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**FECCA Submission to the Inquiry into the
*Fair Work Amendment (Tackling Job
Insecurity) Bill 2012***

January 2013

About FECCA

FECCA is the national peak body representing Australians from culturally and linguistically diverse (CALD) backgrounds. FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

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Introduction

The Federation of Ethnic Communities Councils of Australia (FECCA) is pleased to respond to the House of Representatives Standing Committee on Education and Employment's ('the Committee') Inquiry into the *Fair Work Amendment (Tackling Job Insecurity) Bill 2012* (Cth) ('*The Bill*').

In the first instance, FECCA commends *the Bill* for its considered approach to assisting the transition of vulnerable workers from casual employment situations to permanent part or full time positions with associated entitlements and benefits.

FECCA has consistently highlighted the plight of workers in casual insecure employment conditions and in particular, workers from culturally and linguistically diverse (CALD) backgrounds who may face specific barriers, particularly with regard to language, literacy and other cultural and linguistic factors, that may prevent them from attaining and securing permanent employment¹.

Within the scope of this inquiry, FECCA draws the Committee's attention to, in particular, a previous submission from FECCA to the Australian Council of Trade Union's (ACTU) Independent Inquiry into Insecure Work in Australia 2011. This submission can be accessed at: <http://www.fecca.org.au/our-submissions/submissions-2012>.

In this submission FECCA highlighted a number of issues regarding employment and insecure work conditions, including the following:

- Employment is an effective way of empowering individuals and assists in creating dignity, self-confidence and stability.
- Many people from CALD backgrounds are employed in insecure work, which is often low paid, unsustainable, dangerous and isolating.

¹ FECCA 2012, 'Opening the Door to Access and Equity – FECCA Access and Equity Report 2011-12, p.19. Available at: <http://www.fecca.org.au/images/stories/pdfs/fecca-access-and-equity-report-june-2012.pdf>

- Employees from non-English speaking backgrounds generally have poorer employment outcomes in Australia compared to native English speakers.
- More research into the experiences of CALD insecure workers is needed.
- It is imperative that there is culturally and linguistically sensitive information available in relation to worker rights.
- It is critical that Unions in Australia provide accessible and equitable pathways to membership, information and events.

FECCA takes this opportunity to provide comment on the current *Bill* as this seeks to implement recommendations on the *Howe Report* (which subsequently made recommendations as a result of the above-mentioned independent inquiry).

The Nature and Prevalence of Insecure Work in CALD communities

It is with concern that FECCA highlights that many people from CALD backgrounds are employed in insecure work conditions that are often low paid, unsustainable, dangerous and isolating. Across the literature in this area, and in FECCA's own research and experience, ethnic minorities who have originated from non-English speaking backgrounds often have less employment opportunities and generally poorer employment outcomes in comparison to native English-speaking or Australian-born jobseekers². Because of this disparity, CALD workers are also more vulnerable to economic upheavals such as the recent global financial crisis and ongoing financial instability. Such vulnerability is often the result of low English literacy levels, social isolation, limited information provision in culturally and linguistically sensitive formats and broader intersectional access and equity issues³. The negative impacts of Australia's insecure employment on CALD employees not only affects individuals and their workplaces but, on a much larger scale, impacts Australia's productivity, welfare systems and social cohesion⁴.

² FECCA 2012, 'Opening the Door to Access and Equity – FECCA Access and Equity Report 2011-12, p.19. Available at: <http://www.fecca.org.au/images/stories/pdfs/fecca-access-and-equity-report-june-2012.pdf>

³ Ibid.

⁴ FECCA 2012, 'Submission to the Independent Inquiry into Insecure Work in Australia 2011', p.5. Available at: <http://www.fecca.org.au/images/stories/documents/Submissions/2012/inquiry-into-insecure-work-australia.pdf>

FECCA further highlights that some groups in particular experience more acute disadvantage when attempting to attain and retain permanent employment⁵. These groups include refugee and humanitarian entrants who, particularly during the initial years of settlement are particularly vulnerable to insecure employment conditions⁶. Women from CALD backgrounds are also overrepresented in insecure employment fields which include industries such as manufacturing, accommodation, food services, cleaning and labouring⁷. Factors contributing to this disadvantage include limited English language skills, lack of qualifications or qualifications recognised in Australia and/or in the case of CALD women, cultural and religious attitudes towards women's roles and responsibilities and engagement in employment in non-traditional fields⁸.

FECCA also draws attention to the issue that workers from CALD backgrounds often face barriers with regard to their perceived ability to effectively integrate into workplaces as a result of their limited experience and familiarity with Australian workplace culture. This is an issue that FECCA seeks particular policy intervention around, both to ensure that CALD workers are adequately aware of Australian workplace conditions and culture, and also as a mechanism through which to dispel myths regarding CALD employees that workplaces and employers may harbour.

Positive Impact of the Bill

FECCA commends *the Bill* for its targeted focus on providing avenues for those in insecure work arrangements to transition into more permanent employment.

⁵ Refugee Council of Australia 2011, 'Employment', available at:
<http://www.refugeecouncil.org.au/f/smt-emp.php>

⁶ Ibid.

⁷ FECCA 2011, 'Employment Issues Facing CALD Communities'. Available at:
<http://www.fecca.org.au/images/stories/pdfs/employment-fact-sheet.pdf>

⁸ FECCA 2012, 'Submission to the Independent Inquiry into Insecure Work in Australia 2011', p.5. Available at:
<http://www.fecca.org.au/images/stories/documents/Submissions/2012/inquiry-into-insecure-work-australia.pdf>

In the first instance *the Bill* provides an avenue for casual or rolling contract employees to ask their employer to move them to a more secure working arrangement, at such time as the employee meets certain eligibility requirements. An employer is then compelled to respond to such a request within 21 days. If an employer refuses a request an application may be made to Fair Work Australia who can issue a 'secure employment order'⁹.

Concerns which may be identified in relation to the practical efficacy of this primary approach include potential lack of system's knowledge by employees, particularly new migrants, a fear of approaching an employer in relation to these provisions for fear of losing casual employment and literacy barriers that may hamper the ability to put the request in writing as mandated by *the Bill*.

Therefore the role of unions as representative bodies will be imperative in relation to this legislation.

The Bill acknowledges this role by outlining that unions, and other employee representative bodies, may step in and represents individuals before Fair Work Australia or seek organisational or industry change for a large group of employees in the first instance.

Consequently FECCA asserts that:

- Unions and other employee representative bodies must ensure that they make access to membership, information and events well known and ensure that their role is well understood by those from CALD backgrounds.
- Unions and other employee representative bodies must actively seek to assist workers in insecure employment from CALD backgrounds drawing their attention to their rights in employment.

Standing – Race Discrimination Commissioner

⁹ Fair Work Amendment (Tackling Job Insecurity) Bill 2012, Available at: <http://www.comlaw.gov.au/Details/C2012B00210>

Submission Paper



The *Bill* currently outlines that under s 306L or 306M the Age Discrimination Commissioner, Disability Discrimination Commissioner and Sex Discrimination Commissioner are also permitted to represent an individual on matters relating to *the Bill*, if the individual requests such representation.

A notable omission from this list is the Race Discrimination Commissioner of Australia. As, in some instance overt or covert forms of discrimination and racism may be the underlying reason for refusing a request to transition an employee to a permanent employment position it is imperative that the Race Discrimination Commissioner be empowered to represent individuals in the same vein as the other listed commissioners.

Conclusion

FECCA has welcomed the opportunity to contribute to this inquiry and offers our support for *the Bill* in its current form, insomuch as the proposed provisions will work towards ensuring job security is attainable for employees from CALD backgrounds.