



54 Victoria Street
Carlton South, 3053
youngworkers.org.au

1 March 2019

Mr Stephen Palethorpe
via eec.sen@aph.gov.au

Dear Mr Palethorpe,

RE: FAIR WORK AMENDMENT (RIGHT TO REQUEST CASUAL CONVERSION) BILL 2019

The Young Workers Centre (YWC) is pleased to contribute to this inquiry and makes this brief submission in support of the submission made by the Australian Council of Trade Unions (ACTU) to the Senate Education and Employment Legislation Committee Inquiry into the Fair Work Amendment (Right to Request Casual Conversion) Bill 2019.

The Young Workers Centre, based in Victorian Trades Hall, was established in 2016 to break the cycles of exploitation at work for young Victorians. We educate young people on their rights and safety at work and provide free legal advice and representation to young people exerting their rights to resolve workplace issues. We fight for a state in which young people are safe at work, do not suffer harassment or bullying, and are provided their legal entitlements.

Young people aged 15-24 are overrepresented in casual work. At least 3 in 4 workers in hospitality and food preparation are employed casually. More than 1 in 2 retail workers are casual workers.¹ In addition to receiving no paid leave entitlements under the National Employment Standards (NES) and no guaranteed minimum hours and pay, young workers' health and their ability to stand up for their rights at work are negatively impacted by casual employment.

A young woman who participated in our 2016 Young Workers Survey summarised the damaging effect of casual work on her health and wellbeing:

"Casual shift work leaves my body exhausted and I am often sick. However due to the irregularity I feel guilty saying no and need the shifts. I am often given little notice for shifts and will work both overnight shifts and early morning shifts in the same week."
- Youth Worker, 24 years old.

A young retail worker described the ramifications for casual workers who speak up about unsafe work practices:

"I've been asked to do work that made me feel unsafe] and I did it anyway because I'm just a casual worker, [I] would lose shifts otherwise"
- Retail worker, 29 years old.

Employers are incentivised to keep young people in casual employment as it places additional barriers (both actual and perceived) on workers speaking up and exerting their workplace rights. For example, casual employees are not eligible to make applications for unfair dismissal remedy unless they can prove they meet minimum employment periods and:

- were employed on a regular and systematic basis, and
- had a reasonable expectation of ongoing employment on a regular and systematic basis.

¹ Gilfillan, G, 2018, Characteristics and use of casual employees in Australia,
https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/5742396/upload_binary/5742396.pdf

Another example is the additional eligibility thresholds workers face to make unfair dismissal claims if employed by a small business. For these purposes, a small business employer is categorised as such if it employs fewer than 15 employees at the relevant time. Casual employees are not counted for these purposes, unless they are employed on a regular and systematic basis. This creates an incentive for employers to employ workers on a casual basis as they do not impact the business size for unfair dismissal purposes.

Ultimately, casual workers face additional barriers to speaking up about their working conditions, rights or safety because they know it is far too easy for bad employers to cut their shifts or jobs as a consequence. This makes for a submissive workforce who may perform unsafe work or underreport exploitation.

The YWC welcomes proposed amendments the *Fair Work Act 2009* (Cth) that give casual employees working long-term and regular hours the right to request that their employment be converted to permanent and allows them to receive permanent employee entitlements and safety nets.

The YWC supports the concerns raised in the ACTU's submission and supports all of the recommendations made by the ACTU, and in particular would like to draw the inquiries attention to recommendation (c) pre-conversion service should count for the purposes of all NES entitlements.

If you have any questions or would like further information please don't hesitate to contact me

Sincerely,

Carina Garland,
Director (Acting)
Young Workers Centre