

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (Work Choices) Bill 2005

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WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

Submission to the Employment, Workplace Relations and Education References Committee

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ORGANISATIONAL SUMMARY

The University of New South Wales Student Guild is the representative body for UNSW students, a population of students currently numbering over 36 000. The Guild operates with an annual budget of approximately \$1.6 million and currently employs seven full-time staff members, all located at the Kensington campus.

The Guild has a number of departments including:

- Education
- Welfare
- Women's
- International Students
- Gay
- Lesbian
- Indigenous Students
- Ethnic Affairs
- Activities

The Guild funds the activities of approximately 175 student clubs and societies that are active in and around the Kensington campus. The Guild also provides free advocacy and legal representation to all students; and the *Tharunka* newspaper and numerous other publications.

INTRODUCTION

On 2 November 2005, the Minister for Workplace Relations, the Honourable Kevin Andrews MP (hereinafter 'the Minister'), introduced the *Workplace Relations Amendment (Work Choices) Bill 2005* (hereinafter 'the Bill') into the House of Representatives.

On 12 October 2005, the Bill was referred to the Senate Employment, Workplace Relations and Education Legislative Committee (hereinafter 'the committee'). According to the Explanatory Memorandum circulated by the Minister, the Bill seeks to:

"Amend the Workplace Relations Act 1996 (the WR Act) to create a more flexible, simpler and fairer system of workplace relations for Australia. The Bill will carry forward the evolution of Australia's workplace relations system to improve productivity, increase wages, balance work and family life, and reduce unemployment."¹

The University of New South Wales Student Guild (hereinafter 'Guild') is opposed to a number of provisions contained within the Bill for reasons that will be outlined in the submission. It is the opinion of the Guild: that of all Australian citizens, young people who have recently commenced, or will commence, their working lives in the new workplace environment will be most affected.

The Guild believes that the opinions of young Australians have not been adequately addressed during the drafting of the Bill. In order to help rectify this omission the submission composed by the Guild was drafted only after consultation with the UNSW student community. The Guild requested that UNSW students submit accounts of their working experiences. The responses from students were varied, however, trends in the responses could be ascertained from which the submission was composed.

¹ Andrews, Kevin, Explanatory Memorandum, *Workplace Relations Amendment (Work Choices) Bill 2005*

The Guild believes that the increased use of Australian Workplace Agreements (hereinafter 'AWA'), which are a central tenet of the Bill, will dramatically affect many young Australians. The Guild believes that, on average, young people will suffer a net loss of financial benefits by the increased use of AWA in the Australian labour market. There are a number of reasons for this:

- Young employees do not have the ability to fairly negotiate agreements
- Young employees have been, and will continue to be, forced to accept contracts that they are not happy with
- A reduction in the number of potential employees within the Australian labour market does not offer employment security to young employees

Young employees do not have the same level of workplace experience that employers do. The Minister states, "face-to-face negotiation is usually the way in which people come to arrangements about their employment."² However, young employees feel that the balance of power rests with the employer and they cannot negotiate an agreement that offers them an outcome in their best interests.

"What I am most concerned about is my own ability to negotiate an AWA. Being female, and being young, I think I would be disadvantaged." Cindy, University Student, currently employed under an AWA

"My concern is for the young and uninformed Australian who enters the workplace with no idea of what is possible, what they can negotiate...many workers are simply not aware of what is possible and what their rights are and so [they] could be manipulated by a wiley [sic] employer." Peter, University Student

The Guild believes that it is a fallacy that young Australians will have the ability to agree to AWA on their own terms. The Prime Minister stated, "I point out to the member for Perth that, under the existing law, an employer can say to someone that signing an AWA is a condition of employment"³. Anecdotal accounts supplied to the Guild suggest that young Australians are currently being offered the choice to either agree to the terms of an AWA, that they are not happy with, or look elsewhere for employment. Many are concerned that this practice will only increase under the workplace environment created by the Bill. Of particular concern to the Guild is the provision within the Bill that *Centrelink* payments be discontinued if an employment opportunity is refused, regardless of the conditions and rate of remuneration.

² Andrews, Kevin, Transcript "Andrews defends IR changes", Interviewer: Tony Jones, *Lateline*, ABC, 03/11/2005

³ Howard, John, *Hansard* (Proof Copy), Parliament of Australia, Canberra, p49, 02/11/2005

"I am currently required to sign an AWA document which will be due soon. I felt little power in bargaining with employers. As most of my income derive [sic] from this casual job. And this is the situation that you take it or leave it. I have to choose to stay meaning that I have to accept it unconditionally." Andy, University Student

"There is a great concern among employees over the ability to be able to negotiate an agreement. In fact there is great concern over being able to negotiate at all. Some employees with previous AWA experience say that we will have no choice at all, that we will have to accept the contract that the employer places in front of us or face losing the job. They point to Telstra and [the] Department of Workplace Relations (DEWR) as examples where they are virtually unable to negotiate." Yogesh, University Student, Cadet

"I am currently a casual employee in a large organisation. I have always been on an AWA, and even this AWA was quite bad. I was recently asked to sign a new AWA which included a [provision] called 'preferred hours' which meant I lost my right to penalty rates. I am 19 years old and I was told that as I was an older employee at work, I [had] better sign it because otherwise I would expect to get no shifts at work because I was too expensive to hire on penalty rates. I do night-fill and some nights we work from midnight until the morning, so we loose all rights to these hours being paid penalty rates. I was given the option not to sign it but those who did would be considered 'preferred employees' as they chose to sign 'preferred hours'. We were then told not to discuss the AWA with fellow employees." Kate, University Student, Currently employed under an AWA

The Minister claims, "employers today are looking for every worker they can find," to suggest that employees have increased employment security because of the "shrinkage [that is] occurring in the growth of the workforce"⁴. Unfortunately for the Minister, young Australians do not perceive the lack of potential employees within the labour market having this effect.

"As retail work is pretty unskilled I don't really have any bargaining power, as I am easily replaceable and there is always someone willing to work for less money or worse conditions. Obviously as a student it's difficult enough to work and support yourself at the same time at the current award rates. Being forced to work for less money would definitely interfere with my ability to study." Emmy, University Student

"I have worked in retail since I was 15. Last year I got a job at a newsagency, a casual position working every Friday. I took time off in the summer break according to what I had arranged with my employers when I first took the job. [At Easter] I wanted to take one day off to visit my family. I arranged someone to cover my shift, when I got back I worked a few weeks until they stopped giving me my Friday shift, and said they'd call me when they needed me again. They never called. It was inconvenient and tough to be out of a job so quickly." Sarah University Student

⁴ Andrews, Kevin, Transcript "Andrews defends IR changes", Interviewer: Tony Jones, *Lateline*, ABC, 03/11/2005

"I am currently studying honours. My supervisor is based at the Royal North Shore Hospital in St Leonards. So I have to travel approximately sixty minutes each way on public transport. Honours is a full-time commitment, making it very difficult to work as well. I had a part-time job at a local club to help pay for rent and bills, which was near my home. The catalyst for my job loss was when I was asked to stay back on a Sunday night because they were short staffed. My rostered time to finish was 9:30 pm, and I left at 9:30 pm. I could not stay any later because of my university commitments the next day. After this shift I was no longer rostered on any shifts, effective immediately. When I called the boss, he said I was put on a 'forced break'. [I am] concerned that similar situations to mine will become standard practice." Nathan, University Student

"The new changes will affect the younger workers more than anyone. As someone with minimal if no experience you have little power with which to negotiate with your employer as there will always be someone else young and in need of a job who will be willing to do it for less." Sarah, University Student

YOUNG WORKERS & THE “FAIR PAY COMMISSION”

The Guild believes that the establishment of a “Fair Pay Commission”, as outlined in the Bill, to determine the minimum wage, and the subsequent removal of this power from the Australian Industrial Relations Commission (hereinafter ‘AIRC’), will adversely affect young Australians. The Guild believes that the majority of young workers are remunerated at, or close to, the AIRC benchmarked minimum wage. A reduction in the minimum wage would result in significant hardship for young Australians.

A study of the housing trends of 4 278 UNSW students conducted by the Guild, in early 2005, highlighted the disturbing number of students experiencing “housing stress”, that is, the proportion of their income spent on accommodation is at an unsustainable level or at a level that means that other essential costs in their lives, such as getting adequate food, suffer.⁵ The study found that while 55.3% of students pay less than 30% of their income on accommodation costs, 44.7% of students are considered to be experiencing housing stress. The Guild believes that students are already suffering from an inability to work enough to support themselves through their university studies. Students currently working at AIRC determined minimum wage rates do not support the creation of the Fair Pay Commission.

“I am pretty much on minimum pay so I am concerned about the ramifications of WorkChoices to the safety net wage. I think having the AIRC as an independent arbiter will help maintain the incomes of people who are on minimum wages and I really believe that the move to get rid of the AIRC in determination of the safety net wage is about keeping the minimum wage low and therefore, compromising the standard of living of lots of uni students.” Cindy, University Student

“The current system [under the jurisdiction of the AIRC] is very fair and arbitrary, with no prejudice towards industry, employees, employers or the government. I believe that it provides fair representation in wage and conditions disputes. The Fair Pay Commission [will be nothing more] than an instrument of the government. We will have a system that favours the government and employers over employees – not really ‘fair’ is it?” Kathryn, University Student

⁵ A copy of the report “Student Housing Needs Report” can be sourced from the UNSW Student Guild President

CONCLUSION

The Guild believes that some sections of the Australian population will be affected, to a greater extent than others, if the Bill is supported by the Senate.

The Guild believes that the Bill, as proposed by the Minister, does not serve the best interests of young Australians. The Guild believes that in its current form the Bill will have significant negative effects on student and young workers. Notably an increase in the number of young workers who are employed under AWA that they feel do not adequately or fairly remunerate them; and a reduction in the minimum wage that will increase the financial hardship already suffered by students and young people.

From the responses that the Guild received from the UNSW student community it was apparent that young people do not feel that they can negotiate agreement outcomes in their best interests. Hence, they felt that they will be negatively affected by the Bill.

The Guild formally recommends:

That research be conducted to determine the ramifications of the proposed Workplace Relations Amendment (Work Choices) 2005 Bill on young and vulnerable Australians in the workplace before the Bill is supported by the Senate.