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The UTS Students' Association Submission to the Inquiry into the proposed Bills to amend the Workplace Relations Act, 1966. The Inquiry relates to the Provisions of the Workplace Relations Amendment:

# *Award Simplification Bill 2002*

# *Better Bargaining Bill 2003*

# *Choice in Award Coverage Bill 2004*

# *Simplifying Agreement-making Bill 2004*

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***The UTS Students' Association welcomes the opportunity to discuss any matters related to this submission.***

## *Introduction*

The UTS Students' Association wishes to express deep concern about the proposed amendments to the Workplace Relations Act, 1966 (WRA). The Students' Association opposes any changes to current conditions that will disadvantage any worker.

The Students' Association expresses the following opinions in solidarity with progressive Industrial unions and workers, and in its position as an employer of a number of staff. The Students' Association also recognises that an increasing number of students are currently engaged in employment whilst undertaking their studies. The proposed Bills will have an impact on all workers in the form of deregulatory measures which erode conditions, such the imposition of restrictions on industrial actions, and removal of award conditions, on the one hand; and the imposition of an anti-worker framework upon workers on the other hand, including giving more power to the Employment Advocate, and reducing conditions for workers in small businesses.

## *Workplace Relations Amendment (Award Simplification) Bill 2002*

The UTS Students' Association believes that the proposed Bill fails the No Disadvantage Test (NDT) that ought be an underlying premise of all legislative matters pertaining to workers. We refute the notion that the current inclusions remain impediments or a "disincentive" to forming agreements in the workplace. The Students' Association believes that amending the WRA to to exclude the clauses relating to 89A which refer to skill-based career paths; bonuses; long service leave; notice of termination; and jury service; and limiting other remaining allowable matters, will reduce workers' current entitlements, and act to lessen the "safety net" that workers have under Federal awards. Many workers will find themselves not covered under other Awards, and it is inappropriate for the Federal Government, in other cases, to devolve responsibility to courts and other non-regulatory bodies, as in the case of Jury Duty. It is a likely consequence that many workers will find themselves out of a regulatory framework and merely have reduced conditions. The notion of "obsolescence" as mentioned in the Second Reading Speech has no relation to the removal of necessary conditions for workers.

## *Workplace Relations Amendment (Better Bargaining) Bill 2003*

The UTS Students' Association believes that the industrial action and third parties clause, will have the effect of ensuring that the parties to the dispute are unable to continue to work through the issues which are derived from the dispute. Industrial action is, and ought to be seen as a legitimate method of achieving outcomes between two disputing parties. It is highly inappropriate that, under proposed amendment 170MWC, third parties might be able to coerce the Industrial Relations Commission to suspend the bargaining period, and move into a "cooling off" period. The provisions will indeed detract from the existing rights of employees to take industrial action, particularly if those employees are in the areas mentioned in the Second Reading Speech: the fields of health, community services and education systems. It is likely that the additional legislation under Section 170MW would lead to a range of spurious and mischievous claims by individuals or organizations unrelated to the dispute, who may have a political agenda in undermining the dispute by claiming harm from the action. The UTS Students' Association believes that such conflict as is engendered by industrial action is taken for the good of workers and that a greater good can be gained by workers deciding forms of action to be had. The undermining of such action by third parties and sanctioned by the Federal Government represents an intervention to deliberately undermine strikes and other collective actions decided upon by workers.

The ordering of a cooling off period to suspend a bargaining period will disrupt the processes that occur between the employer and employee. It is overly interventionist for the Government to interfere with processes currently laid out in the Workplace Relations Act. Employees are entitled to take industrial action. Industrial action is designed to have an effect on workplaces, and is a legitimate form of expression by workers. The

## *Work Place Relations Act Amendment (Choice in Award Coverage) Bill 2004*

The Students Association opposes deregulation for businesses that employ less than twenty people. Industrial unions play an essential part in this sector, and many workers in small businesses remain casualised, contracted out, and disadvantaged in terms of industrial participation. Whether small businesses are members of employer organisations is irrelevant to the protection of the rights of workers. Small business cannot opt out of the broader industrial responsibilities that ought be a part of organised workplaces.

The roping in of small business to federal awards when there are union members in the workplace, remains a right of workers to be exposed to industrial representation. Recourse to current protective legislation ensures workers in small organisations or businesses have broader mechanisms, and are not subjected to arbitrary or unfair bargaining practices. Unions have always worked to protect the less powerful worker, and those working in small businesses will be extremely disadvantaged without outside assistance. Workers in small business cannot work in industrial isolation.

## *Work Place Relations Act Amendment (Simplifying Agreement-Making) Bill 2002*

The proposed amendment to Part VIB of the *Workplace Relations Act, 1966,* which allocates provisions for an extension from the current three-year arrangement to a five-year arrangement, paves the way for a greater 'trade-off' situation where perceived gains for employees such as increase wages for less forms and time-frame for leave. Such a situation, though fitting in with the current No-Disadvantage Test [NDT] requirements, has short term benefits for employee, and perceived benefits for the employer, but can create problems for the business later within that extended period.

By having the five-year arrangement, employers and employees are restricted in negotiations around working conditions. With an understanding that business may have projects that take a greater time frame than three years, such facts must be analysed with an understanding of the development of the project and the possible changing nature of the workplace and sector during that period.

The five-year provision also does not allow for protected action over the five-year period over arrangements within the agreed contract. This could possibly culminate in a log of claims style industrial action, which whether projects are at crucial or non-crucial phases is more disruptive for employees and employers than bargaining over the current three-year cycle.

What the five-year provision also does is to allow employers to negotiate with employees for a slower implementation timeframe for agreements. Two situations could arise from this, both of which would seem undesirable for employee or employer. The first is that changes to employee working conditions, such as pay, leave and other entitlements will have a larger timeframe to be implemented and as such employees are worse off. The other is that it will slow the negotiating period down due to the understanding that employee demands are also set to a five year time frame and will increase as such creating a volatile situation if coupled with industrial action.

Understanding that this legislation is designed around a desire to aid employers, the UTS Students' Association believes that these changes are not only unnecessary but will further exacerbate existing inequalities for workers.

There are obvious disadvantages for an employee when faced with a situation where an employee can choose to implement worst practice and utilise an inferior award during bargaining. Australian Workplace Agreements under the amendment proposals, have the potential to take effect before an agreement is made. This would lock employees into agreements, which may not be desired when compared to changing standards in the rest of the sector.

The UTS Students' Association opposes the amendments to Part VIB of *The Workplace Relations Act, 1966*. The amendments further disadvantage employees and their ability to

bargain for better working conditions, whilst decreasing the universal industrial responsibilities of employers.