleague, Mimi Zou who is the National Council of Women Australia's National Adviser on Sustainable Development which includes the portfolio of Women and Employment.

We are concerned that the industrial relations reforms can disadvantage Australian women and their families by undermining their rights and conditions at work and focusing minimal attention to the obstacles to women's participation in paid work.

Currently, women make up the majority of casual and low paid workers in Australia. Australia has very high levels of casual work compared to other OECD countries.

A more efficient and fairer approach to the utilisation of women in the labour market requires the reduction of existing barriers to their participation. These barriers result from the unequal outcomes for women workers – lower pay, fewer entitlements, less job security – compared with their male counterparts as well as the lack of support for women juggling paid work and motherhood.

Unfortunately, the industrial relations changes have done nothing to address these barriers. In fact, the reforms can exacerbate problems of lower pay, fewer entitlements and job insecurity which already confront many working women. These implications will also mean fewer incentives for women to work, especially in a context where the government is showing no real commitment to addressing the so-called "barbecue stopper" of work-life balance for women and their families.

**Abolishing unfair dismissal laws.**

The government's proposed changes to unfair dismissal laws will unduly disadvantage women working in small and medium business enterprises – many of whom already have low job security as casual and part-time employees.

**Erosion of the award safety net.**

Many women work in occupations which are covered by awards. The further weakening of the existing safety net will disadvantage more women than it does men, because the award system protects the wages of proportionally more women.

**Reducing the powers of the Commission to set minimum wages.**

Removing the minimum wage case from the hands of the Industrial Relations Commission will have an adverse impact on many women workers who are reliant on a fair minimum wage adjustment made by an independent body. The newly proposed Australian Fair Pay Commission will only have the power to recommend changes to the minimum wage, so ultimately the government will control whether their recommendation is implemented as well as appointments to the tribunal.

As for the proposed national minimum wage, there is no guarantee that it will be adjusted to keep pace with inflation. It is intended by the Government that minimum wages would rise much slower and less frequent under the new system.

**The push towards individual employment contracts.**

In 1996, the Howard government introduced Australian Workplace Agreements (AWAs) which are individual contracts that allow employers to undercut conditions in existing awards and collective workplace agreements.

Under the new reforms, the rules will be changed to make it easier to get an AWA approved. Individual contracts will no longer be benchmarked against award standards, but against the new minimal standards of the Australian Fair Pay and Conditions Standard. Given the relatively weak bargaining position of women in low-paid occupations, the determination of additional conditions will ultimately be dependent on the generosity of their employers.

Women generally do poorly under AWAs because many of these agreements do not include pay increases over the life of the agreement and thereby hold wages down. Current data further shows that women on AWAs earn \$5.10 an hour less than men on AWAs. Furthermore, many AWAs provide inflexible arrangements in relations to working hours and do very little to address the family-work burden faced by women.

**Undermining the right to collective bargaining.**

The proposed reforms will make it more difficult for employees to engage in collective bargaining when negotiating wages and conditions with their employer.

Unions play a crucial role in the collective bargaining process. Average weekly earnings for union members are 17 per cent higher than for non-union members. Women workers, who make up a majority of part-timers and casuals, do best from the "union effect" and have therefore most to lose from individualisation.

The Federal Government proposals will make it more difficult for unions to organise and represent workers. Employees will not have "freedom of Choice" when it comes to bargaining collectively. In other OECD countries, when employees want collective bargaining, employers are under a legal obligation to come to the negotiating table. There is no such requirement under the government's reforms and the employer can in fact refuse to negotiate.

In addition, unions play an important role in governing workplace practices, overseeing health and safety requirements and in ensuring that workers are paid correctly. Restrictions on unions' right to enter workplaces will mean that these functions will be severely restricted. This will result in many women being unable to seek assistance and support in resolving poor working arrangements and protecting their rights at work.

**Eliminating state industrial relations tribunals.**

The Federal Government's push for a single unitary national industrial relations system will entail the significant weakening of the powers of the State industrial relations systems. This will disadvantage a significant proportion of women workers,

such as those in the childcare, cleaning and clerical occupations, who are reliant on State-based common rule awards to set their wages and conditions of employment.

Furthermore, various State Tribunals have made important advances in equal remuneration that have not been achieved through the Federal jurisdiction. Several decisions by State industrial relations commissions recognised the undervaluation of occupations which were historically performed by women. Examples include the NSW librarian's test case in 2002 which achieved an average of 16% in wage rises for library workers and the Victoria/ACT childcare test case in 2003 which saw a minimum of \$82.20 per week for some workers.

### **Lack of incentives for women to work.**

In the context of a growing labour market shortage, women are being called upon to return to the workforce. 71% of women in paid work are in their prime child-bearing years (25-34), representing a massive 31% increase over the past twenty years. This means that young women are faced with managing the dual role of work and motherhood responsibilities. Yet, the proposed reforms do nothing to address the burdens of work-family collision for Australian women. One of the most obvious government policy areas that could validate women's dual roles is a paid maternity leave scheme for working women in Australia. There is currently no such scheme at a legislative level, and the Howard Government has not indicated any intentions to introduce it in the near future. It is estimated that a least 40% of the female workforce has no access to paid maternity leave. It is often the lower paid and those in female concentrated industries who are least likely to have access to paid maternity leave. Only 0.4% of casual workers are entitled to it.

### **Conclusion.**

Under ten years of enterprise bargaining, women's employment conditions have not substantially improved. Existing evidence indicates that further deregulation will result in more adverse consequences for women. Indeed, the new reforms is likely to produce less favourable outcomes in wages, conditions and employment rights for women and exacerbate the existing gender wage gap.

Overall, the implications of lower wages and higher job insecurity emerging from the reforms will discourage the constructive participation of women in the labour market and worsen the position of women in the workplace.

To meet the challenges of labour market and skill shortages, slowing productivity and work-life tension, Australia needs modern, innovative workplace reform that better utilises existing human resources. Yet these reforms entail an old-fashioned, low-wage solution focused on increasing employer control over labour. There is much more to be done

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