Freedom Socialist Party

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Via e-mail to eewr.sen@aph.gov.au

Committee Secretary
Senate Education, Employment and Workplace Relations Committees
PO Box 6100
Parliament House
Canberra ACT 2600 Australia

Dear Secretary,

Submission in relation to Fair Work Amendment (Small Business-Penalty Rates Exemption Bill 2012)

We appreciate the opportunity to participate in the above review. The Freedom Socialist Party (FSP) is a socialist-feminist party founded in Australia in 1983. We have a proud history leading successful fights against Nazis, anti-choice bigots and workplace discrimination. We look to the leadership of the most oppressed sections of the working class, making us unique on the Australian left.

We are making this submission because we believe that working people "work to live" rather than "live to work." We are opposed to the yawning inequality that exists in this country — a situation that is getting ***worse***. According to the Australian Bureau of Statistics (ABS), in 1994-95, households in the top 10 per cent earned an average of 3.78 times more than the bottom 10 per cent, but by 2009-10, this had grown to 4.21 times.

The gap in wealth is even starker, with the wealthiest 20 per cent of households accounting for more than 60 per cent of wealth while the bottom 20 per cent own just 1 per cent of the nation's household wealth!

There's also a disgraceful gender based pay gap, which we are campaigning to close. According to the ABS Average Weekly Earnings Trend Data, February 2012, women today earn 17.4% less than men. Over her lifetime, a woman in Australia can expect to earn almost one million dollars less than a man.

If enacted this bill would contribute to widening income inequality, wealth inequality and the gender based pay gap. It would also have a terrible impact on the already meagre wages of young people, many of whom balance costly full time study with part-time evening and weekend work where they ***rely*** on penalty rates to survive.

The explanatory memorandum opens with the statement: "The purpose of this bill is to seek a compromise between small business operators and their employees in relation to penalty rates."

This use of the word "compromise" does not fit any definition of the word we have been able to discover! What is proposed through

this bill is the interference of the State in the employment conditions of thousands of the lowest paid and most insecure workers with the specific aim of cutting their take home pay.

This, we submit, is reason enough for the bill not to pass into law.

The memorandum continues: "The original intention of penalty rates was to compensate employees for hours worked outside the standard Monday to Friday working week. This concept is now largely outdated: thanks to improvements in technology, the development of a global economy and the deregulation of trading hours, many businesses trade over all seven days. As such, many part time or casual employees consider weekends to be part of their regular hours."

The assertion concerning the origin of penalty rates is notable for what it omits: the span of unsociable hours within the Monday to Friday working week. These include disruptions to sleeping patterns inherent in early morning, late afternoon and night rosters. The bill simply ignores these well-known consequences of shift work.

It also extends shifts for affected workers from 7.6 hours to 10 hours without any compensation other than the standard hourly rate.

In any attack on the conditions of working people, both in Australia and more broadly, the use of "weasel words" is never far from the discussion, and the memorandum duly resorts to such language. ("This concept is largely outdated.") Actually, unless the Parliament wishes to legislate for all employees to work only during daylight hours, we fail to see how the concept of penalty rates for working at unsociable and/or unhealthy hours is in any way "outdated."

No special pleading about technology, the global economy or deregulation of trading hours can alter the reality that night does indeed follow day, that humans are affected by that diurnal progression and that the century-old assertion that workers should be compensated for working outside "normal" hours.

Indeed that last argument has been used to justify the generous salaries of Senators and Members of the various Parliaments. If it applies to Senators, then it applies to shift workers.

The assertion in the memorandum about what casual or part-time workers consider to be their regular hours is just that. Low-paid, insecure workers generally have little choice than to work the hours they're rostered, no matter how unfriendly the start or finishing times, the spread of hours or the effect on their social and family life or their health. The memorandum is silent on the many full-time workers in the catering, restaurant and retail sectors who, should the bill be enacted, would suddenly find their "regular hours" beginning on a Sunday or ending on a Saturday, with no compensation for the change or the inconvenience.

Once again, we note the use of weasel words in the memorandum. "Regular hours" are not the same thing as "normal hours." Not that the term "regular" has any real meaning in sectors notorious

for their irregular rosters.

The bill would create a whole cohort of second-class workers, those whose employers are "excluded" from paying them compensation for unsociable hours merely because they employ twenty or fewer workers. There is no logic in treating working people differently on the basis of their employers' status. If it is good enough for a worker in a large city hotel to be paid extra for working early morning shifts (for example), then it is good enough for a worker in a similar situation at the local Big4 caravan park in a country town to be paid extra.

It can be assumed from the content of this submission that we believe it ***is*** good enough!

If enacted, this bill would also undermine the objectives of the Federal Government's own Equal Opportunity in the Workplace Agency (EOWA). EOWA's role is to administer the Equal Opportunity for Women in the Workplace Act 1999 (Commonwealth). One of its goals is to close the gender based pay gap. Any measure that eliminates the requirement for small business employers in female dominated industries such as retail and hospitality to pay penalty rates would contribute to a further widening of the gender based pay gap, which in the 2011 – 12 financial year was 17.4%.

We also point out the issue of precedent: there is nothing to prevent this or a future Parliament using this bill as the basis of removing penalty rates for any other workers in any other industry. Although we believe that the prospect of industrial and public outrage would convince Senators and Members in advance that such a proposal would be, in the words of Sir Humphrey Appleby, "extremely courageous!"

In conclusion, we submit that this bill should not be enacted. Far from being a compromise, it is analogous to the State acting as a stand over merchant for employers: bailing up some of the worst paid people in the country, pulling wads of notes from their pockets and handing them back to the boss. The affected workers — many of whom are women and young people — are not well off by any measure. This bad law would make them even poorer

Yours sincerely

Alison Thorne
Melbourne Branch Organiser
For the Freedom Socialist Party