

**SUBMISSION TO THE SENATE EMPLOYMENT, WORKPLACE
RELATIONS AND EDUCATION COMMITTEE**

INQUIRY INTO WORKPLACE AGREEMENTS

SUBMISSION:

**NATIONAL PAY EQUITY COALITION
WOMEN'S ELECTORAL LOBBY (NATIONAL)**

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The National Pay Equity Coalition and the Women's Electoral Lobby 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 *Workplace Amendment 2000*. Our organisations have a long history of concern for achieving gender equity and fairness in the Australian workplace. We continue to take an interest in the operation of the Act and thank the Senators for allowing us to present our concerns and we hope that this Submission will be of assistance to the Inquiry.

Our organisations are greatly concerned about the impact that the current proposals to change the industrial relations system will have on women workers. We are particularly concerned about proposals that will weaken awards and agreements; changes to Australian Workplace Agreements, the removal of the no-disadvantage test, the reduction of the Australian Workplace Agreement safety net to five minimum standards and the removal of Minimum Wage setting from the Australian Industrial Relations Commission. All available research indicates that women do poorly in less centralised wage fixing arrangements and that a system based upon individual contracts of employment will exacerbate gender inequality in the workforce. The current proposals pose an economic and social threat to Australian women workers.

Women, Bargaining and Australian Workplace Agreements

We submit to the Inquiry that the notion of individual bargaining a fair and equal contract for many women is pure nonsense. Many women work in low paid and insecure forms of employment. They work in industries where labour can be readily supplied and replaced. Many are casual and part-time workers. The idea that individual bargaining gives women freedom in negotiating wages and conditions is based upon one's freedom to choose whether or not to enter a relationship. Women work to earn a living, to maintain their families and in many cases provide the primary income for dependents. They often have no choice as to whether or not to accept work at a fair rate of pay. Working women's choices are restricted by a gender-segmented labour market. Free market ideals of freedom, mobility and flexibility are fictional for those women workers who are channeled into low paid, insecure forms of employment.

International studies indicate that where wage-fixing processes are more centralised the gender wage gap isn't so wide. Studies also indicate that where women rely on more individual wage setting processes there is less pay equity.

The recent New Zealand study on pay equity in the public sector *Report of the Taskforce on Pay and Employment Equity in the Public Service and the Public Health and Public Education Sectors* found that departments which had more collectivised wage setting processes had less pay inequity and that individual market based pay determination processes were likely to be more subjective and discriminatory.

Studies of wage outcomes for women workers indicate that women get higher pay increases and more equitable gender outcomes in industries where they work with men and in industries that are effectively unionised. A study of bargaining levels and wage outcomes by Conway in New Zealand after the introduction of the Employment Contracts Act finds that wages for retail workers were significantly affected by the level at which bargaining took place – that wages were significantly higher for retail workers where bargaining took place on a multi-employer level as compared to a single store or enterprise level, or an individual bargaining level. That decentralisation and individualisation meant the employer had considerable bargaining power. Employer preferences had a major influence on bargaining structures, the negotiation process and wage outcomes (Conway 1999). In Australia, where many women work in the retail sector, any move to AWAs will mean that women will have little say in the negotiation of wages and conditions.

There are many studies in Australia that confirm that decentralised and individualised pay setting have a detrimental impact on women workers. Campbell and Whitehouse and Preston and Crockett studies indicate that gender wage outcomes in State jurisdictions indicate a greater wage gap in more de-regulated industrial systems (Campbell 200 and Preston and Crockett 1999).

Recent analysis of Australian Workplace Agreements indicates that women do not do well under such agreements and that any notion of a fair and equal bargaining process is a fiction.

Department of Employment and Workplace Relations data finds that in Australian Workplace Agreements penalty rate are lost, that one third made no mention of annual leave and that sick leave is also traded off. Only 8 per cent provide paid maternity leave.

Professor David Peetz's analyses of AWAs, *The impact on workers of the Australian Workplace Agreements and the abolition of the 'No Disadvantage Test' (2005)*, and *Is individual contracting more productive? Sydney University Industrial Relations Report Card (2005)* indicate a widening of the gender gap. He finds that the gender pay gap is worse on AWAs. Under registered collective agreements women received 90 per cent of the hourly pay of men on such agreements. Women on AWAs received only 80 per cent of the hourly pay of men on AWAs (Peetz 2005ii). While these outcomes are unwelcome, Peetz finds the outcome for part-time workers is worse, that the gap widens significantly when part-time employees are considered, where the difference paid on AWAs is 24 per cent. (Peetz 2005ii). Australian Bureau of Statistics data shows us that women on AWAs have hourly earnings 11 per cent less than women on collective agreements. Individual contracts are more likely than collective agreements to reduce or abolish penalty payments for overtime, night or weekend work.

According to Peetz, professional and managerial workers are not disadvantaged, however other workers have worse outcomes on AWAs than other forms of collective agreements. Again we remind the members of the Committee that women are more likely to be in less secure forms of employment, in lower paid jobs and more reliant on award adjustments for increases in their pay.

Our organisations are very concerned about the proposals to remove the existing No Disadvantage Test from application to Australian Workplace Agreements and collective agreements. The No Disadvantage Test has provided some protection for workers in maintaining fair wages and conditions. It has protected many workers from being forced to accept contracts which undercut acceptable community standards. The current proposals remove those protections and will leave many workers with an inadequate five bare minimum entitlements. This will have a detrimental impact on the most vulnerable of workers.

Along with our grave concerns about bargaining outcomes we also must express our opposition to the proposals to change the method of setting the Minimum Wage. Many women are reliant on award wages and the fixing and the frequency of wage increases is important to their standard of living. The concept of a Minimum Wage is somewhat different from that of a Living Wage. A Living Wage allows for consideration of community standards whereas a minimum wage is very much a subsistence wage.

We are also concerned that the Minimum Wage will not be set by an independent body, the Australian Industrial Relations Commission. The Australian Industrial Relations Commission has provided a fair outcome for lower wage workers, many of whom are women. In Australia the Living Wage is set at a fairer level than that of countries like the United States where the minimum wage is subject to adjustment through the political process. In the United States 25 per cent of workers are low paid by OECD standards and women make up 32 per cent of low wage workers. In Australia, where the independent AIRC has set minimum wages, the figure is much lower, at 13 per cent of women workers. We

are concerned that the proposed Australian Fair Pay Commission will only adjust the minimum rate on a periodic basis and ask does this mean every one, two three, or ten years or when politicians think fit?

We are concerned that unions will lose many rights to enter workplaces to speak to workers. The right of trade unions to enter workplaces has provided a mechanism to ensure that proper wages are paid and workplace health and safety standards are met.

After years of fighting for equality, women stand to lose advances in pay equity, employment rights such as paid maternity leave, superannuation, penalty rates for casual work, work and family entitlements, unfair dismissal rights and an independent way of setting a fair and minimum wage.

While individual contracts (Australian Workplace Agreements) may provide a small section of the female workforce with a reasonable outcome, the majority of the female workforce stands to lose much in the way of wages, conditions and employment rights. Individual bargaining is a nonsensical concept for most women workers.

We urge Senators to review all relevant research on Australian Workplace Agreements and consider this evidence with regard to current proposals to remove protections now applied to Australian Workplace Agreements. Senators have a responsibility to ensure that the social and economic needs and values of Australian society are maintained and not endangered.

References

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