



ASIAN WOMEN AT WORK INC

일하는 아시안 여성
亞裔女工互助會

PHỤ NỮ Á CHÂU NƠI LÀM VIỆC

20th April, 2009

John Carter
Committee Secretary
Senate Education, Employment and Workplace Relations Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Mr Carter,

Please find attached our Asian Women at Work submission to the Senate Inquiry into the Fair Work (Transition Provisions and Consequential Amendments) Bill 2009.

We do not seek to appear before the Inquiry on this occasion, but ask the Committee to consider the impact on our members of some of the proposals in the Bill.

If you have any questions regarding our submission please feel free to contact me on dcarstens@awatw.org.au or 0437 879 442.

Yours sincerely,

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Submission to Senate Education, Employment and Workplace Relations Committee

Inquiry into the Fair Work (Transition Provisions and Consequential Amendments) Bill 2009

April 2009

1. Asian Women at Work is a Sydney community organisation of low paid Asian migrant women workers which empowers, resources and assists women to stand up, speak out and take collective action to advocate for their rights and develop strategies that improve women's lives, end exploitation in the workplace and home, obtain secure employment and enable them to understand and contribute to Australian society. We have a membership of over 1300 women working in the clothing, restaurant, cleaning, metalwork, meatwork, food aged care and other industries.
2. Our members experiences in the workplace include bullying and harassment and verbal abuse, threats of dismissal if they complain, a stressful environment where they are pushed to work very fast, not receiving legal minimum wages and conditions, not receiving overtime pay or shift allowances they are entitled to, and workplace injuries from repetitive work in a stressful environment.
3. Our members are almost entirely award reliant, and in many cases do not receive even minimum award wages and conditions. We look forward to the compliance activity undertaken by the Government inspectorate and unions under the Fair Work Bill seriously addressing this exploitation of vulnerable migrant women workers.

Concerns in relation to the Transition Bill

4. Asian Women at Work has demonstrated extensively through our previous submissions to this Committee, including examples in our booklet *Cries from the Workplace*, that Asian women workers have minimal capacity to engage in

bargaining for themselves, either individually or collectively. They remain fearful of speaking out about concerns in the workplace, and require both a strong safety net and an active compliance scheme to help address their concerns.

5. Consequently, we wish to make brief submissions in relation to a few aspects of this Transition Bill.

Award Modernisation

6. Asian Women at Work continues to be concerned about the Award Modernisation process and its impact on the safety net for vulnerable migrant women workers.
7. We have been involved in representing our Asian women worker members in the award modernisation process during the consideration of the first 14 priority awards. We have observed that **while the principles of no worker being worse off and no employer having greater costs are attractive ones, they cannot work in reality.** Instead what we seem to have is a process of trying to find middle ground as huge numbers of awards are combined into one. When 25, 30 and even 100 awards are being combined into one, huge volumes of protections and minimums are being lost.
8. In this process workers are losing both wages and conditions. For low paid workers like our members, these losses mean greater stress on finances for their families in their already frugal lives.
9. **Asian Women at Work recommends the Government re-consider the guidelines for award modernisation to allow for greater variations and broader scope in modern awards to reduce the impact of this massive combining process.**
10. Ultimately, workers should not suffer because of an administrative process the Government wants to undertake.

Take Home Pay Orders

11. Those in our membership who do receive award wages and conditions are still on minimum wages of \$14-\$15 an hour. They rely heavily on penalty rates for overtime and weekend work to increase their take home pay in order to earn enough for their families to survive.

Migrant Women Workers May not Access

12. Take Home Pay Orders will be vital to preserving their income, however we are concerned that many migrant women will either a) not know they can apply for an Order or b) be fearful of applying for an Order for the same reasons that they are fearful about speaking up about other workplace issues.
13. If it is practical, a universal declaration that employers are not allowed to reduce wages and conditions for existing workers, and that penalties apply if they do, would be a more comprehensive approach which vulnerable worker would be more likely to be able to access.

14. Without a comprehensive approach applicable immediately to all, extensive education programs in community languages and through community media will be important to ensure vulnerable workers are aware of their entitlement to a Take Home Pay Order.
15. In addition, the Transition Bill should be clear that a union (or other relevant body eg Community Legal Centre) can request a Take Home Pay Order on behalf of vulnerable workers who may be fearful of, or lack the knowledge for, initiating such a procedure on their own.

Orders should apply to Conditions not just Pay

16. Our members also rely on the awards to provide conditions which protect them in the workplace. Fair Work Australia should be able to make Orders in relation to protecting existing award Conditions in the modern award context, not just in relation to protecting Pay.

Circumstances for Applying for Take Home Pay Orders

17. We are concerned about some of the technical detail around the circumstances in which workers can access a Take Home Pay Order, and support the recommendations in the ASU submission for dealing with these. This includes access to multiple Orders, where appropriate, and consideration of the potential for promotion to lead to a lower rate of pay with the transition to some modern awards.

Longer Term Consequences

18. While a Take Home Pay Order will prevent award reliant workers from suffering a decrease in take home pay in the immediate future, the real value of Take Home Pay Orders will reduce as those workers must wait several years for the award rates to “catch up” before gaining any annual increases in pay.
19. With this in mind, the Government should consider giving the AIRC instructions to retain a variety of pay scales in the modern awards as part of the transition where rates of pay vary significantly across the awards to be combined.
20. In addition, consideration could be given to allowing Take Home Order rates of pay to gain the same annual increases that award rates are given.

Outworkers

21. Asian Women at Work has many members who are currently outworkers and many more are former outworkers. Over the 15 years of our existence outworkers have been active in our organisation, and we have been active in taking up outworkers issues.
22. Outworkers in our networks currently report receiving between \$3 an hour and \$8 an hour for their work, with a small number receiving higher rates of pay as a result of the various interventions to address the exploitation they experience. Progress is being made, but the various tools to address the issues need to be preserved and improved upon in order to bring more significant change to these women's lives.

23. We appreciate the Government's commitment to providing a framework for the protection of outworkers, but highlight where this has again fallen short in the drafting process with this new Bill.
24. The capacity of unions and Government inspectors to comprehensively monitor the entire clothing industry is a vital component of efforts to stop the exploitation of outworkers. One contractor may work for several Fashion Houses, making it important the union have all the information from all the Fashion Houses involved in order to get a full picture of the volume of work being done and how many workers there must be in that supply chain. The TCF Union have found contractors who have only declared $\frac{1}{4}$ or even $\frac{1}{10}$ of their actual workforce, once the volumes of work were analysed.
25. Once outworkers are "found" the union can start to work with the companies involved to address the exploitation the outworkers experience.
26. Consequently, it is important that every Fashion House be party to the award requirements for reporting supply chain information to allow this protection of outworkers to occur.
27. As it is currently written, the Transition Bill allows for some companies with certain agreements with their employees to avoid the outworker provisions in the modern award.
28. We support the TCF Union's request for amendments to the Transition Bill to ensure the Outworker protections (both rights and monitoring mechanisms) apply comprehensively across the whole of the TCF industries.

Low Paid Determinations

29. Many of our members cannot currently imagine a circumstance where their employers would agree to participate in a multi-employer bargaining process, however as a low paid workforce it is important that they have maximum possible access to low paid determinations. Our members face many barriers in a potential bargaining process and need maximum possible support if they are to attempt to embark on such a process.
30. Consequently, we support the submissions of the TCFUA in relation to Low Paid Determinations, to ensure that migrant women workers in industries like TCFUA are able to access this important assistance.

Support for Other Submissions

31. Asian Women at Work supports the submissions of the TCFUA and the ASU in relation to these matters.

Hanh Le, Angela Zhang and Debbie Carstens
on behalf of the Asian Women at Work Action Group