

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005

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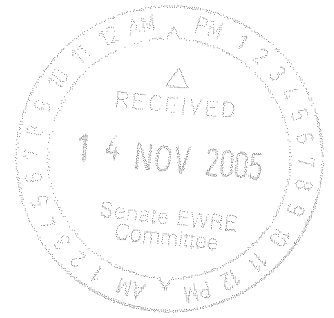
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Mr. John Carter
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Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
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I write to raise my concern that the Federal Government's WorkChoices package will fail to protect outworkers, who are some of the most vulnerable workers in Australia.

Some 300,000 outworkers work sewing from home across Australia for as little \$3 an hour working 10 hours a day up to, 7 days per week.

Need Full Range of Protections

There are a range of laws and award provisions, which have been built up over the last 15 years, to protect outworkers from being exploited by unscrupulous employers. They were introduced after rigorous research, inquiry and consultation. The Senate Inquiry into Outwork, the NSW Pay Equity Inquiry, the Victorian Government Outwork Inquiry and many other formal inquiries have found that a range of protections are necessary to support supply chain transparency and the protection of fair wages for outworkers. These protections include the Federal and State Clothing Awards, State legislation deeming outworkers employees, the capacity for outworkers to recover unpaid wages up the supply chain and mandatory codes for retailers.

For outworkers to be protected under the new workplace relations laws, ALL the existing laws and provisions need to be maintained.

Outworker Access To Federal Award Provisions Is Not Protected

The outworker award provisions of the Federal Clothing Trades Award retained in WorkChoices only apply when there is an "employee" performing work. As WorkChoices overrides most, if not all, of the state legislation which deems outworkers to be employees, many outworkers will not be able to access these award protections.

I am concerned that the award provisions will not apply to outworkers, if their status as employees is not protected under current state legislation.

WorkChoices legislation means that every outworker will have to individually prove they are an employee not an independent contractor, before the protections will apply to them. Migrant women outworkers with limited English skills and limited financial resources are not in the position to take such action.

Even where an outworker is considered an employee in law employers can still easily "opt out" of these provisions by making a workplace agreement which excludes them.

Written Agreements

I understand that outworkers are rarely given the opportunity to negotiate the terms of an agreement. In the unlikely event that outworkers were required to sign an individual

workplace agreement, these workers would be highly disadvantaged in the bargaining process due to poor English language skills and their desire to maintain employment.

Access to Supply Chain Information

Transparency down the clothing supply chain is vital in ensuring that outworkers at the bottom of the chain are receiving their correct entitlements.

I am concerned that there will be extremely limited obligations for a company to keep work records available for inspection, for example in a workplace where all the employees have signed an individual Australian Workplace Agreement. I would like to seek assurances that all clothing work places will be bound to the Outwork clauses in the Clothing Trades Award, which includes access to work records.

I fear that without the existing protections such as state deeming laws, the exploitation of outworkers will be essentially legalised, because outworkers will be treated as "independent contractors", without employee rights and entitlements, who will be "free" to enter into contracts for \$3 to \$4 an hour.

The Government must ensure that state protections and deeming of outworkers will not be overridden by new industrial relations legislation.

I am writing to ask the Federal Government to:

1. Guarantee that all Outwork provisions of the Federal Clothing Award will apply to all clothing workplaces.
2. Retain in full the existing outworker provisions in the State clothing awards;
3. Maintain of all existing deeming provisions regarding outworkers in State legislation;
4. Deem outworkers as employees in the Federal Workplace Relations legislation;
5. Maintain the union's right of entry across Australia in order to monitor the entire clothing contracting chain.

Yours sincerely,
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