



Working Women's Centre SA Inc.

Committee Secretary
Senate Education, Employment and Workplace Relations Committees
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Parliament House
Canberra ACT 2600
Australia

Submission to the Inquiry into the Fair Work Amendment (Small Business-Penalty Rates Exemption) Bill 2012

The Working Women's Centre SA is a not for profit organisation aimed at providing advice and assistance to non-union women with workplace issues.

We take this opportunity to make comments regarding the *Fair Work Amendment (Small Business-Penalty Rates Exemption) Bill 2012* (the Bill) as the proposed amendment concerns us greatly for numerous reasons.

We have many clients who would fall within the small business in retail or hospitality exception and these clients rely on the penalty rates to make their financial ends meet. South Australia is known as the small business state.

These penalty rates assist individuals with meeting their household costs such as gas and electricity bills and also assist with child care costs.

On weekends there are very little, if any, child care centres open and available to provide care while parents work. This means that women who work on weekends, pay private baby sitters or rely upon family to look after their children whilst they are at work. Women who work in both the hospitality and retail industry on weekends rely on those penalty rates which are an incentive to work weekend and late night shifts.

Penalty rates were fought long and hard for and they represent compensation for the time workers are giving up to be with their families to work. Women tend to be the ones who take responsibility for family events and gatherings. If they have to work on weekends then they deserve something in return for missing out on family life.

We dispute the assertion that Australia has gone to a 7 day week and that the notion of the weekend is gone. The weekend is still very much an important time for workers. This is the time they have to spend with their families and to rest before returning to work the following week. Many workers will sacrifice their time and work on weekends for the penalty rates.

Amina was a client of the Working Women's Centre. She is a single mother who works in retail. She sacrifices her weekends with her son in order to earn more money both Saturdays and Sundays. Her motivation for these shifts is the penalty rates. She also sacrifices her public holidays for the penalty rates. She states that the extra money is compensation for her not spending as much time with her son. This extra money also assists her with her household bills. A cut in penalty rates for Amina would result in a significant reduction to her income and would impact not only on her quality of life but also that of her son.

We query the definition of small business that is being used in the Bill. The *Fair Work Act 2009* (the Act) provides a definition for small business in section 23. It states that a national system employer is a small business employer at a particular time if the employer employs fewer than 15 employees at that time. It goes on further to say that all employees are to be counted including casuals if they are regular and systematic. The Bill does not utilise the same definition as the Act.

We are concerned by the Bill's definition of an excluded small business employer. The Bill states that an excluded small business employer is an employer who employs fewer than 20 employees in the restaurant and catering industry or the retail industry and for the purposes of calculating the number of employees, only full time and full time equivalent employees are to be counted. We note that this does not include casual (whether regular and systematic or not) in the employee count.

This is concerning as a large number of women who are employed in the retail and hospitality industries work on a casual basis. Therefore, employers who would not be considered small business employers under the Act would be eligible for the exemption if they simply have less than 20 full time equivalent employees. Furthermore, these employers would be able to employ any number of casual employees and still be covered by the exemption. We believe this to be extremely unfair and would create a two tier class of employees.

Furthermore, if these exemptions were to be granted, it would pose an issue relating to the attraction and retention of skilled workers. The individuals who would be employed under such circumstances would be those who really have no other option but to take any sort of employment they can get. These exemptions would greatly undermine and undervalue the workers who do sacrifice their weekends and late nights to work in the hospitality and retail industry.

Currently, under the Act small business employers are exempt from paying redundancies and under the National Employment Standards casual employees are not entitled to a notice period. The removal of penalty rates penalises employees who are already not getting benefits such as sick leave, annual leave, notice periods and redundancy entitlements.

Many students already study a full time load and then proceed to work on weekends and late night shifts in order to make ends meet. These shifts are primarily chosen by students for their penalty rates and their ability to earn the same amount of money but in less hours compared to working the normal 9am-5pm working day. The removal of penalty rates would significantly impact the finances of students, especially those who are paying for child care and could affect their ability to continue with their studies. We are aware of the issues that fatigue causes for workers carrying heavy loads of study and work.

Stacey was a client of the Working Women's Centre. She is employed in a restaurant business in a country town in South Australia. She is employed as a casual and sought advice from the Centre regarding her entitlements. She understands that she is not entitled to a redundancy or a notice period should she be made redundant. Stacey accepted the job as she has a heavy study load and she could only make ends meet whilst working late nights and on weekends due to the penalty rates she receives. As a student and a casual employee Stacey is heavily reliant upon the penalty rates for her financial survival.

We wish for the Committee to note two economic arguments that have been made recently in the media. The first being that the Fair Work Australia Modern Award Review Committee noted that there is no economic argument to reduce or remove penalty rates. The second being that if workers are getting paid less, they will spend less in their community which will have negative flow on effects for businesses.

We thank the committee for the opportunity to make this submission. If you wish to discuss any points in the submission further please do not hesitate to contact the Director of the Working Women's Centre, Sandra Dann.

Yours sincerely,

Sandra Dann
Director
Working Women's Centre SA