

Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020

Senate Education and Employment Committee

4 February 2021

About ACOSS

The Australian Council of Social Service (ACOSS) is a national voice in support of people affected by poverty, disadvantage and inequality and the peak body for the community services and civil society sector.

ACOSS consists of a network of approximately 4000 organisations and individuals across Australia in metro, regional and remote areas.

Our vision is an end to poverty in all its forms; economies that are fair, sustainable and resilient; and communities that are just, peaceful and inclusive.

Summary

We caution the Senate against passing elements of the Bill that would either increase income inequality or reduce people's security of employment and the stability and predictability of their paid working hours.

In particular, the 'flexibility arrangements' associated with the Jobkeeper wage subsidy should not continue beyond the subsidy itself, ongoing casual and 'on call' arrangements should be discouraged, and workplace agreements should leave workers 'better off overall' than they are under their Award.

Context: Labour market conditions and incomes

Especially at this time, people really need and value security of employment. In addition, to restore incomes and employment we need to support growth in wages rather than place legislative obstacles in the way.

This legislation comes before the Parliament at a challenging time for the country. Last year we endured the COVID19 pandemic and the deepest recession in almost a century. Those most affected by these twin disasters were the poorest in our community: people out of paid work and those in the lowest paid and least secure employment. The recession exposed long-standing weaknesses in employment regulation, notably Australia's heavy reliance on a casual or 'at call' workforce, including in many cases temporary visa holders.

To its credit, the government took unprecedented action to protect people's health and incomes. Without the Coronavirus Supplement and Jobkeeper Payment, 3.2 million more people would have fallen into poverty, and people in the lower half of the income distribution would have been disproportionately affected by the recession.

As it happened, at the end of 2020 the number of people in poverty was 400,000 less than the previous year, and the incomes of the lower half of the distribution were, for the most part, protected. (See Philips B et al 2020, [COVID-19 JobKeeper and JobSeeker impacts on poverty and housing stress](#). Centre for Social Research and Methods, ANU Canberra; and Li J (2020), [The impact of COVID19 and policy responses on Australian income distribution and poverty](#). NATSEM University of Canberra).

We are not out of the woods yet: at the end of 2020, just two thirds of fulltime jobs lost in the recession had been replaced and 1.5 million people had to rely on Jobseeker and Youth Allowance payments to survive. Many industries, regions and unemployed workers are still struggling.

If Jobseeker and related payments are not permanently increased to an adequate level, or the Jobkeeper payment is prematurely removed, it is likely that Australia will emerge from the pandemic more divided, with much higher levels of poverty and inequality than before.

Policies in all areas should guard against this outcome.

To ease the most severe hardship and strengthen growth in employment and incomes in the worst affected areas, Jobseeker and related payments must be permanently increased to a level that allows people to meet basic expenses such as food and housing.

Reform objectives

In this context, any changes to workplace relations law should give priority to:

1. Improving and not undermining security of employment and the predictability of paid working hours.

Over-reliance on casual and contingent employment, including in entry-level jobs where hourly pay is already low, should be discouraged.
2. Restoring growth in wages (and indirectly, consumer demand and employment).
3. Improving accountability of employers to ensure that workers receive their entitlements. This requires legislative action to curb the use of complex and opaque employment arrangements that shift responsibility, and vastly improved enforcement, as much as higher penalties for infringements.
4. Simplifying the system and its administration without weakening protections.

While our industrial relations system would benefit from equitable, consensus-based simplification, the impact of industrial protections for workers on productivity and growth is often exaggerated. We are no longer in an economic environment where unrestrained growth in prices and wages could trigger an inflationary spiral. For the past five years, we have faced the opposite problem of sluggish growth in wages and other incomes, including unemployment payments.

It is worth noting that the Productivity Commission found no substantive evidence that reducing pay, removing Award protections, or making employment less secure or working hours less predictable would boost productivity and growth. One of its key conclusions was that:

“Contrary to perceptions, Australia’s labour market performance and flexibility is relatively good by global standards, and many of the concerns that pervaded historical arrangements have now abated. Strike activity is low, wages are responsive to the economic cycle and there are multiple forms of employment arrangements that offer employees and employers flexible options for working.” (Productivity Commission 2015, [Workplace Relations Framework Report](#), Overview, p2)

Provisions of the Bill

While we have not assessed the Bill’s provisions in detail, the following major proposals would work against one or more of the four goals above:

- Extension of ‘flexibility’ arrangements which give employers in receipt of Jobkeeper wage subsidies greater powers to change people’s duties or location of work. These are not justified beyond their original purpose, and should only continue in workplaces attracting Jobkeeper subsidies.
- Liberalisation of the ‘Better Off Overall Test’ for workplace agreements, which would leave some employees worse off than under the relevant Award.
- Proposed ‘simplified additional hours agreements’ would reduce predictability of working hours and pay.
- Allowing employers to designate employees as casuals regardless of the actual workplace arrangements is likely to increase the incidence of casual employment.

Recommendations

We recommend that the above provisions and any other measures in the Bill that would undermine any of the four goals set out above should not be passed.

On the face of it, some measures in the Bill may simplify the agreement making process and expedite positive outcomes for people who have been treated unfairly. We recommend that the Committee be guided by any broad consensus on these matters among unions, employers, and workplace relations experts. Effective protections for employees should be assured.



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