



The Australian Greens' dissenting report

Introduction

1. People are under growing pressure because of job insecurity. People are unable to make big decisions - like starting a family or buying a house - because they don't know if they'll have a job from year to year, or even from month to month. Job insecurity affects people's health, welfare and the lives of those close to them.
2. We are now in a position in which one in four employees in this country does not enjoy paid leave. That is a national shame.
3. Despite the overwhelming evidence of the growing problem of job insecurity in Australia, governments have shamefully failed to act.
4. This is the first legislative attempt to tackle the problem of job insecurity. It won't solve the problem alone, but it will be an essential first step.
5. This Greens' Bill received the support of a wide range of unions and community organisations and should be passed.
6. Passing this Bill will mean that millions of Australians trapped in insecure work will have a pathway to secure employment. It will mean that a mother who needs to look after a sick child will have a right to take personal leave. It will mean that a contract teacher who works year after year to teach our children will finally be able to apply for a mortgage. It will mean that a temporary worker who is stuck in an endless cycle of labour hire will have an opportunity for more certainty.

7. We want an economy that serves the people; not the other way around. We must remember that the economy is a tool that we invented. If the economy is not delivering the outcomes we want, making us happy, safe, healthy, better educated and fulfilled, then it is time that our economy changed.

Rationale for change

8. There has been a growing trend towards insecure work in Australia, where a staggering number of casuals, and people on rolling contracts, now make up our workforce. Around 2.2 million employees are not entitled to paid holiday or sick leave and have no guarantee of ongoing secure employment. We are often told that this is because business needs flexibility, but this trend is symptomatic of what can start to happen if we let markets become our masters and when financial risk, in an increasingly uncertain world, is transferred away from companies and onto workers – because that is what has happened in Australia over the last couple of decades.
9. The growth of the casual workforce from around 15 per cent in the 1980s to around a quarter of all employees now is part of the phenomenon that was articulated in the 2010 report, *Shifting risk – work and working life in Australia*, produced by the Workplace Research Centre. They observed that people are now required to absorb more and more financial, social and economic risks and therefore experience much more financial and social stress. The landmark inquiry report from a previous Deputy Prime Minister, Brian Howe, *Lives on Hold*, that was released by the ACTU in May 2012, builds on this and gave voice to many of those who are trapped in the cycle of insecure work, which often robs them of the ability to make long-term decisions and plans about their lives.
10. There is a place for casual labour in the workforce. It can be used to address genuine business needs, and it can be beneficial for people who only want short-term employment with higher rates to compensate for the lack of tenure. It can be a win-win arrangement. But that is not always the case. In 2007 over half of all casual employees reported that they would prefer not to work on a casual basis. Most of these would prefer to have both paid holiday leave and sick leave, even taking into account the effect that this might have on their income. Over half of all casuals have been employed in their current jobs for over a year, and over 15 per cent of casuals have been in their jobs for more than five years.

11. In addition to casuals, there are also a significant number of people on fixed-term contracts and rolling fixed-term contracts. In 2011 there were almost 400,000 people – just over four per cent of all employees – engaged in this form of insecure work. But it is worth noting that these arrangements are heavily concentrated in education, with 15 per cent of the workforce on fixed-term contracts. This means that education alone accounts for almost a third of all employees on fixed-term contracts in Australia. These are the people who are teaching our kids and are bringing up the rest of us through secondary schools and universities, and over a third of all employees on fixed-term contracts are found in education.

Evidence

12. A wide range of trade unions and community organisations supported the Bill and/or the principles underlying the Bill. Many urged that we go further.

13. The Australian Education Union said:

the AEU supports the Bill while recognising it as but an initial legislative response and more will be required to effectively address the unacceptable incidence and increasing rise of insecure work in Australia¹

14. The National Tertiary Education Union said:

NTEU supports the Fair Work Amendment (Tackling Job Insecurity) Bill 2012.²

15. The Queensland Nurses Union submitted:

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.³

16. According to the ACTU, the Bill should go further:

While (subject to the amendments proposed below) the ACTU supports the *Fair Work Amendment (Tackling Job Insecurity) Bill*

1 AEU, *Submission 2*, p 1

2 NTEU, *Submission 3*, p 3

3 QNU, *Submission 4*, p 2

2012, we believe it is insufficient on its own to effectively begin to address the issues associated with insecure work.⁴

17. Likewise, the Australian Institute of Employment Rights wanted the Bill to be passed and further action taken:

AIER is supportive of the Bill as a first step in a process towards limiting job insecurity within Australia. We do, however, make some suggestions about how the Bill can be amended so that it better achieves it's objective.⁵

18. The Australian Manufacturing Workers' Union wanted the Bill passed and improved:

The AMWU therefore welcomes the efforts made in the Bill to legislate and strengthen a right to request conversion to more permanent employment for both casual employees and "rolling contract" employees.

The AMWU particularly welcomes the ability of the Fair Work Commission, under the Bill, to make orders for secure employment.⁶

19. The St Vincent de Paul Society considered that the Bill would improve society's welfare:

The Society supports the purpose of the Bill. ... we support this Bill.⁷

20. The Federation of Ethnic Communities Councils also supported the Bill:

In the first instance, FECCA commends the Bill for its considered approach⁸

21. In hearings before the Committee, there was powerful evidence of the real impact of insecure work. Ms Sharnee Chan said:

I have been a casual since 2003, so it has been 10 years. I am not a casual by choice. It is just that if you are an academic in a university and you are an early-career academic there are no ongoing jobs. All the teaching is done by casuals. Being a casual is

4 ACTU, *Submission 5*, p 3

5 AIER, *Submission 6*, p2

6 AMWU, *Submission 9*, pp 2-3

7 St Vincent de Paul Society, *Submission 10*, pp 1-2

8 FECCA, *Submission 15*, p4

not something that gives me flexibility to balance work and family. Rather, I have had to make my whole life flexible in order to meet the demands of casual work, which can mean intermittent demand for your work. You have to be there. You cannot turn down any work, because you never know when the work might run out.

Teaching contracts are for 13 weeks and research jobs are not contracted; you are a casual – so you are hired hour to hour. I have been at UNSW since 2005. So, sometimes you will get assigned to a project and that could be for 25 hours of work. Other times you might be on a longer-term project. That project might be for three or four years and you might get assigned to it for a period but you do not know how long you are going to be on that research project. ... I am a workforce researcher, so I am part of the workforce unit, and when projects come in that require my skills, which is [inaudible] then I go in and perform those roles. So I am not replacing anyone in any way; I am just a staff member who works alongside and in the same way as the fixed-term employees do, but I just have a different contractual basis.

My partner has been in casual work for the past eight years. We have recently decided that despite the insecurity we would get married. But we cannot imagine how we could possibly have children or raise a family when we do not have work for a period of time. I am in my thirties, so that is something that has been core in my decision to try to work my way out of the sector.

I have moved 100 kilometres away from my family and friends, because it is very hard to find stable accommodation when you cannot prove to real estate agents that you have ongoing income. I have lived in a bizarre situation. I have lived on the balcony of a home of a man who was bed-ridden. Because you are insecure at work and you are desperate for accommodation you end up being exploited in other ways. I ended up being a default carer for this man and performing bowel care and attending to him in the night. I feel trapped. After 10 years I do not have a career to speak of and I do not have a family. I spent a decade training and building up research experience and a research profile. I feel like I have done all the right things, and at the same time there is high demand for my work. However, it is always on casual contracts, so I live my whole life in tiny parcels of time. I am really committed to my

work and I think the work I do is important. It is just completely unsustainable.⁹

22. The National Tertiary Education Union also highlighted the disproportionately high incidence of insecure employment in the tertiary sector:

I think most people would not anticipate that casual employment in particular, as well as fixed-term unemployment, is overwhelmingly the dominant form of employment in the university sector. I think most people's present vision of the sector would still assume tenured professors and all of the associated cultural trappings that go with that. Nothing really could be further from the truth in the contemporary university environment.

Before going to the specifics of one or two elements of the bill, which we would commend, I have a couple of overview observations. If you looked at the university system 20 years ago, you had a student-to-staff ratio of about 12 to one, but that was measuring a direct full-time labour force. Today, it is 22 to one on average, but it can be as high as 100 to one in some instances. At the same time, the size of the casual labour force has increased almost fourfold so that now the majority of undergraduate teaching is carried out by casual academic labour. To give you an idea of the scale of that, there are about 200,000 employees in the sector, and of that 70,000 are in some kind of permanent standard employment arrangement, 45,000 are on fixed-term contracts of three years duration or less, and fully the balance, which is close to 70,000, is in casual hourly-paid employment.¹⁰

Conclusion

23. The submissions to the committee support the published research and demonstrate the need to act.
24. The trend towards insecure work is by no means inevitable. Many other OECD economies have experienced similar structural economic changes and dynamics as Australia but do not have the same levels of insecure work. Only
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9 Committee Hansard, 24 May 2013 p. 3-4

10 Committee Hansard, 24 May 2013 p. 2-3

Spain has a higher rate of insecure work than Australia. Spain has one in three workers in temporary employment because of a large seasonal rural workforce. The Greens and the ILO believe that the casualisation of the workforce can have widespread damaging impacts on society, leaving workers and communities in unstable and insecure situations, disrupting their life-planning options. If we can provide secure jobs then we should provide secure jobs.

25. So we have a clear choice. Continue down the path towards an American-style economy and jobs market of insecurity and precariousness or have the courage to pursue reforms that will rebalance the labour market in favour of permanence and jobs security.
26. In light of the broad range of support for this Bill and the principles behind it, it is disappointing that the old parties, especially Labor, lack the courage to tackle job insecurity.

Recommendation 1

That the House of Representatives pass the Bill.