SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION LEGISLATION COMMITTEE

Inquiry into the Workplace Relations Amendment (Genuine Bargaining) Bill 2002, the Workplace Relations Amendment (Fair Dismissal) Bill 2002, Workplace Relations Amendment (Fair Termination) Bill 2002, Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002, Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002

SUBMISSION ON BEHALF OF:

WOMEN'S ELECTORAL LOBBY
NATIONAL PAY EQUITY COALITON

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The Women's Electoral Lobby and the National Pay Equity Coalition have contributed to previous Senate inquiries into the introduction of the Workplace Relations Act 1996, the subsequent proposed Amendments, Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999 and the Inquiry into the Workplace Amendment Bill 2000. Our organizations have a long history of concern for achieving gender equity in the Australian workplace. We continue to take an interest in the operation of the Act and we hope that this Submission will be of assistance to the Inquiry.

We argued before the Senate Inquiry into the Workplace Relations Legislation Amendment (More Jobs, Better Pay) that further de-regulation and de-centralisation of the industrial relations system would disadvantage women workers. Recent studies conducted by Campbell and Whitehouse and Preston confirm that changes to more decentralized systems have had a detrimental impact on women workers. We are now concerned that the proposals as set out in Workplace Relations Amendment (Genuine Bargaining) Bill 2002 to limit forms of bargaining will create greater inequality in bargaining outcomes and we fear that women and weaker groups in the labour market will be further disadvantaged.

Pattern and industry bargaining have been a means by which groups have achieved greater equality by benefiting from the flow-on of employment conditions achieved by stronger, better organized workplaces. Women have, in many instances, been unable to achieve employment entitlements as they have

lacked bargaining power. Pattern bargaining has allowed weaker groups to join with others and achieve similar benefits. We submit that proposals to restrict industrial action in support of pattern bargaining will impede the flow-on effect and create greater inequality in the workforce.

We are also concerned that the amendments as set out in the Bill contravene fundamental International Labour Organisation standards on Freedom of Association and the right to collective bargaining. The 1996 Act has been condemned for breaches of Conventions 87 and 98 of the International Labour Organisation by the Committee of Experts because of excessive restrictions it places on industrial action in pursuit of multi-employer or industry wide bargaining. The right to strike and the right of collective bargaining and to engage in and take industrial action at any level, be it national, industry or workplace, is considered a basic human right and core labour standard. We submit that the new proposals restrict this right and contravene the Conventions.

Provisions which prohibit strikes if they are concerned with the issue of whether a collective employment contract will bind more than one employer are clearly contrary to the principles of freedom of association and the right to strike.

We suggest that the Senate give great consideration to Australia's international obligations when considering these amendments.

We would also submit that the proposals to amend unfair dismissal laws as set out in the Workplace Relations Amendment (Fair Termination) Bill 2002 will have a disproportionate effect on the rights of women workers. The Bill intends to restrict access to unfair dismissal laws to casual workers and workers in small businesses. Thirty-two per cent of women are employed as casual workers and many women work in small businesses. While we acknowledge the need for flexible work practices in small businesses we do not believe that workers in small businesses should have inferior employment protection. Unfortunately casual employment has been used as a device in avoiding fair termination laws. We believe that this is discriminatory as one class of workers has less rights than others.

We conclude that restrictions on forms of bargaining and amendments to unfair dismissal laws will create greater inequality in the workforce and disadvantage women further. We also contend that Australia has an obligation to conform to international treaties to which it has assigned.