

Inquiry into the *Workplace Relations Amendment (Transition to Forward with Fairness) Bill*

1. The PSU Group of the Community and Public Sector Union (“CPSU”) represents workers in the Australian Public Service (“APS”), the ACT Public Service, the Northern Territory Public Service, the telecommunications sector, call centres, employment services and broadcasting.
2. The CPSU welcomes the *Workplace Relations Amendment (Transition to Forward with Fairness) Bill* (“Transition Bill”). We believe it is an important initial step in rejecting the previous Government’s WorkChoices legislation and establishing a fair and equitable industrial relations system.
3. The CPSU has had the benefit of reading the ACTU submission and endorses that submission.
4. The CPSU notes that a principal aspect of the Transition Bill pertains to the abolition of AWAs. The CPSU has extensive experience in dealing with AWAs. AWAs were aggressively pursued by the previous Government through the federal public sector. AWAs have also been and continue to be aggressively pursued by Telstra.

Economic and social impacts from the abolition of individual statutory agreements

5. The CPSU believes that the abolition of individual statutory agreements will have a beneficial social impact in our areas of coverage. In our experience AWAs have a negative impact in the workplace.
6. In the APS, AWAs have had a particularly negative impact. A central tenet of public service employment and the APS values is that employment decisions will be based on merit. In the APS, the widespread use of AWAs has undermined the operation of the merit-principle.
7. A number of departments, including the former Department of Employment and Workplace Relations, implemented policies that made it a condition of engagement in that department that a prospective employee accept an AWA. This meant that the person willing to accept an AWA got the job, not necessarily the best person for the job.
8. AWAs also create disharmony between employees in the workplace. Terms and conditions of employment become shrouded in secrecy; two employees doing the same job at the same classification do not know whether they are being similarly remunerated. In some workplaces this has caused tension and antagonism between employees, which has undermined the team environment that otherwise existed.

9. In our experience, AWAs often make it more difficult for employees to achieve an adequate work life balance. For example, under the terms of Telstra's AWAs weekly working hours can be averaged over twelve months and the working hours can change at any time. Obviously Telstra expects their AWA employees to be highly flexible when they attend work. For an employee with caring responsibilities, however, it would be near impossible to meet this expectation. Quite legally under the terms of that AWA an employee may be required to work sixty hours one week and twenty the next with no provision outlining the minimum notice requirements. In our view, the pressure AWAs put on employees with caring responsibilities and employees' work life balance has negative consequences for individuals, families and our communities. Accordingly, we believe the abolition of AWAs will have positive social implications.
10. The CPSU believes that the abolition of individual statutory agreements will have no adverse economic impact. The transitional arrangements proposed by this bill ensure that there is an appropriate time for employees and employers to move from AWAs to collective agreements. In effect, this means that employees, employers and unions have appropriate time to establish alternative industrial arrangements, without the spectre of the immediate cessation of AWAs.

Impact on employment

11. The CPSU does not believe that the abolition of AWAs will have any impact on employment.

Potential for a wages breakout and increased inflationary pressures

12. The CPSU does not believe the abolition of AWAs will lead to a wages breakout or increased inflationary pressures.
13. In our experience in the APS, productivity has been much more strongly associated with collective bargaining than with the use of AWAs. For example, wages outcomes in collective bargaining had to be justified by reference to identified and quantified productivity increases and were checked against this. In contrast, under the previous Government's bargaining parameters wage outcomes in AWAs were not checked against identified and quantified productivity increases. The lack of transparency and examination of AWAs in the APS make them far more likely to lead to unforeseen and unsustainable wages outcomes.

Potential for increased industrial disputation

14. The CPSU does not believe the abolition of AWAs will increase industrial disputation; indeed the abolition of AWAs has the capacity to reduce industrial disputation. In our experience some of the more protracted and

longstanding industrial disputes relate to the form of an industrial agreement and issues of union recognition.

15. In the APS some agencies, like the former OEA, have solely used AWAs to determine terms and conditions of employment and refused to negotiate an agency collective agreement. In such circumstances the refusal of management to negotiate a collective agreement, no matter the level of employee support, is very detrimental for workplace relations and greatly increases the potential for industrial disputation.

Impact on sectors heavily reliant on individual statutory agreements

16. The CPSU operates in sectors that have high AWA usage. In the federal public sector 13% of employees are engaged on AWAs¹. The communications sector also has a relatively high usage of AWAs; in Telstra we estimate over 50% of employees are employed on the basis of AWAs.
17. The proposed legislation provides sensible transitional arrangements so sectors that have had high AWA usage will have appropriate time to restructure their industrial arrangements.
18. Our recent experience in the federal public service demonstrates that where industrial parties are willing to move away from their use of AWAs and discuss how that might be most appropriately facilitated, this can be easily accommodated. In the federal public service the Commonwealth Government, in consultation with the CPSU, is already installing sensible transitional arrangements to prevent the further use of AWAs and flexibilities within collective bargaining that remove any need for AWAs.
19. Unfortunately it would seem not all industrial parties are so willing to accept the outcome of the recent federal election and the demise of WorkChoices. Telstra continues to strongly push AWAs, including using them as a condition of engagement.
20. Indicative of Telstra's reluctance to accept any possible retreat from WorkChoices is its conduct late last year, in the months leading up to the federal election. In October last year, Telstra's management put out a non-union collective agreement. This was done without negotiating any of the proposed terms and conditions with affected employees or their unions and with some considerable time to run on the existing collective agreement. When unions criticised aspects of the proposed agreement or the process that Telstra's management had engaged in, they responded by engaging in litigious threats against the unions and union officials. Fortunately Telstra employees saw through management's stunt and voted against the proposed agreement.
21. After the election result, Telstra made 5 year AWA offers to its staff, regardless of the expiry date of their existing agreements. It would seem

¹ *State of the Service Report 2006-2007* p72

Telstra's strategy was to lock its employees into WorkChoices AWAs despite the outcome of the federal election.

22. Whilst the movement to a new industrial relations framework makes it inevitable that Telstra will have to move away from AWAs and engage in genuine collective bargaining, their reluctance to do so means that they will make the transition period more difficult for those employees currently on AWAs.

Impact on productivity

23. The CPSU does not believe the abolition of AWAs will have any negative impact on productivity. In our experience collective bargaining outcomes are closely linked to increases in productivity. We believe that a greater reliance on collective agreement making will actually improve productivity.

Additional matters

24. The CPSU notes that some workplace agreements, including union collective agreements, will commence operation from the time of approval. It will be pertinent that the Workplace Authority is able to assess these agreements quickly so they can become operational.
25. Given the importance of quick assessments, the Government should be mindful of the workload of the Authority and delays that have been experienced in assessing agreements against the 'fairness test'. As the union representing employees at the Workplace Authority and in order to avoid delays in making workplace agreements operational we believe it is necessary that the Government adequately resources the Authority for this function.

**Community and Public Sector Union
29 February 2008**