

Committee Secretary
Senate Education and Employment Committee
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Parliament House
Canberra ACT 2600

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19 September 2022

To the Committee Secretary,

Re: Submission to the Education and Employment Legislation Committee inquiry into the *Fair Work Amendment (Equal Pay for Equal Work) Bill 2022*

I am writing to express our disappointment in the extremely narrow scope of the *Fair Work Amendment (Equal Pay for Equal Work) Bill 2022* and that proposed changes ignore the most extreme pay inequities in the workforce.

We are staunchly opposed to all forms of forced, coercive and underpaid labour.

It is legal for employers to exploit people on Centrelink payments, disabled people and incarcerated people by paying them far below the national minimum wage for meaningful work – in the case of Work for the Dole participants, paying no wages at all. Piece rates also enable employers to underpay, disproportionately harming migrants. Problems with labour hire pale in comparison.

Government-run and -endorsed programs are breaching peoples' rights under international law including by violating the forced labour convention, the convention on the rights of people with disability and the declaration on the rights of indigenous peoples.¹

This situation is unacceptable and is a matter of racial and disability justice. It has gone on far too long.

¹ See: ohchr.org/en/instruments-mechanisms/instruments/forced-labour-convention-1930-no-29; un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html; and un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html.



Current legal minimum wages:

- A representative example of wages paid to incarcerated people is the inmates wage system in New South Wales, which caps wages at \$2.34 per hour for people working a 30 hour week. People in the lowest paid work earn as little as 60 cents per hour.²
- Disabled people working in Australian Disability Enterprises and other jobs covered by the Supported Wage System are paid as little as \$2.67 per hour.³
- People in Work for the Dole are not paid any wage for their work. They receive a meagre allowance, purportedly to cover travel and other costs, of \$20.80 a week, or 42 cents per hour.⁴

Many people paid at these rates work directly alongside others doing the same job under mainstream awards or perform the same duties as those covered by one. For example, the inmates wage system provides specific examples of skilled work such as plumbing and electrical. All workers should receive the same rate of pay as people in open employment doing the same job.

During the federal election campaign, prime minister Anthony Albanese said that no one should be paid below the minimum wage, and we agree. The Labor party has committed to abolish the Youth PaTH program on the same basis. By contrast, \$8 million in funding has been promised to bailing out an organisation that employs people through the Supported Wage System, rather than using those funds to support affected workers into open employment,⁵ and provisions that enable people in Work for the Dole to be paid nothing while not even able to access protections like WorkCover have gone ignored.

We recognise the need for changes to ensure people employed by labour hire companies do not earn less than their directly employed counterparts, but we are disturbed there has been no move to address the far greater pay disparity for people coerced into working for a few dollars an hour or less. Disabled and incarcerated workers are being paid a pittance to produce goods for some of the largest companies in the country, such as Bunnings and Qantas.⁶ The wages stolen from workers through Australian Disability Enterprises and prison labour with this work disproportionately harms people with intellectual disability and First Nations people due to intersectional discrimination that means they are over-represented in these systems.⁷ One of the biggest charities in the country relies on the free labour of unemployed people living on roughly half the poverty line to operate hundreds of shops and warehouses, further hindering their ability to find paid work.⁸

2 See: csi.nsw.gov.au/Pages/csi-policy-manual/csi-policy-manual.aspx

3 See: awardviewer.fwo.gov.au/award/show/MA000103#P1035_82847

4 See: guides.dss.gov.au/social-security-guide/3/11/3/110

5 See: ministers.dss.gov.au/media-releases/8321

6 See: thenewdaily.com.au/news/national/2022/06/12/prison-labour-companies-australia

7 See: abc.net.au/news/2022-04-13/disability-royal-commission-probes-ade-employment-jobs-wages/100977448 and abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/latest-release

8 See: awftd.org/article/we-need-the-labor-party-to-end-work-for-the-dole and theconversation.com/new-finding-jobseekers-subject-to-obligations-take-longer-to-find-work-162093



This exploitation undermines wages and harms all workers, including those paid under a mainstream award. It creates a perverse incentive for employers to use free and underpaid labour instead of creating sustainable jobs, exacerbating problems created by the increasing labour hire. The included attachment shows examples of work people on unemployment payments were forced to do for free, showing that real jobs are displaced by the government's forced labour programs.

The government should treat with urgency the need for changes that would ensure that everyone receives equal pay for equal work and that no one is paid below the national minimum wage of \$21.38 per hour.⁹ This is not just a matter of justice, equity and ensuring the labour market operates fairly. It is a matter of survival for workers on poverty wages.

We do not object to protections for labour hire workers to ensure they are paid adequate wages, but it is unacceptable to prioritise this ahead of the extreme inequity already affecting people who face far greater barriers to equal participation in the labour market, and whose exploitation causes far more harm to other paid workers.

Paying people fairly benefits us all, individually and collectively. It means more jobs, better quality jobs, and financial security for people who otherwise have none.

Ensuring that people in Australian Disability Enterprises have income at least at the level of the national minimum wage is the first step to upholding their rights and transitioning away from segregated work environments. It will enable disabled people to gain financial independence, and provide better opportunities to live independent lives.

Paying incarcerated people fair wages means they will be better able to re-establish themselves when they are no longer imprisoned, and are better able to support their families while still inside. This means paying for the work of maintaining prisons, as well as for the commercial activities facilitated by corrective services.

Paying people for work done through Work for the Dole, Community Development Program and similar programs imposed on unemployed people means fewer people surviving on poverty-level social security payments and safer workplaces.

Recommendations

All incentives and mechanisms that allow people to earn less than the national minimum wage for their work must be removed. The committee should recommend amendments to this bill, as well as related legislation and regulations, to ensure that no one is able to be paid below the national minimum wage and that all workers receive equal pay for equal work.

⁹ See: [fwc.gov.au/agreements-awards/minimum-wages-and-conditions/national-minimum-wage](https://www.fwc.gov.au/agreements-awards/minimum-wages-and-conditions/national-minimum-wage)



1. Use all available avenues to immediately increase wages for workers in Australian Disability Enterprises and corrective services to the national minimum wage.
2. Amend the Fair Work Act to remove all provisions that enable employers to pay below the national minimum wage.
3. Repeal the *Business Services Wage Assessment Tool Payment Scheme Act 2015* and abolish the *Supported Employment Services Award 2020*.
4. Immediately make Work for the Dole voluntary, as was done with the Community Development Program last year, and provide a supplement to participants who choose to continue in the program to ensure they are paid at least the national minimum wage.
5. Amend social security law to remove provisions that define the forced labour activities required to fulfil participation requirements as “work-like”, so that people in Work for the Dole, the Community Development Program and similar programs are not exempted from WorkCover.
6. Increase resourcing for the Fair Work Ombudsman to improve enforcement of new rules related to piece rates.¹⁰
7. Work with Inclusion Australia and people employed in Australian Disability Enterprises to resource and implement a five-year transition plan for ADEs and enable every person with an intellectual disability to participate in open employment.¹¹
8. Work with the Antipoverty Centre and people in Work for the Dole and related programs to implement a transition plan for workers and host organisations by creating sustainable jobs.
9. Work with the Australian Prisoners' Union and incarcerated people to develop supportive training and employment programs and safe working environments.

Achieving equal pay is a matter of urgency for hundreds of thousands of workers. This bill, and the government's legislative agenda, must prioritise those who are paid the least.

For enquiries related to this submission please contact team@antipovertycentre.org.

A handwritten signature in black ink that reads 'KOConnell'.

Kristin O'Connell
Research and policy
Antipoverty Centre

¹⁰ See: theguardian.com/australia-news/2022/sep/13/farmers-fined-for-failing-to-comply-with-workplace-laws-as-new-minimum-wage-takes-effect

¹¹ See: inclusionaustralia.org.au/equal-pay-equal-respect-we-call-on-the-next-australian-government-to-create-real-employment-opportunities-for-people-with-an-intellectual-disability



Acknowledgement of Country

The Antipoverty Centre acknowledges the original peoples of this unceded continent, who have been custodians of Country for thousands of generations. First Peoples have connections to place, land, water and community that have been unbroken for 120,000 years.¹² We recognise Indigenous sovereignty and the cultural significance inherent in these connections, historical and contemporary. We pay respect to Elders past and present and stand with all First Peoples in the quest for self-determination, justice and truth-telling in the face of ongoing colonial violence, including that inflicted through racism in the social security system.

About the Antipoverty Centre

The Antipoverty Centre was established to counter problems with academics, think tanks and others in the political class making harmful decisions on behalf of people they purport to represent. We are activists, advocates and researchers with lived experience of poverty and disadvantage. We defend and fight for the rights of people like ourselves who experience violence at the hands of an economic system designed to oppress us. It is our mission to shift how people speak about and respond to poverty in this country. We work closely with peer support groups, activists and grassroots civil society organisations to complement their work. Our goal is to help ensure the voices and rights of people living in poverty are at the centre of social policy development and discourse. We believe there should be no decision made about us without us. The Antipoverty Centre is not politically aligned and does not accept funding that places political constraints on our work.

¹² Bowler, J., Price, D., Sherwood, J. and Carey, S., 'The Moyjil Site, South-West Victoria, Australia: Fire and Environment in a 120,000-Year Coastal Midden — Nature or People?', *Proceedings of the Royal Society of Victoria*, 130/2 (2019), 71–93, <https://www.publish.csiro.au/rs/rs18007>.



Attachment

Examples of unpaid labour undertaken by Work for the Dole participants

Work for the Dole participants receive a travel allowance of \$20.80 per fortnight, or 42 cents per hour or those required to attend for 25 hours per week.¹ It has not increased in decades and is not even adequate to cover travel, meaning in practice people pay to work while living in deep poverty.

The Antipoverty Centre is currently conducting a survey of people who have been forced to participate in Work for the Dole to complete “mutual” obligations.² We have received more than 140 responses so far from people who have been required to complete the program. Of those, 3 said they were given a paid job as a result of their involvement in the program and only 1 of those jobs was ongoing, meaning less than 1 per cent of participants secured a job through Work for the Dole.

In the survey we asked participants whether they felt the unpaid work they did through Work for the Dole should have been paid, and if so, why. Below is a small sample of the responses we received.

“It was essentially just cleaning, and usually cleaning for an organisation is paid!” – anonymous

“I was the only one that could use a sewing machine and had to train everyone else in the group. Being a new endeavour, I had to put together policies regarding customer service, safety etc which have since been used across the entire organisation. Sometimes I was left alone to supervise the site.” – anonymous

“It takes five to eight hours out of your day. It costs me money to attend, because the bus fare isn’t covered by the paltry subsidy... In a normal retail outlet, this would be paid work. Salvos get by on free donations and free labour.” – anonymous

“I was eventually hired by Lifeline to do what I was doing. That’s how I know [I should have been paid].” – Nathaniel Mahony-Silverman

“They are compiling museum exhibits/knowledge off the research done by WFD participants.” – anonymous, worked at the Perth Museum

“It should have been a paid job because I did all the same duties as paid staff members, and worked twenty hours, more than some of the staff and I was not paid.” – anonymous

“The only actual tasks we had were mowing the lawns, which was the size of a football field, and in the last 2 weeks building garden beds and laying pavers, which I feel are skills-based roles, not for work for the dole.” – anonymous

¹ See: workforceaustralia.gov.au/individuals/training/work-experience/work-for-the-dole

² The survey can be accessed via: awftd.org