The Senate

Employment, Workplace Relations and Education Legislation Committee

Provisions of the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002

November 2002

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Chapter One

The Bill

Timing of the bill and the inquiry

1.1 The Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 ('the bill') contains provisions first introduced in the Workplace Relations Legislation Amendment (More Jobs Better Pay) Bill 1999 (known as MOJO). With the defeat of that bill in the Senate in November 1999, the provisions were reintroduced in the Workplace Relations Amendment (Minimum Entitlements for Victorian Workers) Bill 2001. This bill was laid aside with the dissolution of the House of Representatives in August 2001.

1.2 The current bill was introduced in the House of Representatives on 21 March 2002. The committee has not had the benefit of considering the debate on the bill in the House, which had made little progress through its second reading stage in that place at the time this report was finalised. The Committee conducted a public hearing on the bill in Melbourne on 7 November 2002. In preparing this report the committee has also drawn on 12 submissions it has received.

Reasons for referral

1.3 The Selection of Bills Committee Report of 22 October 2002 contained the principal issues for consideration which it recommended to this committee:

- the adequacy of the employment protection contained in the bill for scheduled workers and outworkers, having regard to the protection enjoyed by other Victorian and Australian workers and outworkers;

- the implications, including constitutional implications, of the bill for alternative legislative approaches at the state level, including the Outworkers (Improved Protection) Bill and the Federal Awards (Uniform System) Bill.

Policy background

1.4 In 1992 the Victorian Government decided to deregulate the Victorian industrial relations system. This was effected through the Employee Relations Act 1992, which abolished state awards from 1 March 1993 and established instead a system of individual and collective agreements underpinned by a set of minimum conditions. In 1996 the Victorian Government referred to the Commonwealth the power to regulate most of its industrial relations powers. This policy was implemented in the *Commonwealth Powers (Industrial Relations) Act 1996*, to take effect from the beginning of 1997. Amendments to the Workplace Relations Act made in 1996

created Part XV of the Act to administer the former Victorian state industrial jurisdiction and to facilitate access to federal awards and agreements. The effect of the transfer of powers was to give the Commonwealth powers to administer industrial legislation passed by the Victorian Parliament in 1992.

1.5 This legislation allowed employment contracts to be entered into based on five minimum terms and conditions. These were: 4 weeks annual leave; one week's paid sick leave; a minimum wage, unpaid maternity, paternity and adoption leave; and notice of termination of employment or pay in lieu. Further amendments to the act were proposed in the 1999 MOJO Bill.

Victorian legislation

1.6 Industrial relations are concurrent powers under the Constitution. The regulation of the employed workforce within state boundaries is a matter for either Commonwealth or state law, but not both. By 1994, the majority of Victorian employees were covered by federal rather than state awards. The referral of power was limited because the potential reach of Commonwealth law is restricted by certain implied constitutional limitations on the capacity of the Commonwealth to pass laws which may effect the functions of a state which are critical to its capacity to function as a government. Thus public sector employment conditions are matters excluded from the referral.

1.7 Commentators, like journalist Mark Davis from *The Australian Financial Review*, have written that for all other workers, the passage of time would see them coming under the employment conditions negotiated through federal enterprise agreements, as Victorian agreements expired. Experience has shown that minimum wage orders continue to operate in the absence of new employment agreements, with Schedule 1A employers and employees remaining in the old state system. This point was made in communications between the Victorian government and the Commonwealth requesting major changes to the Workplace Relations Act. The Victorian Minister for Industrial Relations alleged that the operations of the act had resulted in more than 600,000 Schedule 1A workers being disadvantaged as they were not covered by any award. The Victorian government called for, among other things, a 'genuine' no disadvantage test, a comprehensive award system and an extended role for the AIRC.

1.8 The Commonwealth rejected proposals for changes to the Workplace Relations Act for the reason that the Victorian proposals would effectively re-create a state industrial relations system leading to the loss of Victorian workers jobs.

1.9 In response, the Victorian government established a taskforce to recommend a legislative solution, incorporating aspects of the Workplace Relations Act but establishing a Fair Employment Tribunal to administer a Victorian industrial relations system where matters could not be dealt with under federal law. As noted above, the Fair Employment Bill failed to pass the legislative council. The ad hoc nature of proposed Victorian legislation has, in the Government's view, the potential to complicate industrial relations law in that state, to the detriment of the interests of

both employers and employees and especially to increase unemployment. As commitment to a unified system of industrial relations appears to be a point of agreement on all sides of this debate, the most logical way to strengthen this commitment is to secure the passage of this legislation.

Provisions of the bill

1.10 The Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 is essentially the same as that introduced in the last parliament. In his opening of the second reading debate on the bill in the House, Minister Abbott made a number of points indicating the Government's commitment to worker protection. This report deals only with the main policy provisions of the bill.

Schedule 1A workers and their conditions of employment

1.11 The first element of protection is in regard to what are known as schedule 1A workers. The bill provides for improved safety net entitlements in schedule 1A that is for employees in Victoria not covered by federal awards and agreements. In summary, the bill will amend the Workplace Relations Act to provide for:

- an entitlement to payment for work performed in excess of 38 hours;
- an entitlement for eight days personal leave, which can be taken as sick leave, with up to five days taken as carers leave;
- an entitlement of two days bereavement leave;
- the Australian Industrial Relations Commission to be given power to support wage arrangements in industry sector orders;
- enhanced powers for investigation and enforcement procedures by departmental inspectors;
- the right of the Victorian Government to intervene in certain proceedings before the AIRC; and.
- the insertion of a mechanism for a stand-down of Schedule 1A employees, where, due to circumstances beyond the employer's control, they cannot be usefully employed.

1.12 Proposed amendments in the bill will widen the statutory role of inspectors to allow them to inform, investigate and enforce rights and obligations in schedule 1A workplaces. The proposed changes will make it easier to determine sick-leave entitlements and to increase them to eight days per year and make sick-leave cumulative. Carers leave and bereavement leave will be additional entitlements.

1.13 The bill will also confer on the Victorian government automatic intervention rights before the Australian Industrial Relations Commission (AIRC) in specific circumstances.

Schedule 2 - Outworkers

1.14 An important element in the bill is the provision to give contract workers in the textile, clothing and footwear industry access to enforceable minimum rates of pay. It will ensure that outworkers are paid at least the amounts they would have earned had they performed the same work as employees. The legislation aims at enforcing compliance by authorising federal workplace inspectors to enter premises where work is performed or where there are relevant documents and by empowering inspectors to enforce the minimum rates of pay in the courts.

1.15 As noted in the explanatory memorandum to the bill, outworkers engaged in the textile, clothing and footwear (TCF) industries are generally known to be in a disadvantaged industrial position. Two reports of the Senate Economics References Committee (1996 and 1998) detail the exploitation of 'sweated' labour in the industry. Reports continue of cases where leading fashion design firms are implicated in sub-contracting arrangements which perpetuate these unfair practices.

1.16 TCF outwork appears to be largely concentrated in the fashion apparel sector. This sector is less likely to establish off-shore production because of short runs and quick demand responses required by customers. There is no reliable data on the number of outworkers in the clothing industry, and estimates are some years old. The Textile, Clothing and Footwear Union of Australia estimated in 1995 there were 144,000 such workers in Victoria. In 1996 the Australian Taxation Office gave a national figure of 50,000 working in the TCF industry, of whom just over 20,000 were individual sub-contractors and homeworkers. The difficulty in legislating improved conditions for TCF outworkers is increased by the problem of not being able to estimate how many outworkers are paid under a contract for services, as distinct from those who are employee outworkers. Nor is it easy to determine to what extent contract outworkers are covered by the Clothing Trade Award; that is, whether or not manufacturers or middlemen for whom contract outworkers perform work are respondents to the Award.

1.17 The committee notes general agreement on the absence of reliable data on either wage-rates for employee outworkers or contract outworkers. There is a significant likelihood of non-compliance with the award, but no reliable data on the extent of award violation. Nor can any reliable estimate be made of the number of hours worked by outworkers.

1.18 The Government has considered a number of options in dealing with the issue of outworkers. Some of these will be discussed in Chapter 2. It suffices to say here that the bill contains provisions that stay clear of constitutional limitations and which do not constrain flexible working arrangements. Above all the intent of the bill is to ensure that the protection of workers is legislated for in a way which is consistent with preserving the unitary workplace relations system in Victoria, and therefore of avoiding unnecessary and cumbersome regulatory burdens.

Chapter Two

Consideration of evidence

The bill in the context of workplace relations policy

1.1 Evidence received in written and oral submission to the inquiry has focused debate on the merits of Schedule 1A as a safety net for employee conditions and as a flexible mechanism for ensuring labour market stability. It has also highlighted constitutional and legislative difficulties in the regulation of outworkers in the textile, clothing and footwear industry; problems which offer no easy solution in spite of concern indicated on all sides of the debate.

1.2 There can be no dispute as to the determination of the Government to legislate for improvements in some workplace conditions for Schedule 1A workers, an intention signalled in the Workplace Relations Amendment (More Jobs Better Pay) Bill 1999. The responsibility for delay in implementing what all now agree is necessary protection for Schedule 1A employees lies with non-government parties in the Senate. It is remarkable that the Secretary of the Victorian Trades Hall Council, when asked if this bill should be passed, indicated his ambivalent view of the question. It was not the legislation he wanted, but it was better than nothing. He acknowledged that it would be an improvement for Schedule 1A employees. That is often the way it goes in the legislative process, but it has taken a number of years for the realities of government reform to workplace relations to impress themselves upon all stakeholders in this process.

1.3 In this report, Government party senators restate the way provisions of this legislation form part of coherent policy on workplace relations. The essence of government policy is to provide for a basic minimum rate of pay and conditions for employees who are not covered by other agreements, like agreements or Australian Workplace Agreements. Workplace negotiation is consistent with the Government's long term aim of moving the focus of agreements back to individuals and workplace teams. This ensures that there will be an equilibrium between production and output, on the one hand, and remuneration and conditions of employment on the other. It is an equilibrium which should work to the advantage of both employers and employees.

1.4 The award structure, however, because of its reach across a vast number of industries operating at varying rates of output and performance, and employing a diversity of employees with varying capacities, can be seen to offer a cruder and less sensitive mechanism for setting rates of pay and conditions.

1.5 It remains, nonetheless, the responsibility of Government to ensure that an appropriate safety net of working conditions is set as a floor upon which higher wages and better conditions can be negotiated. To this end, the amendments contained in this bill provide for increase employment conditions improved compliance and

enforcement arrangements for employees in order to ensure the safety net of Schedule 1A employees.

Deeming outworkers to be employees

1.6 The committee majority recognises that the plight of outworkers is a matter of concern to governments, to industry and to unions. This legislation attempts to redress many of the grievances of outworkers and to protect them from exploitation. Descriptions of the problems of outworkers, as recounted in two reports (1996 and 1998) of the Senate Economics References Committee, may be regarded as authoritative evidence of serious challenge occurring in this industry sector. The problem, as always, is to address the problem in a way which is likely to achieve the best results. This is more difficult than critics of the Government would admit.

1.7 The 1996 report stated that the Economics Committee had received compelling evidence of the confused status of outworkers: that some awards indicated that outworkers were employees, and others gave rise to the belief that outworkers were contractors. The committee took the view that all outworkers should be regarded as employees and recommended that the Government examine ways to clarify the status of outworkers in the garment industry.

1.8 The Government responded to the committee's report on 3 September 1997, noting its recommendations and stating that:

- clarification is complicated by constitutional limitations on the Commonwealth, ie. conciliation and arbitration power is limited to 'employees'. Any Commonwealth legislation seeking to alter the employment status of persons would need to depend on other constitutional power;

- despite the referral, there is no greater power for the Commonwealth to legislate in relation to non-employee outworkers in Victoria than in other States;

- due to these limitations, issues related to clarification need to be considered in a coordinated way by both Commonwealth and State governments. It was noted that some State legislation exists which deems certain outworkers to be employees;

- the progression of the issue needs to be handled carefully so as not to constrain flexible working arrangements. Some outworkers do not wish to be employees and contractual arrangements can provide appropriate options for these workers.

The Government undertook to bring the issue of clarification to the attention of relevant state ministers.[1]

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1 Submission No. 7, DEWR, p. 13

1.9 In its 1998 report the Economics Committee reiterated its concern about the employment status of outworkers, and again urged the government to take action to protect outworkers from further exploitation. In response, a working party of Commonwealth and state officials reported on options to clarify the employment status of outworkers. No consensus was reached. This largely reflected the different views in relation to the issue of choice between employment and independent contracting. The Commonwealth, in its consultations with state officials, identified the following issues of concern: the practicability of coordinated legislation; the lack of empirical evidence of the extent to which outworker employees are in fact coerced into disadvantageous contractual arrangements; constitutional impediments to unilateral legislation of the employment status of workers; and, the necessity to establish a consistent approach by all states, establishing a uniform resolution to the current definitional problems.[2]

1.10 Some states have legislated so that outworkers are deemed to be employees for the purposes of industrial regulation, but advice to the committee is that this path presents difficulties for the Commonwealth:

> While the deeming approach is open to the State Parliaments, the Commonwealth Parliament is not constitutionally free to comprehensively and directly legislate for the terms and conditions of engagement for employees or contractors, under the conciliation and arbitration power. Apart from constraints on the Commonwealth's power, the Commonwealth is unconvinced that the deeming of outworkers as employees is appropriate in the federal sphere. The Commonwealth supports providing outworkers in the TCF industry with a safety net entitlement to minimum remuneration, but considers the regulation of other terms and conditions is not appropriate in the context of contractual relationships entered into on a commercial basis.[3]

1.11 In summary, the committee majority does not regard deeming provisions to be consistent with the philosophy which underpins the Government's policy in regard to workplace relations reform. Central to this philosophy is the sanctity of agreements freely entered into by employers and employees: a principle which ensures maximum flexibility in working arrangements, and is necessary to suit the needs of a variety of businesses and their workforces. To deem all outworkers in the textile, clothing and footwear (TCF) industry to be employees on the assumption that there can be no genuine agreement based on mutual benefit would place unjustified constraints on the industry and its workforce.

Constitutional limitations

1.12 This bill, like other parts of the *Workplace Relations Act* draws upon a number of constitutional powers, most obviously section 51(xxxv), the conciliation

2 Submission No. 7, DEWR, p. 15

3 Submission No. 7, DEWR, p. 17

and arbitration powers, which supports the system of dispute resolution, as well as the corporations power (section 51 [xx]) and the trade power (section 51[i]). The referral of power from the Victorian Parliament in 1996 was not complete. There is, for instance, no provision within the referred powers to provide an entitlement to the statutory amount for outworkers not engaged by corporations, or not engaged in the relevant trade and commerce. The Victorian government recently offered to refer additional powers to the Commonwealth, as provided for in the Federal Awards (Uniform Systems) Bill 2002, which would have allowed the Commonwealth the power to legislate to allow the AIRC to order that federal awards apply as common rules in Victoria. This offer has been made on the basis of the Commonwealth deeming outworkers as employees; an approach which the Commonwealth, for reasons stated above, does not favour.

1.13 The committee majority notes that the Australian Industry Group (AiG) has been urging the use of common rules, a matter to which the Commonwealth is unlikely to respond to, because of the potential for these measures to increase unemployment in Victoria. Neither the Victorian Employers' Chamber of Commerce and Industry (VECCI) nor the Australian Chamber of Commerce and Industry (ACCI) have joined the agitation for the application of the common rule to workplaces across Victoria or anywhere else in Australia. The Victorian legislation was voted down by the opposition in the upper house.

Argument over Schedule 1A

1.14 Unions and other critics of the legislation argue that awards are to be preferred to Schedule 1A. The committee majority supports the view put to it that awards are complex documents frequently not understood either by employees or employers. As the Australian Chamber of Commerce and Industry (ACCI) pointed out:

> There is also the challenge of federal award proliferation, which is particularly marked for employers in Victoria. There are many hundreds, perhaps over 1000 of federal awards applying in Victoria, with often dozens potentially applying to one workplace or particular employee. Each award in turn contains many dozens of employment requirements, which may differ materially from those in awards with slightly different coverage.
>
> By contrast, Schedule 1A provides a uniform, easy to understand approach to minimum terms and conditions of employment.[4]

1.15 Mention has been made of the reasons why the Government wishes to maintain Schedule 1A with an enhanced protection role. The evidence points to the flexibility of Schedule 1A that has had an obvious benefit to the Victorian economy. The committee heard evidence from the Victorian Employers' Chamber of Commerce and Industry (VECCI) of the advantage of maintaining Schedule 1A, albeit more up-to-date in its protective provisions:

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4 Submission No. 9, ACCI, p. 3

> We have also been supportive of the framework now contained in part XV and schedule 1A of the Workplace Relations Act. We believe that it has provided particular benefits for small business in Victoria—it is small business that is predominantly regulated by that framework—and we believe that those benefits have been particularly attractive in areas such as property and business services; retailing; businesses in the cultural and recreational services areas, particularly hospitality and tourism; small areas of manufacturing; and the printing, publishing and IT industries. We also believe that it has had a particular benefit in regional Victoria, where a greater proportion of businesses are covered by that framework.
>
> Our members tell us that the resulting benefits include greater flexibility, increased employment creation, enhanced relationships with employees, improved profitability, improved productivity and greater competitiveness. At the same time, we understand that the framework is a dynamic one and we are supportive of appropriate changes to deal with particular issues that may arise from time to time.[5]

1.16 Reference has already been made to the support for common rules by the AiG. The submission from the Victorian Farmers Federation (VFF) is instructive in regard to the more flexible schedule 1A non-award arrangements. The VFF makes the point that:

> …a highly regulated industrial relations system advantages large employers relative to small business. Large companies have the economies of scale to engage industrial relations expertise and work within a complex regulated industrial relations system. Farmers and other small businesses don't have this luxury and complex employment regulations are a major impediment to employment in this sector.[6]

1.17 The Victorian Farmers Federation went on to state that:

> The VFF believes Victoria's flexible employment arrangements have strengthened the State's economy and contributes to increased employment, particularly in the agricultural industry. As a result, the priority for further industrial relations reform should be in introducing greater flexibility for the federal system, not dragging Victoria's system backwards to mirror federal awards.[7]

Job losses

1.18 The Government's determination to retain Schedule 1A in amended form as the legislated safety net of minimum provisions for Victorian workers finds added justification in relation to employment costs. The additional costs of having industry comply with award rates has already been discussed. These objections apply equally

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5 Mr David Gregory, VECCI, *Hansard*, p. 1

6 Submission No. 12, VFF, p. 1

7 ibid.

to the provisions of legislation defeated in the Victorian parliament, but which may yet be re-introduced. In relation to this legislation, Minister Abbott stated:

> The Victorian Fair Employment Bill was flawed in both concept and content. A new system of state industrial laws, regulations, tribunals and bureaucracy would have come at a significant cost to Victorian workplaces and the Victorian taxpayer. It would have increased the cost of employment in schedule 1A workplaces and threatened jobs in urban and regional areas of the state. Its implementation would have cost Victoria 40,000 jobs over three years. In short, it would have been a regressive move, not in the interests of employers, employees nor the public.
>
> This Commonwealth bill avoids the problems associated with the Victorian government's approach. It enhances, in a sensible way, the legislated safety net of minimum conditions of schedule 1A employees (without negatively impacting on employment) and does so within the framework of a unitary system.[8]

1.19 The committee heard evidence from interested parties in relation to the employment consequences of actions aimed at re-introducing award structures in place of Schedule 1A. The committee majority accepts that estimates of job losses need to be viewed conservatively, but they are generally reliable indicators of likely trends. Business in the TCF industry, in particular, as well as in the rural and service sectors, are highly price sensitive in relation to labour costs. The Government's view is that policies which maintain employment levels are preferable to those which see the jobs of less well-off sectors of the workforce placed in jeopardy.

1.20 The Victorian Employers' Chamber of Commerce and Industry (VECCI) commissioned research into the effects of the Victorian Fair Employment Bill. This was carried out by ACIL Consulting, in association with Econtech. Economic modelling was carried out on the basis that the Fair Employment Tribunal would be established and possible decisions of the Tribunal relating to leave loading, penalty and overtime rates were factored into the modelling. The modelling was designed to be conservative in its construction. The ACIL Consulting report to VECCI was summarised thus:

> The Econtech modelling indicated that job losses under the different scenarios would range from 21,000 to 42,000 over the medium term (three year) period, depending on the particular scenario. ACIL estimated that, based on national experience with participation rates, these job losses would raise Victoria's unemployment rate from 6.1 per cent (seasonally adjusted) in December 2000, to 6.5 per cent and 6.9 per cent respectively in the medium term.
>
> Whilst the modelling included the effects on jobs, output and consumption of the loss of Victorian competitiveness, it did not take account of job losses that would occur as a result of the increase in uncertainty in the Victorian

8 *Second Reading Speech*, Minister Tony Abbott, 21 March 2002, p. 2

> business climate resulting from the establishment of the Tribunal. Similarly, it did not include job losses flowing from the reduced investment capability of businesses resulting from the reduced profitability that would accompany the labour cost increases. Nor did it model the implications of the proposed new contractor deeming provisions. The results, therefore, are considered to be conservative on this account as well as because of the scenarios themselves being conservative.[9]

1.21 The research showed that job loses would extend across all businesses and in all regions. About 16,000 jobs would be lost in Melbourne; with around 1,000 job losses to be experienced in each of the five non-metropolitan regions. The industry sectors most affected would be in accommodation, cafes and restaurants, in communications services and in transport and storage.[10]

1.22 The committee majority notes the views of opponents of the bill that economic modelling cannot produce reliable indications of employment trends. Government party senators reject this view, believing that survey results have produced accurate indications of employer sentiments and business intentions. The Government is concerned that a reverse multiplier effect may result from any radical departure from broad policies implemented in Victoria since 1992 and enshrined in Schedule 1A.

Conclusion

1.23 Government party senators believe that the provisions of this bill offer the most orderly and reliable means of ensuring that improved protection of conditions of employees under Schedule 1A can be achieved without threat to job security. The committee majority regards this measure as likely to secure the best legislative outcome for both employer and employees. The flexibility of Schedule 1A ensures that it must retain its central place in the Victorian industrial relations system: the lynch pin of the unitary system which marks Victoria as the leading state in workplace relations reform.

1.24 The committee majority commends this bill to the Senate and urges that it be supported.

Senator John Tierney
Chair

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9 *An Economic Assessment of the Victorian Fair Em ployment Bill 2000,* A Report Prepared for the VECCI, ACIL Consulting, 8 February 2001, p. iv

10 *An Economic Assessment of the Victorian Fair Employment Bill 2000,* A Report Prepared for the VECCI, ACIL Consulting, 8 February 2001, p. 12

Labor Senators' Report

A worn and weary path

1.1 The policy history of the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 may be traced back to 1992 – as later sections of this Labor senators report will detail – but a more convenient starting point from which to understand the context of this bill is the Workplace Relations Amendment (More Jobs Better Pay) Bill 1999. The bill is always referred to as the MOJO Bill.[1] That bill was a comprehensive redrafting of many sections of the *Workplace Relations Act 1996*, made necessary, in the Government's view, by of omissions, oversights and anomalies which had become evident in the few years following its passage. This committee undertook a correspondingly comprehensive inquiry into the MOJO Bill which produced a report contributed to by all parties represented on the committee.

1.2 The failure of the omnibus amendment bill to pass the Senate caused the Government to change tactics, at the behest of the Australian Democrats. MOJO was broken up into its constituent parts, each forming the basis of a bill taking separate MOJO amendments and reintroduced on a piecemeal basis. The result has been little different, although some minor amendment bills have passed. Thus, this committee finds itself again on a worn and weary path, considering amendments to provisions introduced in Part XV of the *Workplace Relations Act* in regard to Victorian workers. The views of Labor senators to the 1999 MOJO Bill may be referred to in Chapter 10 of the Labor senators' report. It has been necessary to reiterate in this report most of the points made in the 1999 report.

1.3 This bill encapsulates policy that remains unchanged since MOJO and before. The committee has the advantage of a longer perspective on this policy and can now see more clearly that this bill proposes improvements to failed policies; that it proposes the consolidation of injustices; that it proposes the entrenchment of processes which inhibit efficient management of enterprises, at the same time as perpetuating inequalities in the workforce. These measures are supported in the cause of labour market flexibility. In previous reports on other amendments to the Workplace Relations Act arising out of the ashes of MOJO, Labor members of the committee have pointed to the ideological impediments which have hampered government attempts to overcome difficulties; a determination to resist measures that compromise the commitment it has to the sanctity of labour market flexibility. Better

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1 A notable characteristic of legislation emanating from the Department of Employment and Workplace Relations (and the former DEWRSB) is the provocative nature of some of the short titles given to bills. They go beyond conventional description toward sloganeering, carrying an exhortation and a challenge to those who will dispute the obvious virtue and necessity of the bill. These banner titles have resulted in little legislative success so far.

that this commitment remain unfulfilled than industrial harmony threaten the realisation of a completely deregulated labour market! These observations have been made before by Labor members on this committee. They remain relevant to the committee's consideration of this bill.

The peculiar state of Victorian industrial relations

1.4 The Government senators' report, taken as a whole, gives a clear picture of the paradox that is the Victorian industrial relations system. The evolution of that system does not need to be described again in this report, though it is only to be expected that an important aspect of the referral of powers by the Victorian government received less than its due emphasis. That is, instead of referring powers to the Commonwealth that would enable the Australian Parliament to empower the Australian Industrial Relations Commission to make common rule awards to create a truly unitary system, a short-term strategy was adopted,[2] born of political expediency and a fundamental antipathy to common rule awards. Several submissions to the committee have pointed to the absurdity of two jurisdictions together having less power to deal with problems than one jurisdiction would enjoy if it had all the powers. The Victorian Trades Hall Council had this to say in relation to a unitary system, Victoria style:

> There is no unitary system. People keep claiming that schedule 1A and the referral of the Victorian industrial relations powers represent some move to a unitary system. That is a nonsense. Even Justice Guidice, the President of the Industrial Relations Commission, in three speeches now has talked about the lack of a unitary system. He says that you have two systems under one industrial tribunal. In fact, you have more of a unitary system in most other states because, by and large, the state awards in Queensland, New South Wales and other states actually reflect the standards in federal awards—we used to call them mirror awards because they mirrored the standards set by the federal Industrial Relations Commission. So this is less of a unitary system than you have in states like New South Wales and Queensland.[3]

1.5 The Australian Industry Group (Ai Group) submission included very similar comments to those of the Victorian Trades Hall Council. Ai Group has consistently argued for the common rule award system to operate in all jurisdictions, though it would prefer there to be only one jurisdiction.

1.6 In Ai Group's experience, the territories common rule award system has operated very effectively over many years. Employers and employees in the territories enjoy the only genuine unitary industrial relations systems in Australia. The territories

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2 Professor Ron McCallum, 'A robust national industrial relations system for Australia', A unitary industrial relations system: unfinished business of the 20th century, BCA Conference Paper, November 2000, p. 4

3 Mr Leigh Hubbard, VTHC, *Hansard*, p. 21

industrial relations systems are far simpler then those in operation in any state, including Victoria with its dual federal award/minimum conditions system.[4]

1.7 Political circumstances favoured Victoria's preferred options for referral of its industrial relations powers in 1996. It suited the purposes of the Coalition government at the Commonwealth level to incorporate 1992 Victorian legislation as Schedule 1A in the *Workplace Relations Act*, but it has become clear that recent attempts to refer residual Victorian powers to the Commonwealth have been resisted, again because of political circumstances. This is a point made very clearly to the committee in evidence from the Ai Group which has proposed that the common rule award system which applies in the territories be extended to Victoria. This requires enabling legislation from the Victorian parliament. It would thus require amendment to the Workplace Relations Act incorporating the referral powers, specifically, amendments to sections 141 and 142 to extend the common rule award system to Victoria.[5]

1.8 The Commonwealth's failure to respond to this recommendation, or to view favourably the legislative attempts of the Victorian government to effect this referral of powers, appears inconsistent with its claimed support for a unitary system of industrial relations. Such support as it gives appears to be conditional upon whether it believes that powers that might be referred should be exercised by any jurisdiction. It is clear that the Government is opposed to the application of common rule awards in principle and therefore sees no practical use in acquiring the power to apply them. Labor senators regret the reticence of the Government in debating its policies more openly in regard to these matters, and in putting a submission to the committee which fails to fully articulate policy in regard to referral of additional powers from the states.

Schedule 1A workers

1.9 The perpetuation of the unfair and anomalous position of Victorian workers employed under conditions laid down in Schedule 1A is the first of two specific issues which the committee has dealt with in this brief inquiry. The ideological imperative which drives this amendment has already been discussed. The detail of what is proposed in the amendments to current provisions serves to elucidate this point. First, however, it is necessary to describe the relevant characteristics of the Victorian workforce and the effects of Schedule 1A on employment.

1.10 Victoria, in comparison to other states, has a disproportionately large low wage sector, with those employees concentrated in small workplaces and in particular industries. Around 356,000 employees (approximately 21 per cent of the Victorian labour force) rely almost entirely on Schedule 1A for their conditions of employment. Of this number of employees, some 235,000 receive only minimum rates of pay under industry sector orders. Another way to see this relative disadvantage of Schedule 1A

4 Submission No. 8, Ai Group, p. 15

5 Submission No. 8, Ai Group, p. 16

employees is to note that 22 per cent of non-metropolitan Schedule 1A workers earn less then $10.50 per hour, compared to only 8 per cent of those working under federal wards. This gives credence to the observation from both unions and the large employer association Ai Group that there are two classes of workers in Victoria, and one of these is an under class.

1.11 In short, Victorian workers whose employment is regulated by Schedule 1A, are severely disadvantaged by comparison with workers under federal award or awards in other state jurisdictions. On the question of whether this bill will substantially improve conditions for Schedule 1A workers, the answer is clearly that they will not. Seven basic conditions are provided for under this bill in comparison with up to 20 allowable matters. Key matters not included in the bill are penalty rates; overtime rates and allowances; provisions in relation to hours of work; and provisions for the resolution of disputes.[6]

1.12 The government senators report suggests that schedule 1A conditions are not 'set in stone' and can be amended legislation of the kind that is now before the committee. In fact, this legislation has been before this committee for over 3 years, and in that time relativities with employees on federal and state awards have advanced considerably. An instance of employees in the mainstream world of work receiving incremental benefits has been the determination by the AIRC that long-term casual employees should have access to unpaid parental leave after 12 months continuous employment. This cannot be applied to Schedule 1A employees except through an amendment to the Workplace Relations Act.[7] Legislation is an unsuitable instrument for making incremental changes to conditions of employment.

1.13 While it cannot be denied that provisions in this bill will bring marginal improvements to conditions of employment for those working under Schedule 1A, Labor members of the committee are most reluctant to give support to measures that do not advance the cause of employees, and which are really intended to maintain their current status as low wage fodder for exploitive employers.

The question of economic benefits of Schedule 1A

1.14 The majority report accepts uncritically the assertions of the Victorian Employers Chamber of Commerce and Industry (VECCI) and the Minister for Employment and Workplace Relations that employment growth and the general prosperity of Victoria can be directly attributed to the existence and operation of Schedule 1A.[8] The Minister has estimated that as many as 500,000 workers are employed under Schedule 1A conditions. The Australian Chamber of Commerce and

6 Submission No.2, Victorian Government, p. 9

7 ibid.

8 Submission No.9, ACCI, p. 4

Industry (ACCI) raised, but did not answer, the question as what proportion of these jobs may be attributed to the functioning of the operation of Schedule 1A.

1.15 The answer to that question is that while Victoria operated under a significantly deregulated labour market after 1992, there has been no significant increase in jobs growth level or reductions in unemployment levels, compared with the national average, or with other states.[9] The committee heard evidence from the Victorian Trades Hall Council to the effect that the Kennett government's job figures where 'fairly appalling' in terms of job creation.

1.16 Unemployment figures did not come down, as you would expect if you were deregulating up to 40 per cent of the work force at that time. So I think there is a lot of nonsense going around about the benefits of deregulation. Indeed, the strong parts of the Victorian economy are highly regulated—the manufacturing sectors and others, where they are in fact unionised, are in fact paying under federal awards and agreements, and in fact face overseas competition. The last time I heard of a local sandwich bar facing export or import competition was probably out in the North West Shelf. It is nonsense to suggest that these small and medium enterprises face the kind of competition that many much more regulated industries and employers face.[10]

1.17 The committee heard disputed evidence of the Government's claims about the adverse effects of instituting federal awards or common rule awards in place of Schedule 1A. Some wild figures were aired. ACCI commissioned research claimed up to 40,000 job losses. These are irresponsible claims, based on estimates of lay-offs by employers averaging 2 per cent across key sectors. The details are included in the ACCI research. This is like claiming that a major recession will result from small increases in wages and other employment costs. It assumes that a large number of businesses would either fail or go into voluntary closure as a result of a small wage increase. Labor senators refuse to give much credence to surveys predicting the onset of a recession of the basis of introducing common rule awards such as are now enjoyed by over half the Victorian workforce, with no indication of mass unemployment.

1.18 Labor senators note that opposition to improved wages and conditions is the normally expected reaction from many employers and some employer associations. On this basis we would never have agreed to equal pay, and employers would have refused to negotiate the wages and conditions that they have in fact generally agreed to.

1.19 The committee received evidence of the link between Schedule 1A and increasing casualisation of the workforce:

> At the introduction of the Workplace Relations Act in Victoria we saw a vast movement of workers off awards and into Schedule 1A employment.

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9 Submission No. 2, Victorian Government, p. 6

10 Mr Leigh Hubbard, VTHC, *Hansard*, p. 22

> This has been to the great detriment of those workers because it does not provide a reasonable set of conditions. This is an opportunity to install a real and proper set of conditions, this legislation will not do that in any way, shape or form, and consequently should not be supported.[11]

1.20 Labor senators see this as further evidence of the fact that Schedule 1A is being used to drag down the conditions of employment generally, with increasing casualisation one manifestation of this trend. For this reason, Labor senators will be recommending that amendments be drafted to allow for the Commonwealth to apply the common rule awards in place of Schedule 1A conditions of employment to all those currently employed under this arrangement. Legislation should be drafted to ensure that the AIRC determine appropriate award rates and conditions of employment. This will also require a recommendation that the Government request the Victorian government for a referral of powers to allow for this matter to proceed.

1.21 Labor senators sought advice from departmental officials as to ways in which the conditions of workers employed under Schedule 1A could be brought in line with federal and state awards. They were advised that while section 5 of the referral of powers legislation expressly excludes common rule, there appeared to be no legal impediment to amending Schedule 1A to include a longer list of allowable matters than the seven currently provided for.[12] Labor senators will be proposing that there be a transitional approach to common rule awards by way of amendments to Schedule 1A providing for 20 allowable matters, in line with the provisions of section 89A of the Workplace Relations Act.

Outworkers

1.22 The second of the two most highly contentious issues in this inquiry has centred on the plight of contract outworkers and outwork employees. There is general agreement about the inadequacy of the bill to achieve either fair wages or job security for these workers. The textile, clothing and footwear industry has long been known for its exploitive work practices, a consequence of the practice of multi-layered sub contracting work involving the labour of the most vulnerable classes of workers, mostly women. Many of these are recent migrants with little education or limited proficiency in English and are in desperate need of employment. Many are in such weak bargaining positions that they often need to supply their own sewing machines. Homeworkers at the bottom of the contract chain may work for as little as $1.00 per hour, typically over a 12-18 hour day, up to seven days a week. The committee is always stuck by a recitation of these details. While the Government may express concern about these practices it sees little it can do about it, beyond setting up inadequate processes through which exploited workers may, if they are extremely lucky and have good advice and contacts, secure some redress from their employer.

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11 Submission No. 1, SMARTcasual, p. 1

12 Mr David Bohn, *Hansard*, p. 48

1.23 The Government proposes to do something about the rights and conditions of outworkers by providing enforcement of the minimum rates of pay. Federal workplace inspectors will be given additional powers to enter work premises and enforce them in the courts. Labor senators regard these measures as inadequate. More fundamentally, the legislation fails to reflect any of the recommendations which have been made in a number of reports into the plight of outworkers. This calls into question whether the Government is seriously interested in addressing the problem. There is also some doubt as to whether the Government really understands the nature of the problem it is legislating for. The Textile, Clothing and Footwear Union of Australia (TCFUA) makes the plausible claim that the Government, in its determination to avoid deeming outworkers as employees, has created the notion of the contract outworker, a category of worker hitherto largely unknown, and who is now to be protected by this bill. As one witness explained to the committee:

> It is the Textile, Clothing and Footwear Union's view that the category of contract outworker—if it exists—covers perhaps five per cent of the outworkers in Victoria, a very small group of workers. It covers those workers that can do the whole job. They would start with the cutting, they would do the pressing, they would perhaps give some work to other people and they would fit this category of contract outworkers.
>
> More than 95 per cent of the outworkers that we deal with and are in contact with do not fit this category. They are workers that receive cut goods. They then make up the cut goods and deliver those made-up products or have those products picked up from them. It is not the case that this bill would deal with those 95 per cent of outworkers, the ones who are grossly exploited under the current conditions here in Victoria. It avoids the question of deeming these workers as employees and in fact it muddies the water by creating the notion that somehow these contract outworkers need these provisions. It is not the case that they need these provisions. The federal clothing trades award already has within it provisions at clause 46 which deal with the issues of contractors not being able to be paid any less than employees. So it is completely unnecessary for the contract outworker to require this type of amendment in a bill, and the federal clothing trades award already provides for a minimum condition to apply to these people.[13]

1.24 A number of submissions deal with the inadequacy of provisions to allow textile, clothing and footwear workers to recover wages in the event that they have been able to make demands for restitution. The Ai Group referred to this deficiency in its submission. It noted that Victorian employees covered by Schedule 1A may pursue payment due to them in court, although there did not appear to be any effective mechanism in place to assist employees to pursue genuine claims. The Labor members of the committee took this issue up with departmental officials, without receiving any satisfaction that the reality of the task facing an NESB migrant worker would be anything less than daunting. Subsequently, the committee has been advised

13 Ms Michelle O'Neil, TCFUA, *Hansard*, pp. 30-31

by DEWR that magistrates courts would be the most appropriate place for plaintiffs to lodge demands for outstanding wages owing to them.

1.25 The TCFUA explained another aspect of this problem.

> The third issue—and the reason we reject this bill—is that it provides no capacity, no tool, to deal with the real problem that faces outworkers today. The real problem is that there is an incapacity to recover money up the contracting chain. This is a difficult and complex area. If workers make up the work, having done a hard day's work and a hard night's work, and are not paid correctly for it—or in some cases are not paid at all—they should have mechanisms within law to be able to recover that money through the contracting chain. This is not dealt with in the bill before you. It has been dealt with comprehensively, as you have heard earlier today, in the ethical clothing act in New South Wales, and it is also dealt with comprehensively in the Victorian government bill that is currently before the Victorian parliament.[14]

1.26 These are matters which Commonwealth legislation should be dealing effectively with. The plight of outworkers should not be left to the vagaries of conflicting jurisdictional responsibilities resulting from incomplete referral of powers.

1.27 Finally, on this matter, Labor senators note the added complication in regard to outworkers is the effect of the use of 'sweated labour' on companies following normal workplace practices as laid down in relevant awards. The committee heard evidence from Ai Group that in so far as its members paid award rates, they were adversely affected by unfair competition from sweatshops. Labor members of the committee believe that responsible local industry has suffered more than sufficient hardship as a result of cheaply imported clothing and footwear. Labor members of the committee believe that the move to off-shore production by established firms may to some extent be attributed to tolerance of third world conditions of employment common in the TCF industry. To this extent the issue becomes wider than a simple industrial relations problem. Therefore the inaction of government policy makers in regard to outworkers is made even less easy to understand.

1.28 Labor members of the committee recommend that amendments to the bill take account of the concerns it raises in this regard.

Constitutional issues

1.29 The terms of reference suggested by the Selection of Bills Committee have this matter included, although there is very little scope within this report to discuss this matter properly, much less make recommendations. Central to the matter is whether it is desirable to alter the status of industrial relations from that of a

14 Ms Michelle O'Neil, TCFUA, *Hansard*, p. 31

concurrent power in the Constitution to that which is reserved to the Commonwealth Parliament alone. In expressing its extreme doubts as to the likelihood of there evolving a national or unitary industrial relations system, Labor senators are only reflecting the common view that has been expressed by experts and practitioners in a number of forums.

1.30 Labor senators note that securing agreement to alter the Constitution is a major, perhaps almost insurmountable barrier. Short of that lies a possibility of identifying an existing head of power, such as the corporations power (section 51 (xx)). Experts are divided over whether this would not create as many difficulties as it is intended to overcome. It is also agreed that the only other alternative, referral of powers from the states is politically problematic, not least because of the Victorian experience described earlier in this report. As Professor Ron McCallum has noted in relation to the Victorian experience, politics has got in the way of policy.[15] There is evidence, apart from that given to this inquiry, that the Ai Group, in particular, has had its patience sorely tried by what it may see as political failures in regard to this issue.

1.31 Evidence to the committee makes it clear that the Commonwealth does not have the power it requires to establish common rule awards in Victoria, and that these were neither granted nor sought when the 'unitary' system was being negotiated. There is a vast area of doubt about the constitutional position of both Commonwealth and state positions in regard to legislation from both jurisdictions in what must be the most legally muddled attempt at making a 'unitary' system of anything in the whole history of the Commonwealth. The committee has received ambivalent advice from DEWR as to the constitutional position. This is understandable in view of the speculative nature of anticipating judicial reaction to hypothetical litigation.

1.32 Labor senators are concerned about the constitutional implications of the bill for alternative legislative approaches to outworkers at the state level. In its submission, the Department of Employment and Workplace Relations stated that the bill is not intended to 'cover the field': the implication being that Victorian legislation affecting outworkers would operate to potentially provide terms and conditions of employment in excess of the entitlement to the statutory amount provided for in the bill.

1.33 However, the department's view about the potential for a 'direct inconsistency' between the bill and the Victorian Outworkers (Improved Protection) Bill was less clear. In its submission, the department noted that were the Victorian bills to become law:

> …there would arguably be no need for the outworker specific provisions of the Commonwealth Bill as minimum remuneration standards would be put in place by the State system. On the other hand, the State system would also

15 McCallum, op.cit., p. 4

> impose requirements regarding conditions of work and work practices which would arguably be inappropriate to contract outworkers.[16]

1.34 The potential for a direct inconsistency under section 109 of the Constitution was put to the department at the hearing: specifically in regard to whether the Victorian Outworkers Bill would remove a right, privilege or entitlement to engage an outworker under a contract of service, which is a right, privilege or entitlement recognised by the Commonwealth. If that were the case, would not there be a direct inconsistency between the Commonwealth bill and the Victorian bill?

1.35 The response from the department was that the Victorian bill would not actually remove the right to engage a person as a contractor, but it would treat the contractor, for the purposes of the Victorian legislation, as though they were an employee and then impose additional obligations on the principal as though the principal were an employer. Those obligations are potentially sitting on top of obligations that would apply under the Commonwealth bill. They would be contrary in a sense, directed at different policy outcomes. They would be confusing for the employer, but not necessarily directly inconsistent.

1.36 The department provided additional information in an answer to a question taken on notice. Labor senators note the more circumspect tone to the considered advice offered to the committee.

> Whether there is a direct inconsistency between a law of a State and a law of the Commonwealth is a matter than can ultimately only be determined by a court. In making such a determination a court would make findings about exactly what 'matter' is addressed by the federal law and whether this is the same 'matter' which is dealt with by the State law. To the extent that a State law is addressing the same 'matter' as the Commonwealth law, this could be considered to give rise to direct inconsistency. In the event of any inconsistency, the Commonwealth law would prevail over the State law.[17]

1.37 Additional advice added weight to the Government's argument that in a contest with Victorian legislation it would win its day in court.

> The Victorian Outworkers (Improved Protection) Bill 2002 would not make provisions for the application of a minimum rate of pay for outworkers. Instead, it would deem outworkers to be employees for the purposes of the Federal Awards (Uniform System) Act (sic) 2002. This would allow the making of a common rule order covering outworkers, if the Federal Awards (Uniform System) Act 2002 (rejected by the Victorian Legislative Council) were reintroduced and became law. If this were the case, and a common rule order was made which dealt with a minimum rate of pay, a court could consider that direct inconsistency arose between the relevant pay rates under

16 Submission No.7, DEWR, p. 21

17 Additional information, tabled papers

> the Victorian legislation and under the Commonwealth's Bill. In such a case, the Commonwealth law would prevail to the extent of the inconsistency.[18]

1.38 The message in all this is that the Government is confident that it controls the only legislative way forward to improving the lot of Schedule 1A employees and outworkers alike. Labor senators acknowledge that this is an area of untested law, no doubt the reason for the ambivalence of the department's answers on this issue, and a degree of obfuscation. This is to be expected in the context of the Government's doctrinaire approach to industrial relations and its antipathy towards the Victorian Government's legislative program.

1.39 This bill continues to ignore the strong body of evidence that exists of the significant exploitation of outworkers and Labor senators see this legislation as flawed and inadequate. Labor will continue to work toward a system that provides both fairness to employees and more stable and efficient processes for both employers and employees.

George Campbell
Deputy Chair

Kim Carr

18 ibid.

AUSTRALIAN DEMOCRATS

SUPPLEMENTARY REMARKS

Inquiry into Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002

When the Federal Coalition Government and the Australian Democrats agreed to pass the *Workplace Relations Act*, and agreed with the Victorian Government to pass the *Commonwealth Powers (Industrial Relations) Act* in 1996 to take effect in 1997, three systems of industrial relations resulted.

Firstly, the Victorian Government retained power for industrial relations purposes over certain state employees. Secondly, the great majority of Victorians moved under the Federal system. Thirdly, Schedule 1A retained minimum employment conditions based on former Victorian conditions that were inferior to those enjoyed under the Federal system.

It was never intended that Schedule 1A workers should remain trapped there or that the number of workers in that category should grow.

According to the Victorian Minister for Industrial Relations, Schedule 1A has resulted in more than 600 000 Victorian workers being disadvantaged, and effectively operating under an inferior system.

The Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 undoubtedly improves the lot of Schedule 1A workers in a number of respects.

However, anyone believing (as the Coalition and Democrats do) in the obvious virtues of uniform or unitary workplace relations conditions, can never justify the continuing retention of Schedule 1A. There is no justification whatsoever for not moving those workers under the conditions enjoyed by other Victorians under the Federal Workplace Relations Act. Transitional provisions may well be necessary to phase that in.

There is no doubt at all that the Victorian Government agrees with that proposition and it is the Federal Government which is refusing to carry through the logic and morality implicit in originally unifying the Victorian and Federal systems. That attitude is unacceptable.

It is also politically dumb because it provides a great and unfortunate incentive for the Victorian Government to try to recreate a State system.

Therefore it will be the intention of the Australian Democrats to provide or support amendments to advance the cause of full unification of the Victorian and Federal systems.

Senator Andrew Murray

Appendix 1

List of submissions

No.	Submission from
1	SMARTcasual
2	Victorian Government
3	Textile, Clothing and Footwear Union of Australia – Victorian Branch (TCFUA)
4	FairWear Victoria
5	Job Watch Inc
6	Victorian Trades Hall Council (VTHC)
7	Department of Employment and Workplace Relations (DEWR)
8	Australian Industry Group (Ai Group)
9	The Australian Chamber of Commerce and Industry (ACCI)
10	Victorian Employers' Chamber of Commerce and Industry (VECCI)
11	ACTU
12, 12A	Victorian Farmers Federation
13	Australian Retailers Association - Victoria

Appendix 2

Hearings and Witnesses

Melbourne, Thursday, 7 November 2002

Victorian Employers Chamber of Commerce and Industry

Mr David Gregory, General Manager, Workplace Relations Policy

Australian Industry Group

Mr Stephen Smith, Director, National Industrial Relations,
Mr Peter Nolan, Director, Workplace Relations

Victorian Trades Hall Council

Mr Leigh Hubbard, Secretary
Mr Jarrod Moran, Industrial Officer

Textile Clothing and Footwear Union of Australia

Ms Michele O'Neil, State Secretary, Victorian Branch
Ms Annie Delaney, Outwork Coordinator, Victorian Branch

Job Watch Inc

Ms Zana Bytheway, Executive Director
Ms Louisa Dickinson, Senior Solicitor

FairWear

Ms Karrina Nolan, Victoria Coordinator
Ms Kylie Wilkinson, FairSchoolWear Project Coordinator

Uniting Church in Australia

Dr Mark Zirnsak, Social Justice Development Officer, Justice and International Mission Unit, Synod of Victoria and Tasmania

Department Employment and Workplace Relations

Mr Alex Anderson, Assistant Secretary, Strategic Policy Branch, Workplace Relations Policy and Legal Group

Mr David Bohn, Assistant Secretary, Workplace Relations Policy and Legal Group

Appendix 3

Tabled documents and additional information

Tabled Documents

Date	From:
7 November 2002	**Victorian Trades Hall Council** Mr Leigh Hubbard Affidavits from workers who had been paid, until quite recently under schedule 1A to the Australia Industrial Relations Commission S.501 applications for Orders Adjusting All Rates (Hansard p. 21) From: Christine Hubbard William John Bates
	Textile, Clothing and Footwear Union of Australia – Victorian Branch Ms Annie Delaney Signed letters from Victorian Outworkers names to be made **Confidential** (Hansard p. 31) Blank letter provided as attachment to submission no: 3, appendix 7

Additional Information

Date:	From:
7 November 2002	**Victorian Employers' Chamber of Commerce and Industry (VECCI)** Mr David Gregory "An Economic Assessment of the Victorian Fair Employment Bill 2000" prepared for VECCI by ACIL Consulting – February 2001
12 November 2002	**Department of Employment and Workplace Relations (DEWR),** Mr Alex Anderson Answers to questions on notice taken at public hearing on 7 November 2002
13 November 2002	**Textile, Clothing & Footwear Union of Australia (TCFUA),** Ms Michele O'Neil Document to the TCFUA from VECCI concerning companies referred to which have initiated court proceedings against in the Federal Court.