

**Submission by the Australian Nursing and Midwifery Federation to
the Senate Education and Employment Legislation Committee**

Fair Work Amendment (Equal Pay for Equal Work) Bill 2022

September 2022



**Australian
Nursing &
Midwifery
Federation**



Australian Nursing and Midwifery Federation / Fair Work Amendment (Equal Pay for Equal Work) Bill 2022

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Introduction

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 310,000 nurses, midwives and care-workers across the country.
2. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.
3. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.
4. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.
5. The ANMF thanks the Education and Employment Legislation Committee for the opportunity to provide feedback on the *Fair Work Amendment (Equal Pay for Equal Work) Bill 2022* (Bill).
6. The ANMF has had the opportunity to view the submission of the Australian Council of Trade Unions (ACTU), with which the ANMF is affiliated. The ANMF supports this submission. Like the ACTU, the ANMF encourages Senator Roberts to work with the new Government to develop legislation that can best give effect to the shared goals of Senator Roberts and the new Government.



Concerns with the Bill

7. The ANMF shares the concerns of the ACTU which can be viewed in detail in their submission and will not be repeated by the ANMF.
8. Specifically, the ANMF shares the concern of the ACTU around the specification of modern awards under proposed section 33B(4) of the Bill. The ANMF does not understand how a pay disparity between a labour hire worker and a directly employed worker can be satisfactory in one industry or occupation but not in another.
9. The Bill only provides pay security to employees who perform work for a person other than their own employer. It does not cover workers who are “independent contractors”. This would lead to the ongoing exploitation of workers under arrangements that prior to the decision of the High Court in *Personnel Contracting*¹ would probably have been regarded as sham arrangements under the *Fair Work Act 2009*.
10. The ANMF shares the concerns of the ACTU that the labour hire companies will rapidly change the language in their contracts to move employees onto contracting arrangements, to remove the risk of being covered by the terms of the Bill. This is particularly relevant to carers and nurses working in aged care which historically have had lower wages than their public and private acute counterparts.
11. The ANMF holds significant concerns around the use of digital platforms and independent contractors in the aged care sector. The ANMF is concerned that the previous Government had moved to promote this form of insecure work as an alternative to providers engaging ongoing staff directly. It did this, for example, by investing heavily in digital platforms like Mable.
12. The ANMF supports additional legal measures that the new Government has proposed to introduce, to ensure that workers engaged through labour hire companies receive at least

¹ *Construction, Forestry, Maritime, Mining and Energy Union v Personnel Contracting Pty Ltd* [2022] HCA 1



the same pay and treatment as workers directly employed. Such measures would cover all workers, including nurses, midwives and carers.

Conclusion

13. The ANMF strongly encourages Senator Roberts to work with the new Government on a set of provisions to best give effect to the objective of “Equal Pay for Equal Work”. The currently proposed *Fair Work Amendment (Equal Pay for Equal Work) Bill 2022* does not meet this objective.