



3 March 2023

Senate Finance and Public Administration Committees
PO Box 6100
Parliament House
Canberra ACT 2600

Via: fpa.sen@aph.gov.au

RE: WORKPLACE GENDER EQUALITY AMENDMENT (CLOSING THE GENDER PAY GAP) BILL

The Victorian Trades Hall Council (VTHC) welcomes the opportunity to make a submission to the Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill.

VTHC was founded in 1856 and is the peak body for unions in Victoria. VTHC represents over 41 unions and more than 500,000 workers in the state. These workers are members of unions that reach into every industry across Victoria.

Since winning the Eight Hour Day in 1856, VTHC has had a long history of fighting for and defending the rights of all workers in Victoria. Women in union have been at the forefront of the struggle for all women to be safe, respected and equal at work.

The fight for equal pay has been at the core of the struggles of union women since women in the tailoresses union went on strike in the 1880's for fair pay. Zelda D'Aprano and her trade union sisters continued that fight by locking on to public buildings in the 1970's for equal pay and union women today continue fighting tirelessly for fairness and equality in the workplace.

This submission is intended to be read in conjunction with the Australian Council of Trade Unions (ACTU)'s submission. VTHC supports the recommendations made in the ACTU's submission and further puts forward ideas and recommendations that have been successfully implemented in Victoria.

If you have any questions or would like further information, please do not hesitate to contact Politics and Research Lead, Tiarne Crowther, at

Yours sincerely

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INTRODUCTION

There should be no difference in remuneration between genders, yet the gender pay gap persists. The gender pay gap remains too large. In Victoria, it is 12.1%.¹ Australia's national gender pay gap is 14.1%.² According to WGEA's annual Workplace Gender Equality Employer Census, when discretionary payments and working arrangements are factored in, the pay gap is as high as 22.8% as of November 2022.³

Gender pay inequality has serious impacts. It is harder for women to pay rent, buy food, access training and opportunities, and provide for their children because of gender pay inequality. It makes it more difficult for women to escape family and domestic violence. Later in life, low superannuation and savings balances and high costs of living can result in poverty among older women. These impacts are both unacceptable and avoidable.

VTHC makes this submission in support of the submission made by the ACTU, which supports the Bill and makes further recommendations to enhance its effectiveness. VTHC's submission should be read in conjunction with and as a complement to any submissions made by registered trade unions in Australia.

In 2016, Victorian Trades Hall Council (VTHC) launched our Women's Rights At Work (WRAW) chats. These structured conversations aimed to collate women's experiences and identify the key challenges faced by working women. We found that 44% of working women had experienced discrimination at work and that this was a key driver of gender pay inequality.

Since then, women union members in the VTHC 'We Are Union Women' network have been campaigning to address gendered violence at work and the gender pay gap through our 'Organise for Equality' campaign. We have run WRAW Festivals, WRAW Conferences, training and education, outreach and public actions. These public actions include We Are Union Women launching an online pay gap calculator tool for Unequal Pay Day 2022.

VTHC has been on the Victorian Government Equal Workplaces Advisory Council since its inception and Victorian unions have been involved in consultations for and the implementation of the *Gender Equality Act (Vic) 2020* and corresponding gender equality action plans across the public sector. Unions were the driving force in developing the Victorian Building Equality Policy via the Victorian Building Industry Consultative Council.

VTHC's submission draws on all these experiences.

The Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill (the Bill) is an important opportunity to also address other underlying drivers of pay gaps. This includes:

¹ As of May 2022, according to ABS base salary for full-time employees.

² WGEA (2022), 'What is the gender pay gap?', Workplace Gender Equality Agency, accessed: <https://www.wgea.gov.au/the-gender-pay-gap>

³ WGEA (2022), 'Australia's Gender Equality Scorecard Key results from the Workplace Gender Equality Agency's Employer Census 2021-22', Workplace Gender Equality Agency, accessed: <https://www.wgea.gov.au/sites/default/files/documents/WGEA-Gender-Equality-Scorecard-2022.pdf>, WGEA's annual report collects more detailed data compared to the ABS gender pay gap figure, as it includes other types of remuneration (such as superannuation, bonuses and overtime) and covers more workers (including casual workers and part-time workers).

- Gender-segregated workforces and industries,
- The concentration of women in low-paid work,
- The impact of gendered violence on the pay gap, and
- Taking an intersectional approach to addressing gendered violence and the gender pay gap.

The proposed amendments to the Workplace Gender Equality Act 2012 are widely supported. However, it is our strong recommendation there be further amendments to ensure that the implementation of the Act is strengthened by other legislative reform.

PROPOSED AMENDMENTS TO THE ACT

Efforts to improve pay gap transparency by publishing employer level pay gap information is strongly supported. These measures will hold organisations accountable for closing pay gaps among their staff.

Most importantly, the Bill will require WGEA to publish gender pay gap information of employers with 100 or more workers. This will make it easier for everyday working people to scrutinise gender equality at different organisations.

These amendments are important and timely and need to be implemented to ensure that the Workplace Gender Equality Act operates effectively. The Bill will also make sure leadership in these organisations receive gender pay gap reports, making them accountable to the findings and recommendations. This measure will make the act consistent with similar reporting on sexual harassment and sex discrimination. This will strengthen the Respect@Work recommendations designed to end gendered violence and discrimination at work.

It is our recommendation that once the data from the gender pay gap reports is produced, it must then translate into informed action to address gaps identified. Reporting under the Workplace Gender Equality Act should require employers to report on gender inequality in an organisation and then set targets to meet over future reporting periods. Employers should report on these targets previously set at the end of the next period, and then set further targets.

These targets should relate to the gender split on permanent as compared to casual work or contract work, full-time as compared to part-time, wages, position or level, and length of service. Looking at different variables and factors like these will give a deeper insight on where improvements need to be made to promote gender equality.

The Act should scale up action on the gender pay gap and guide organisations on setting stronger targets after each reporting period. A strong obligation for continuous action and improvement will help close the gender pay gap more rapidly.

The Victorian Gender Equality Act sets out accountable, scalable plans for gender equality. The Act requires organisations to undertake gender equality audits and then develop action plans that address issues identified. This process must include consultation with workers and their unions. Continuous improvement is built into the Act as organisations must report on their progress every two years and complete a full audit and plan every four years. An independent Commissioner is also tasked with oversight of these plans to ensure that organisations are held accountable for both their targets and the implementation of strategies they propose to reach them. Accountability and

continuous improvement are at the core of the Victorian Act, which should act as a strong model for the rest of Australia.

Recommendation 1: Make the setting of targets to address the gender gaps identified in reports a mandatory component of the reporting framework. The targets should be specific and defined, and scale up after each continuous reporting period.

Recommendation 2: Ensure reports and corresponding targets include the multiple factors driving gender pay inequality such as but not limited to type of work, level, wage, length of service and degree of permanency.

GENDER-SEGREGATION IN WORKFORCES AND INDUSTRIES

Breaking down gender segregation in workforces and industries is crucial to addressing the gender pay gap, as male-dominated industries have higher average wages compared to female-dominated industries.⁴ The result is that women face barriers in accessing the same opportunities as men and are more exposed to financial hardship.

Despite assumptions that gender segregation will narrow over time, it is getting worse in some heavily segregated industries. For example, in the industry of Health Care and Social Assistance, women currently make up 79% of the workforce. This is up from 1998 when women made up 77%. In construction, women make up just 12% of the workforce, down from 13.8% in 1998. In Transport, Postal and Warehousing, women currently make up 20.9% of the workforce, down from 23.1% in 1998. Gender segregation is not going to fix itself without targeted policy.

WGEA data from 2019 shows that the average total remuneration, which included base salary plus superannuation and bonuses in male-dominated industries is \$120,477. Yet the average total remuneration in female-dominated industries is \$99,324. That is a staggering difference of over \$20,000 a year. And this pay gap compounds year after year, causing financial hardship for women workers.

Gendered segregation is a root cause of the gender pay gap and more must be done to de-segregate the workforce on gendered lines. Financial and cultural barriers for women entering well-paid male-dominated industries must be removed. And workers in female-dominated industries must be respected and paid fairly.

Targets for women in male-dominated industries

Targets for women in male-dominated industries are fundamental to balancing gender representation and promoting gender equality. Victoria's Building Equality Policy (BEP) is a successful example of this approach, because it tackles gender inequality in the building industry from all angles.

The BEP was developed in collaboration with VTHC and affiliated unions, as well as employers in the industry as part of the Victorian Building Industry Consultative Council

⁴ WGEA (2019), 'Gender Segregation in Australia's Workforce', Workplace Gender Equality Agency, accessed:
https://www.wgea.gov.au/sites/default/files/documents/18_04_Industrial_segregation.pdf

(BICC). This meant that both workers affected and employers responsible for implementing reform were involved in the design of solutions. The BEP sets ambitious but realistic targets. It sets achievable, pragmatic targets for increasing the number of women construction workers, with a particular focus on women in trades. Under the BEP, suppliers to government are now required to have women workers perform:

- 3% of trade covered labour,
- 7% of non-trade construction labour,
- 35% of management/supervisory and specialist staff positions, and
- 40% of apprenticeships and traineeships.

There is a requirement in the BEP that suppliers audit the gender composition of their workforces, and have gender equality action plans to ensure targets are delivered and increased.

Once women enter male dominated industries, they must be safe, respected and have meaningful work experiences. The BEP includes broader obligations on suppliers to ensure the success of increased participation of women workers in the construction industry. The BEP outlines cultural, organisational and industry wide change such as having meaningful policies to prevent and appropriately respond to sexual harassment, provide training on inclusive and respectful workplaces, have empowering and flexible workplaces, and ensure that there is managerial accountability for workplace cultures of respect. Gender equality indicators and targets must be monitored and complied with, as there are consequences for failing to deliver under the BEP. Companies will be barred from tendering for government contracts if they're found to be non-compliant.

The BEP's achievable, specific, wrap around approach to addressing gender inequality should be replicated in the Commonwealth Gender Equality Act.

The BEP leverages the government's procurement policies to promote female representation in male-dominated industries. Targets in procurement should be developed alongside the implementation of the targets established in the Bill, as every possible lever must be used to advance gender equality.

Supporting the targets, the BICC utilised the expertise of participating unions and commissioned research to develop strategies to address attraction, recruitment and retention of women workers in construction.

Similar union-led initiatives need to occur at the national level to develop targets for women in Federal-funded infrastructure projects. There should be consequences for failure, meaning they should push the industry beyond their comfort zone but not beyond what is achievable. And they should be reviewed on an annual basis with the intention that they increase over time.

Recommendation 3: Targets for women in construction should be developed to complement the target setting in the Bill. Unions must be involved in consultation and policy development at every step of the way, including in developing the targets, implementing the targets and monitoring compliance.

Recommendation 4: Ensure that gender targets and support services occur alongside an industry-based procurement framework that includes broader gender equality measures and monitoring/compliance mechanisms.

Support for women in male-dominated industries

More needs to be done to support women to start careers in high-paying male-dominated industries. Unions know that being qualified in a trade leads to well-paid, secure jobs. That is why unions are so passionate about breaking down barriers for women to access these opportunities. The union-led Women Onsite program at VTHC is a success story in this area.

The Women Onsite program addresses problems of attraction, recruitment and retention of women workers in male-dominated industries. It attracts women to consider a career in trades through social media and 'Try a Trade' days. It supports the recruitment of women into pre-apprenticeships through job readiness training and women-only pre-apprenticeships through partner TAFEs and RTOs. It supports retention by linking participants to trade unions and training participants and employers on safe and respectful work environments. The program also provides material support to help break down financial barriers.

Women Onsite was coordinated by VTHC with the support of a steering committee made up of employers, unions and relevant government departments. Through the Women Onsite project, 41 women have commenced apprenticeships in electrical trades, 17 in carpentry, 1 in cabinetmaking, 5 in the automotive industry, 1 in plumbing, 1 in landscaping and 1 in painting.

The program also commissioned an evaluation report 'Listen and Learn: Insights from women entering historically male-dominated trades', conducted by Professor Valerie Francis and Radhika Chugh from the University of Melbourne. The report makes recommendations on learnings from the delivery of the pilot, and is attached to this submission.

The Women Onsite program should be replicated with trade union peak bodies across states and territories in Australia, utilising the recommendations from the 'Listen and Learn' report to develop and expand the program.

Recommendation 5: Invest in programs that align with the Bill's target setting, and expand the Women Onsite program to replicate it with trade union peak bodies across states and territories in Australia.

Recommendation 6: Utilise the recommendations set out in The University of Melbourne evaluation of the Women Onsite project, "Listen and Learn: Insights from women entering historically male-dominated trades" in the implementation of targets in the Bill and similar programs across Australia.

Women in Low-Paid and Insecure Work

Health workers, aged care workers, social workers and teachers continue to battle against low pay that results from the devaluation of women's labour. Professions in women-dominated industries such as nurses, social workers, disability support workers, early childhood educators, teachers and aged care workers are critical. Without these jobs Australia would not have a functioning society, economy, or workplaces. Yet we underpay these workers so severely that workforce shortages in these industries are constant. As the National Skills Commission predicts, Australia will be short more than 200,000 caring jobs

by 2050.⁵ Addressing gender-segregation of workforces also requires ensuring low-paid 'women's work' is fairly remunerated and acknowledged.

The Federal Government needs to act urgently to address low-paid work in female-dominated industries. There must be investment in programs that promote fair pay for 'women's work', including reinstating penalty rates in female-dominated industries, lifting minimum wages in female-dominated industries and supporting new provisions in the Fair Work Act to progress Equal Remuneration cases.

Addressing insecure work needs urgent attention, especially after the pandemic. As the Australian Council for Trade Unions (ACTU) found in their research report, *Leaving women behind: The real cost of the Covid recovery*, 60% of new jobs created from May through to November in 2020 were casual jobs and women filled 62% of those jobs.⁶ Women enjoy 'fewer and less predictable hours, and fewer standard entitlements like sick leave, long service leave, holidays and superannuation'.⁷ While state-level initiatives such as portable long service leave for community services workers help women access entitlements, more needs to be done at the Federal level to ensure women have access to secure work.

One serious effect of low-income and insecure work is the gender superannuation gap. Treasury estimated that in July 2019, 311,000 workers did not receive superannuation because they earned less than \$450 per month from a single employer. Of these, 63% were women workers. This amounts to \$90 million per year in foregone superannuation contributions.⁸ Massive improvements have been achieved in the gender super gap, but it is not closing fast enough. As recently as 2007, the average payout for women was only a third of the payout for men. Currently, the gender superannuation gap sits at 23%, a figure that remains unacceptably high.⁹

The Federal Government should ensure superannuation is paid on every dollar earned, including paying superannuation as part of the Government's parental leave scheme. It should also consider measures to boost women's super balances with one-off top-up payments.

It is critical that insecure and low paid work be addressed if any meaningful change is to be made on the gender pay gap, as these issues are persistent and disproportionately affect women workers.

Recommendation 7: Commence action to eliminate the gender pay gap through addressing low-paid work as a priority.

⁵ Martin, S. (2022), 'Occupations facing skills shortages in Australia almost doubled in past year', The Guardian, accessed: <https://www.theguardian.com/australia-news/2022/oct/06/staggering-occupations-facing-skills-shortages-in-australia-almost-doubled-in-past-year>

⁶ Australian Council of Trade Unions (2020), *Leaving women behind: The real cost of the Covid recovery*, ACTU, accessed: <https://www.actu.org.au/media/1449502/actu-sub.pdf>, p. 3.

⁷ Ibid, p. 20.

⁸ The Australian Government the Treasury (2020), *Retirement Income Review Final Report*, The Australian Government the Treasury, accessed: <https://treasury.gov.au/sites/default/files/2021-02/p2020-100554-udcomplete-report.pdf>, pp. 300-301.

⁹ ASFA (2022), *ASFA calls for equality in super by 2030*, ASFA, accessed: <https://www.superannuation.asn.au/media/media-releases/2022/media-release-28-february-2022>

Recommendation 8: Reinstate abolished penalty rates in retail and hospitality awards, lift minimum rates of pay in female-dominated industries, and improve paid parental leave for all new parents.

Recommendation 9: Adopt a plan to reduce the gender superannuation gap.

GENDERED VIOLENCE

The gender pay gap is deeply linked to gendered violence. When women workers experience gendered violence, they are more likely to miss out on opportunities for career progression or leave the workplace entirely. As VTHC's 2016 WRAW (Womens Rights At Work) Chats show, 19% of women who participated said that an "unsafe work environment" was a factor in their decision to leave paid work.¹⁰ This number is far too high.

There is a palpable injustice underlying the fact that women workers suffer the double impacts of the gendered violence at work itself and then the corresponding financial outcomes. The impacts of workplace gendered violence are significant and have knock-on consequences that undermine economic equality. Many women workers acquire psychological injuries as a result of gendered violence, affecting their ability to work to normal capacity. Many also become more socially isolated to avoid perpetrators and will avoid professional development and social activities crucial to career progression. For those who experience sustained violence, some leave their industry of choice or the labour force entirely.

The collective impact of this widespread phenomenon is serious. When an industry is rife with systemic gendered violence, high turnover results in a loss of crucial experience and expertise in that industry. Given the number of women that work in health, social assistance and education, the loss of experience in these industries affects all of us.

Alongside reforms to the Workplace Gender Equality Act, the Federal Government also needs to address gendered violence through policy, procurement and training.

Women workers need dedicated services with knowledge and expertise on the barriers that women face in the workplace. That is why it is important to work towards establishing a Working Womens Centre in every state and territory in Australia. It is vital that these Centres are led by trade unions and their peak bodies, because it is working women in unions who have been on the frontlines fighting for workplace changes to improve gender equality.

Working Womens Centres should be modelled on the Young Workers Centre based at VTHC, which combines a community advice and advocacy service with an outreach and education program. This structure will empower women workers to make change in their workplaces and in policy.

¹⁰ VTHC (2016), 'Stop Gendered Violence at Work: Womens Rights At Work Report', Victorian Trades Hall Council, accessed: https://d3n8a8pro7vbm.cloudfront.net/victorianunions/pages/2370/attachments/original/1479964725/Stop_GV_At_Work_Report.pdf?1479964725

Recommendation 10: To address other systemic causes of inequality, establish a Working Women’s Centre in every state and territory in Australia based at trade union peak bodies.

Recommendation 11: Develop specific, industry-based accredited gender-based violence training with unions and employer groups.

Recommendation 12: Legislate to hold company directors and senior management liable for incidents of workplace gendered violence.

Recommendation 13: Develop procurement policy to require any business or service provider who receives government funds to meet minimum requirements around gender equality and the prevention of gendered violence at work.

INTERSECTIONAL APPROACH TO ADDRESSING GENDER PAY GAP

Marginalisation is uniquely compounded for women workers who are also First Nations women, women of colour, LGBTQIA+ women, migrant women, disabled women, older, regional or have caring responsibilities – and this has significant consequence for how women in these communities are subjected to the gender pay gap. Exposure to gendered violence and discrimination is also worse for marginalised women workers.

More research is needed to analyse the gender pay gap for women across interactions and this needs to be built into the Closing the Gender Pay Gap Bill. In the UK, for example, data shows that Black African women experience a 26% pay gap compared with the average male worker, Bangladeshi women experience a 28% gap and Pakistani women experience a 31% gap.¹¹ This is compared to 11.9% for UK women in general.¹² Comparable national data does not exist in Australia. We need to gather this data to properly understand what the gender pay gap looks like for these communities if we are to eliminate inequality.

Services also need to be established and invested in to serve the needs of working women, including working women from different backgrounds.

Recommendation 14: Include as a mandatory aspect of this Bill the collection of data on the gender pay gap for women workers across different intersections, including race, sexuality, age, disability, geography, caring responsibilities and visa status. This data should be collated nationally and publicly published.

Recommendation 15: Invest in services and resources that assist women from marginalised and excluded cohorts, such as the Women Onsite project at VTHC.

¹¹ Khan, A.J. (2021), ‘Gender pay gap wider for minority ethnic women, Labour finds’, The Guardian, accessed: <https://www.theguardian.com/world/2022/oct/12/gender-pay-gap-widest-for-ethnic-minority-women-labour-finds>

¹² Fawcett Society (2021), ‘The Fawcett Society Announces Date of Equal Pay Day 2021’, Fawcett Society, accessed: <https://www.fawcettsociety.org.uk/news/the-fawcett-society-announces-date-of-equal-pay-day-2021>

CONCLUSION

VTHC commends the Albanese Labor Government for its efforts to reduce the gender pay gap through its legislative reform agenda. Union women from diverse backgrounds and identities have been fighting to close the gender pay gap for decades. It is union women who are best placed to lead the solutions to end gender inequality and gendered violence at work.

Unions have led the way on supporting women in male-dominated industries and advocating for fair pay in women-dominated industries. Unions have shown how programs like Women Onsite can help working women defy outdated expectations about their careers. Victorian unions have also shown that strong union advocacy can lead to policies like the BEP that leverage procurement to further gender equality.

Workers in union have been campaigning to close the gender pay gap, close the superannuation gap, ending gendered violence, and for secure work for all workers. With previous Coalition Governments having done nothing to advance gender equality, much needs to be done to make up for lost time.

The Albanese Labor Government should continue its important reforms on the Workplace Gender Equality Act by investing in programs, research and policies that rebalance the playing field for women workers and remove barriers for women to access every opportunity at work, no matter where they work.

LIST OF RECOMMENDATIONS

Recommendation 1: Make the setting of targets to address the gender gaps identified in reports a mandatory component of the reporting framework. The targets should be specific and defined, and scale up after each continuous reporting period.

Recommendation 2: Ensure reports and corresponding targets include the multiple factors driving gender pay inequality such as but not limited to type of work, level, wage, length of service and degree of permanency.

Recommendation 3: Targets for women in construction should be developed to compliment the target setting in the Bill. Unions must be involved in consultation and policy development at every step of the way, including in developing the targets, implementing the targets and monitoring compliance.

Recommendation 4: Ensure that gender targets and support services occur alongside a broader industry-based procurement framework that includes targets/quotas, broader gender equality measures and monitoring/compliance mechanisms.

Recommendation 5: Invest in programs that align with the Bill's target setting, and expand the Women Onsite program to replicate it with trade union peak bodies across states and territories in Australia.

Recommendation 6: Utilise the recommendations set out in The University of Melbourne evaluation of the Women Onsite project, "Listen and Learn: Insights from women entering historically male-dominated trades" in the implementation of targets in the Bill and similar programs across Australia.

Recommendation 7: Commence action to eliminate the gender pay gap through addressing low-paid work as a priority.

Recommendation 8: Reinstate abolished penalty rates in retail and hospitality awards, lift minimum rates of pay in female-dominated industries, and improve paid parental leave for all new parents.

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sexuality, age, disability, geography, caring responsibilities and visa status. This data should be collated nationally and publicly published.

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REFERENCES

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