



12 September 2022

Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600
By email to: eec.sen@aph.gov.au

RE: Submission on 'Equal Pay for Equal Work' for labour-hire employees

Dear Committee

Thank you for the opportunity to make a submission on the 'equal pay for equal work' amendments to the *Fair Work Act 2009* (Cth).

About JobWatch

1. JobWatch Inc (**JobWatch**) is an employment rights, not-for-profit community legal centre. We are committed to improving the lives of workers, particularly the most vulnerable and disadvantaged.
2. JobWatch is funded by the Fair Work Ombudsman, Victoria Legal Aid and the Victorian Government. We are a member of Community Legal Centres Australia and the Federation of Community Legal Centres (Victoria).
3. JobWatch was established in 1980 and is the only service of its type in Victoria, Queensland and Tasmania. Our centre provides the following services:
 - i. Tailored information and referrals to workers from Victoria, Queensland, and Tasmania, via a free and confidential telephone information service (**TIS**);
 - ii. Community legal education, through a variety of publications and interactive seminars aimed at workers, students, lawyers, community groups and other relevant stakeholders;
 - iii. Legal advice and representation for vulnerable and disadvantaged workers across all employment law jurisdictions in Victoria; and
 - iv. Law reform work and advocacy aimed at promoting workplace justice and equity for all workers.
4. Since 1999, JobWatch has maintained a comprehensive database of the callers who contact our TIS. To date we have collected more than 240,000 caller records, with each record usually canvassing multiple workplace problems, including discrimination, harassment, bullying and unfair dismissal. Our database

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allows us to follow trends and report on our callers' experiences, including the workplace problems they face and what remedies, if any, they may have available at any given time across State and Federal laws.

5. JobWatch currently assists approximately 16,000 callers through the TIS per year. The vast majority of our callers are not union members and cannot afford to get legal assistance from a private lawyer. To become clients of the legal practice, workers must have an employment law matter that has legal merit and their cases must satisfy the requirements of our funding agreements (which typically focus on client vulnerability and public interest issues).

JobWatch's views about 'equal pay for equal work' for labour hire employees

6. JobWatch is of the view that the *Fair Work Act 2009* (Cth) should provide a guarantee that labour-hire employees be paid at least the same rate as the people who do the same work but who are employed by the host employer. This guarantee should apply across all industries and occupations. Such reforms would improve the pay and conditions of labour hire employees.
7. We do not consider that the protections afforded by the proposed 'equal pay for equal work' provisions should be limited to those covered by the modern awards set out in this Bill.
8. The differences in pay and conditions for labour-hire employees, compared to non-labour-hire employees, is grossly unfair. The evidence in the JobWatch database indicates that labour-hire employees often experience a lower standard of pay and conditions at work and have little recourse available to them.
9. For example, *Patrick* (not his real name) *worked as a labour-hire employee in the manufacturing industry. Patrick realised that unlike his co-workers at the host employer, he wasn't being paid public holiday penalty rates. His employer informed him that he wasn't entitled to those benefits because of his contract.*
10. *Patrick's story is not unique. Several labour-hire workers across all industries and occupations have reported to us that they think they are paid less than their colleagues who are employed by the host employer.*
11. We are particularly concerned about people who are paid by labour hire operators under independent contractor agreements, instead of employment contracts, in what often appear to be sham contracting arrangements. For example, *Muhammad* (not his real name) *completed a vocational placement with a large organisation, X, while he was studying. At the end of his internship, he asked X if there was any paid work available. He was directed to speak with a particular labour hire provider, Y, who offered him an independent contractor agreement to sign. Muhammad worked full-time hours for the host, X, but was paid by Y. His*

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colleagues who were employed directly by X and who performed the same work as Muhammad, enjoyed better terms and conditions.

12. In conclusion, JobWatch encourages the Committee to recommend that the proposed amendments to the *Fair Work Act* not be limited to the modern Awards set out in this Bill but that steps be taken to better protect all labour hire employees across all industries and occupations.

Please do not hesitate to contact us with any queries:

Yours sincerely,

Gabrielle Marchetti
Principal Lawyer
JobWatch Inc

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