

SUBMISSION RE: Fair Work Amendment Bill 2011

Fair Works Act Amendment (Textile, Clothing & Footwear Industry) Bill 2011

The item in the Fair Works Act 2010 that is distressing is the lack of a clear definition of an “Outworker Entity” – It refers to the definition in the Fair Works Act 2009 which I believe is an acceptable definition for some, however a distinction needs to be made between outworkers who run their own registered business and those who do not (ie. Have their own ABN & pay their own Super).

The current definition (as per Fair Works Act 2009) is acceptable to outworkers that do not run a registered business, these are people who will benefit from what the Fair Works Act 2010 & National Employment Standards (NES) is there to achieve.

According to the TCFUAs interpretation, the current definition however also includes outworkers who run their own registered business. These people should fall under the definition of a contractor. It is only the Textiles & Fashion industry where they do not. This is discrimination.

As per F.4.1 of the Fair Works Act 2010, National Employment Standards (NES) must be applied “whether or not ...the worker is an employee”. I am just a factory worker but even I can question if there are other federal tax laws that may contradict this. How are you meant to provide NES to a company? Are we meant to inspect their books to see if they have employed other staff or ask them to provide confidential information to us to allow us to provide benefits from NES? Surely not. We should treat them with the same respect as other industry’s do – as independent contractors.

If the outworker would like the benefits of NES they can enter into a contract with us as an individual, if not they can register as a business and get the benefits of that arrangement, such as tax benefits and flexi time. With the current definition of “Outwork Entity” they cannot. It seems un-Australian to deny someone the benefits of running their own business if they choose to do so.

Most NES entitlements are met with independent contractors as they are included in the agreed price on each individual work order, such as annual leave. The Outworker can then choose when they take annual leave, and do not need to be concerned about having time off approved by an employer.

Rob Thomas has calculated an increase to labour cost of 37.9% (which does not take into account the extra administration costs involved) - who is meant to absorb this cost? Clothing wholesalers & retailers will not, they will be forced to increase their imported stock. This then leaves it to the Manufacturing factories, which with the added cost would be trading insolvent.

There is a lot of buzz in the industry about the current laws and the TCUFA. Many, including myself, are uncertain of their future. Many are uneducated and unskilled in other industries and fear having to start from the bottom in a new career – if they can even get a job. Having families to feed and mortgage payments in an already struggling economy is more than concerning.

I have spoken to some homeworkers who seem to think Centerlink is a better option than working in a factory as the cost of transport, childcare and the lack of flexibility would have a major impact on their lifestyle. Likewise, entering into an employee type contract, as per the current "Outworker Entity" definition is also a major change, with the benefits not worth the sacrifice of freedom required. Many work for a variety of factories and then these issues become very complicated to understand, such as claiming the tax-free threshold to name but one.

I often deliver items to the Contractors homes, they live in nice areas, have large well kept homes, drive nice cars, and above all treasure the time they spend with their children and families. Most were born overseas and have worked hard to establish their business. They enjoy the freedom to take work from various factories with the freedom to turn down work if the price is not good enough or the fabric is too difficult to work with. If a family member falls ill or they simply want to take a holiday to visit family overseas they are free to do so.

To put it simply – as far as I can see, amending item F.4.1 to not include independent contractors & adding the words "*unless they are a registered business, then see 'Contractor'*" to the end of the Outworker Entity definition in the Fair Works Act 2010 will save an entire industry & many people's jobs. There may be other items which may need amending that I am unaware of.

Once the option of the two pathways for the Outworker is defined, then the TCUFA can seek to educate workers of their choices and actually assist them – a much more positive way to increase their membership rather than the intimidation and pressuring techniques I keep hearing about from outworkers and other factories.

Regards,

Richard

To: TCFUA

ATTENTION:

RE: COST RECOVERY BREAKDOWN ANALYSIS

Attached is an Excel spreadsheet with the calculations to determine the minimum legal entitlements expressed as a percentage.

The entitlements are the items that a business must factor into their costing process to ensure adequate recovery of the costs involved with the minimum legal entitlements.

The table below is a summary of the calculations on the spreadsheet, rounded to one (1) decimal place.

Labour Overhead Cost Item	% add to Direct Labour Cost
Annual Leave (20 days per year)	10.7
Public Holidays (10 days per year)	4.6
Personal / Carers Leave (10 days per year)	4.6
Long Service Leave	2.0
Superannuation	9.0
Workers Compensation – Average Estimate	7.0
TOTAL	37.9

Regards,

THANKYOU FOR YOUR BUSINESS