



## Queensland Nurses' Union

Submission to the Standing  
Committee on  
Education and Employment

***Fair Work Amendment  
(Tackling Job Insecurity) Bill 2012***

February, 2013

## Introduction

The Queensland Nurses' Union (QNU) thanks the Standing Committee on Education and Employment for providing the opportunity to comment on the *Fair Work Amendment (Tackling Job Insecurity) Bill 2012* (the Bill).

We agree with the proposed amendments to the *Fair Work Act 2009* (the Act) that seek to provide insecure workers with a process for moving onto permanent employment on either a part-time or full-time basis. Our submission provides data on the nursing<sup>1</sup> workforce and the issues around employment security that currently face existing casual and part-time nurses, particularly in the private and aged care sectors.

The QNU is the principal health union in Queensland. The QNU covers all categories of workers that make up the nursing workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 47,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

## The Nursing Labour Force

The nursing labour force is unique in many ways. It is a female dominated profession, largely part-time and ageing. According to the Australian Institute of Health and Welfare (AIHW) (2011) the Australian nursing workforce has the following features:

### Size of nursing and midwifery workforce

- In 2011, the total number of nurses and midwives registered in Australia was 326,669, a 6.8% increase since 2007 (305,834).
- Between 2007 and 2011, the number of nurses and midwives employed in nursing or midwifery increased by 7.7% from 263,331 (86.1% of registrations) to 283,577 (86.8% of registrations).

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<sup>1</sup> Throughout this submission the terms 'nurse' and 'nursing' are taken to include 'midwife' and 'midwifery' and refer to all levels of nursing and midwifery including Registered Nurses and Midwives, Enrolled Nurses and Assistants in Nursing.

- Of these people employed in nursing and midwifery, 36,074 were midwives (including 1,517 people registered as midwives but not nurses), though only 15,523 reported working in midwifery as the principal area of their main job.
- Overall, nursing and midwifery supply decreased by 1.3% between 2007 and 2011, from 1,095.1 to 1,081.1 full-time equivalent nurses and midwives per 100,000 population, based on a 38-hour week. This was mainly a result of a 7.4% decrease in the number of employed enrolled nurses and a 1.6% decrease in the average hours worked by all nurses and midwives over this period.
- Nursing and midwifery supply across regions ranged from 1,101.6 full-time equivalent nurses and midwives per 100,000 population in *Major cities* to 994.7 in *Outer regional* areas to 1,335.5 in *Very remote* areas, based on a 38-hour week.

## Demography

- Nursing and midwifery continued to be a female-dominated profession, with women comprising 90.1% of employed nurses and midwives in 2011 (down from 90.4% in 2007).
- The average age of the nursing and midwifery workforce increased between 2007 and 2011 (from 43.7 to 44.5 years). The proportion of nurses and midwives aged 50 or older increased from 33.0% to 38.6% over this period.

## Working arrangements

- The average weekly hours worked by employed nurses and midwives decreased from 33.3 hours in 2007 to 32.8 hours in 2011.
- Of all employed clinical nurses and midwives, almost two-thirds (65.2%) worked in hospitals.
- Almost two-thirds of all nurses and midwives work in the public sector (59.3%), and these nurses and midwives worked an average of 2.4 hours more per week than their private sector counterparts.
- The clinical area of nursing and midwifery with the largest number of workers in 2011 was aged care (40,443), which also had the highest proportion of enrolled nurses (41.5%).

In the public sector in Queensland in 2011,

- the average length of service of the nursing and midwifery workforce was 9 years.
- the average length of service across Queensland Health was 8.41 years.
- the average age of the nursing and midwifery workforce was 44.25 years.
- the average retirement age of the nursing and midwifery workforce was 62 years (Nurses and Midwives Implementation Group, 2011).

## Tackling Job Insecurity

While we see value in enabling casual and rolling contract employees to request secure employment arrangements, it is the QNU's experience that employers are circumventing their responsibilities to provide stable employment through the use of permanent part-time 'minimum hours' contracts.

In Queensland there is a high component of nurses working part-time in the public, private and aged care sectors across a 24 hour, seven days a week continuous shift roster. It is difficult to obtain consistent employment data for each sector, particularly in aged care, however the following is an indicator of the number of nurses and their employment type.

In 2011, the composition of the Queensland Health (public) nursing and midwifery workforce was:

Employment Type	Number (Full Time Equivalent)
Permanent full-time	12,886
Permanent part-time	14,379
Temporary full-time	809
Temporary part-time	1,599
Casual	2,758
Total	32,431

(Source: Queensland Health HR Informatics Monthly Workforce Profiles cited in Nurses and Midwives Implementation Group, 2011)

Queensland Health and private hospitals also engage agency staff (casual, locum nurses employed through agencies).

According to the Australian Bureau of Statistics (ABS), in 2010-2011, the composition of the nursing workforce in Private Acute and Psychiatric Hospitals in Queensland was

Nurse category	Number (Full Time Equivalent)
Registered Nurse	5959
Enrolled Nurse	1320
Total	7279

(Source: ABS Cat 4390.0)

In 2007, in aged care it was estimated that the aged care nursing workforce in Australia was

Employment type	Registered Nurse	Enrolled Nurse	Personal Carers [including Assistants in Nursing <sup>2</sup> (AINs)]
Permanent full-time	3713	1707	5697
Permanent part-time	13407	11882	59188
Casual or contract	5279	2705	19861
Total	22399	16293	84746

[Source: Martin & King, (2008). In Queensland the QNU only has coverage of AINs, however this data is indicative of the large number of part-time and casuals working in the aged care sector]

Although the QNU observed a trend 10-15 years ago where employers converted permanent staff to casual status, this has now reversed and the majority of nurses across all sectors are permanent part-time. This may be because the shortage of nurses over the past few years has ensured a continuous demand that enables permanent appointments.

In the private hospital and aged care sectors in Queensland, some employers display a preference for permanent part-time employment on a 'minimum hours' basis where the employee is engaged for a minimum number of working hours that the employer can increase, but not reduce.

This has enabled employers to treat permanent part-time staff in a fashion similar to casuals without the 23-25% loading that casuals attract. Employers have the certainty of an available workforce that they can manipulate to match labour costs with fluctuations in demand. It also results in fluctuating, insecure incomes for nurses on this form of contract.

We acknowledge that some nurses prefer to be engaged as casuals. Correspondingly, when attempts have been made by employers to convert casuals to permanent part-time status, some casuals have been quite resistant. In nursing, the employee is more often casual by choice than by compulsion.

In the aged care sector that has a predominantly AIN workforce these practices leave the employees particularly vulnerable. AINs are already on low rates of pay, so any reduction in hours of work drives their incomes even lower.

In our experience, it is common for aged care employers to argue that any significant increase in wages will require a reduction in care hours. This approach has a number of effects on recruitment and retention of the workforce. In Queensland, staff turnover rates of between 20-30% are not uncommon, particularly among new recruits to aged care nursing. As the

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<sup>2</sup> AINs are responsible for assisting in the provision of delegated nursing care under the direct supervision of a Registered Nurse.

workforce in predominantly part-time (Martin & King, 2008), there are significant levels of ‘under-employment’ where many nurses have more than one part-time nursing job.

As well as lower wages, aged care agreements also provide lesser entitlements in long service leave, annual leave and parental leave. The overall package leaves aged care nurses severely disadvantaged in comparison to their counterparts in the public and private sectors.

To try and safeguard the incomes of aged care nurses, the QNU has continued to negotiate ‘part-time employment’ clauses into enterprise agreements to ensure there are minimum hours provisions and to enable part-time employees to apply to have their contract reviewed so that it reflects their actual working hours more adequately (See attachment 1 for a sample aged care ‘part-time employment’ clause). However we have found that AINs will rarely take up this option because the application for review of hours inevitably involves individual negotiation in an environment where low paid workers are already disadvantaged.

The proposed amendments to the Act will strengthen the industrial architecture to enable employees to have secure employment, but the Act must also endorse secure hours in order to facilitate secure incomes. We therefore see that the proposed definition of ‘secure employment arrangement’ should also include reference to secure hours. Where an employer denies a request for secure hours, the ability for an employee or their union to seek the assistance of the Fair Work Commission (FWC) would be of great value to employees in these circumstances.

## Recommendation

The QNU recommends the Act be amended as follows (using Schedule 1 to the Explanatory Memorandum as the reference and highlighting our changes):

Item 4 inserts *secure employment arrangement* into the Dictionary of the Act and defines it as ongoing employment on a part time or full time basis **where part time reflects the actual number of hours worked each week.**

The new section 306R sets out the content of secure employment orders affecting more than one person. Orders providing or maintaining secure employment arrangements for more than one relevant person may include one or more of the following:

- an order requiring that all the relevant persons who are long term casual employees be offered a secure employment arrangement;
- an order providing for a process by which all the relevant persons who have been employed by the employer for a certain period of time can elect to have a secure employment arrangement;
- **an order requiring that part-time employees who are regularly working in excess of their guaranteed minimum hours may be offered ongoing secure employment arrangements that properly reflect their actual hours worked;**
- an order specifying the terms of secure employment arrangements under which casual
- loadings would be phased out over a period of time so as to avoid a sharp drop in employee remuneration;
- an order implementing secure employment arrangements in such stages (as provided in the order) as the FWC thinks appropriate;
- an order requiring the employer to provide information to FWC for the purposes of monitoring the staged implementation of secure employment arrangements;
- an order regulating the engagement of prospective employees on a casual basis, a rolling contract basis or a secure employment basis;
- an order regulating the employer's use of arrangements that are not secure work arrangements in circumstances in which secure work arrangements could be used.

However, FWC is not limited in the orders it can make under section 306R.

## **Sample Aged Care Part-time Employment Clause**

- (a) A part-time employee is employed for a minimum of 16 ordinary hours per fortnight and less than 76 ordinary hours per fortnight.
- (b) Before commencing part-time employment the employer and employee will agree in writing the guaranteed minimum number of hours to be worked and the rostering arrangements which will apply to those hours.
- (c) Where an Employee and the Employer agree in writing, part-time employment may be converted to full-time and vice versa on a permanent basis or for a specified period of time.
- (d) A Part-time employee must be paid for a minimum of 3 hours on any day where work is performed.
- (e) Part-time Employees shall be paid at an hourly rate equal to 1/38<sup>th</sup> of the weekly rate prescribed by the Agreement for the classification under which they are engaged.
- (f) A Part-time Employee is entitled to pro rata annual leave, personal/carers leave and long service leave.
- (g) Public holidays shall be paid on the same basis as Full-time Employees for all public holidays on which the Employee would have otherwise worked on a proportionate basis calculated on the ordinary hours.
- (h) The hours of duty for Part-time Employees shall be worked in accordance with a roster which may be amended from time to time to suit the exigencies of the Aged Care Residential Facility.
- (i) In the event of changed dependency of residents which makes it necessary for the Employer to reduce the working hours of Part-time Employees, the Employer may reduce the working hours of Part-time Employees provided that the proper notice is given to the Employees.
- (j) The Employer must provide one week's notice to an Employee who has completed one year's service and a further week for each subsequent year of service. However, no Employer is required to give more than 4 weeks' notice of the intended reduction in working hours.
- (k) Where there is a subsequent increase in hours, employees who previously had their rostered hours reduced in accordance with subclause (i) and (j) will be given first preference for such increases within operational requirements.
- (l) Twelve months after initial engagement, a part-time employee who is regularly working in excess of their guaranteed minimum hours may apply to have their contract reviewed to more adequately reflect their actual hours worked. Agreement to review those hours shall not be unreasonably withheld.

Ongoing applications may then be made at 12 monthly intervals.



## References

Australian Bureau of Statistics (2011) *Private Hospitals, Australia, 2010-2011* Cat 4390.0

Australian Institute of Health and Welfare (2012) *Nursing and Midwifery Workforce 2011*  
National Health Workforce Series no. 2. Cat. no. HWL 48. Canberra: AIHW.

Martin, B. & King, D. (2008) *National Aged Care Workforce Census and Survey – Who Cares for Older Australians? A Picture of the Residential and Community Based Aged Care Workforce – Final Report*, National Institute of Labour Studies, Flinders University; Australian Government Department of Health and Ageing, Canberra.

Nurses and Midwives Implementation Group, (2011) *Progress Report on implementation of nurses' EB7 agreement (as at 30 June 2011)*, Brisbane, p.6.