

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Independent Contractors Bill 2006 and Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006

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Queensland Teachers' Union

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INQUIRY INTO THE INDEPENDENT CONTRACTORS BILL 2006 AND THE WORKPLACE RELATIONS LEGISLATION AMENDMENT (INDEPENDENT CONTRACTORS) BILL 2006

July 2006

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The Queensland Teachers Union opposes the introduction of the Bill and the Amendment Bill and in doing so fully supports the opposing arguments put forward by the Australian Council of Trade Unions and the Australian Education Union in their comprehensive submissions to the Committee about this legislation.

As the Union representing 40,000 state school teachers in Queensland our organisation has a long tradition of campaigning for fair remuneration and decent working conditions for our members and for the maintenance of a universally accessible public education system with high standards of educational provision.

The Union would therefore view with concern any legislation that could act to introduce “independent contractors” into the state teaching service given the systemic needs of a universalised system such as ours. However, we do not propose to make a detailed submission in relation to teachers as independent contractors given that our Federal body the Australian Education Union will be making a submission in this regard.

As an entity which forms part of the broader trade union movement, the Queensland Teachers Union is also committed to upholding an industrial relations system that respects fundamental human rights including the right to job security, a decent wage and standard job entitlements such as paid leave, superannuation and workers compensation.

These are principles which have been hard fought and won over a long history of trade union activity which the proposed legislation threatens to undermine. It is for this reason that the Queensland Teachers Union opposes the legislation.

The second major concern of the Queensland Teachers Union in relation to this legislation is the potential that it has to impact negatively on very young workers, namely the thousands of school aged students who engage in work outside of school hours. Queensland Teachers Union members have an understandable interest in the welfare of their students not just for their well being at school but for their health and happiness at home and in all aspects of their lives. This is the nature of teaching. The Queensland Teachers Union in opposing this legislation is therefore reflecting the views of its 40 000 members in pointing out the risks that this legislation poses to the welfare of school aged workers, if as this legislation proposes, they can be employed as independent contractors.

Impact on Workers in General

The Queensland Teachers Union submits that following on from the introduction of the “Work Choices Legislation” the Bill and the Amendment Bill will further undermine the job security of working Australians by making it easier for employers to replace existing workers with so-called independent contractors. The new laws will allow more scope than currently exists for employers to avoid responsibility for paying superannuation, workers compensation, annual leave, and other basic entitlements to people who are called “contractors” but who are essentially employees.

A recent University of Melbourne study (1) has found that up to 400,000 workers currently classified by the government as “independent contractors” are actually employees who do all of their work for the one employer. The study found that as many as four out of every ten contractors are “dependent” not “independent”.

The Queensland Teachers Union submits that no decent society should countenance a legislative regime that allows an employment relationship to be disguised as something other than an employment relationship in order for the employer to avoid fundamental civil and legal responsibilities to its workforce.

The effect of this legislation will be to impose a heavy social cost. For independent contractors injured at work and who have no insurance to cover the cost of hospitalisation and rehabilitation will be borne by the public health system. For those who cannot provide their own superannuation cover, the cost of their pensions will be borne by the tax payer. For those who cannot live on a wage that is below the minimum established by the “Fair Pay Commission” the impetus may be for them to revert to the dole, again at significant cost to the taxpayer.

In terms of the social impact of low wages and job insecurity this will be incalculable in terms of the impact on families and for the long term effects on society as a whole.

Impact of the Legislation on Child Workers

In relation to the risks that are envisaged for students who may engage in paid work as independent contractors under this foreshadowed legislation, these are risks that also apply to adult workers, but such risks are manifestly more significant for children given their lack of maturity and their lack of knowledge about legislative and contractual arrangements.

Under this proposed legislation, employers can redefine employment relationships with workers so that they are hired as “contractors” rather than as employees. Given the power imbalance between the employer and the worker especially if the worker is a child, the potential is for the employment relationship to be coercive. Worse still, once a worker has signed up as a contractor he/she has no protections at law. Even the government’s minimum wage or other legislated minimum conditions will not apply.

The risks involved obviously relate to the capacity of junior workers to negotiate their own contracts, to arrange for their own insurance against workplace injury and to take care of their own workplace health and safety.

The fact that independent contractors under this legislation will have no rights under industrial relations law whatsoever is alarming particularly when the workers concerned are children. One has only to look at the notorious case of the boy who was offered work at the MCG as an independent contractor, as recently reported by the ABC, to see how exploitative this form of employment will be.

The effects will be worst on children and low paid workers who do not have the skills that are valued in the market to compete for better paid jobs in industries where employment conditions are regulated by the employers' need to retain highly skilled workers in the face of critical shortages.

Summary

In essence the Queensland Teachers Union opposes the legislation in its entirety because it will act to lower wages, undermine job security and reduce the entitlements of working people. The broader societal impacts of any significant growth in unregulated, low paid and insecure employment will be to remove the safety nets that currently exist in the industrial relations system to the detriment of society as a whole.

While not resiling from this philosophical position, the Queensland Teachers Union recommends that in the event that the committee's final report is in favour of its introduction, the legislation be amended to allow for the exemption of essential services such as Education and to allow for a minimum age for Independent Contractors of 18 years.

(1) "Non-Standard" Workers in Australia: Counts and Controversies, Aust. Journal of Labour Law, 17-2,2004, Anthony O'Donnell.