



# **Independent Inquiry into Insecure Work**

**UNIONSACT SUBMISSION**

UnionsACT is the peak body of trade unions and represents 24 affiliated unions and 33,000 union members in both the private and public sectors. Unions in the ACT are growing at a rate of about 3.6% in both public and private sectors. Clearly a majority of employees are engaged in working for either the Commonwealth Government or the ACT Government. However the private sector is also growing to service the public sector and the growing population. We have some very serious skill shortages in a range of occupations including nurses, construction workers, teachers, community sector workers, hospitality workers, child care workers, air conditioning technicians, auto mechanics and aged care workers to name just a few of those skill shortages.

In the 2006 Census (held on 8th August 2006), there were 368,129 persons usually resident in Canberra-Queanbeyan (ACT/NSW) (Statistical District): 49.3% were males and 50.7% were females. Of the total population 1.3% were Indigenous persons, compared with 2.3% Indigenous persons in Australia. The median age was 34 years, compared with 37 years for persons in Australia. During the week prior to the 2006 Census, 206,429 people aged 15 years and over who were usually resident in Canberra-Queanbeyan were in the labour force. Of these, 65.0% were employed full-time, 25.6% were employed part-time, 4.2% were employed but away from work, 2.0% were employed but did not state their hours worked and 3.3% were unemployed. There were 75,319 usual residents aged 15 years and over not in the labour force. The most common industries of employment for persons aged 15 years and over were Central Government Administration 17.1%, Defence 5.5%, School Education 3.9%, Tertiary Education 3.5% and Cafes, Restaurants and Takeaway Food Services 3.4%.

We will address the following terms of reference according to the following key areas identified by our members.

**Terms of Reference:**

1. An overview of your union and the industries it operates in (including membership, number of workers in the industries, main types of jobs)
2. The prevalence of insecure work in your industries. Reasons for its growth.
3. What your union has done to counter the spread of insecure work; particularly, what industrial strategies you have pursued, and how successful these have been. What has worked, and what has not?
4. Employer attitudes and responses to insecure work, and campaigning against it.
5. Options for solutions to insecure work – industrial and legislative.

## **“We will call you if we need you!”**

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We have noted a growing amount of insecure work across a wide range of occupations and industries most notably in hospitality, retail, construction and in universities. Young people who make contact with us through our active schools program and on campus activities tell us that often the only work they are able to obtain is short term, casual or contract work.

Many young people who have been in the workforce for the last 10 years are still subject to this insecure form of work even when they have been with the same employer for many years.

## **We only offer contract work in this workplace but these contracts get continually rolled over!**

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Older people too now complain that they can only secure short term contracts even for work in the public sector. Academics at our universities and Canberra Institute of Technology also complain about no permanent tutoring or teaching jobs being on offer in the current labour market.

Body hire is also growing in the construction industry as is the growing practice of sham contracting whereby an employee is encouraged to work as an ABN sub-contractor even when they are working for the same employer at one location.

It seems that permanent full time positions are a thing of the past in the new labour market. The period of Work Choices during the Howard Government certainly helped this growth but it didn't just begin in the 90's it has in fact been developing in the retail and hospitality sectors as the norm for several decades. It also proliferates in small business and in sectors such as the community sector due to the lack of secure funding and the nature of short term project funding as a direct result of government process and the electoral cycle.

We have noted that it particularly affects young people, women and older men and obviously affects vulnerable workers in all industries where union membership is low or non-existent.

Since Work Choices many workers are unaware of their basic employment rights and are often exploited due to ignorance, incorrect information or myths passed on by their employer or other employees. We see people every day through our door or on the phone who don't know their basic rights and find it hard to get factual information about those rights. Often they don't know of the existence of Fair Work Australia, the National Employment Standards, Occupational Health & Safety legislation or what unions are or do for workers. These people report that they just really needed a job and didn't think they were allowed to question their

employer about things that seemed unfair as this seemed to be “the way things worked these days”

One would expect recent migrants, workers with poor English skills or refugees to be ignorant of employment rights but in fact it is not confined to these groups. The fact that these rights are enshrined in legislation, contained on websites and apparently covered by awards and agreements does not mean that all workers have access to this information or understand what these terms mean or how they are applied.

The shift away from awards to collective agreements has very definitely left a large number of workers behind in terms of employment protection in industries where union presence is low or weak. This has clearly been made worse by the more stringent and restrictive right of entry conditions for union officials to enter workplaces. If you look at industries like clothing, footwear and textiles where the practice of outworkers has grown enormously then this scenario becomes more likely.

To overcome this lack of information and understanding UnionsACT has produced a very simple information card which was originally developed for young people entering the labour market. We now however use it with workers of all ages and find that many parents benefit from the information contained therein. We have also begun offering a simple advocacy service to people who walk in off the street or who call us seeking information about employment law and rights. Clearly the need for more information, advice and advocacy about employment rights is sorely needed by many of those workers affected by insecure work practices.

Young people at school should at the very least be receiving basic information addressing their rights as employees as part of all Year 10, 11 and 12 curriculums. Especially prior to their accessing any work experience programs or school-based apprenticeships.

## **Why don't I pay you cash in hand and we both don't have to pay tax?**

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The hospitality and retail labour markets are rife with unregulated payments, non payment of penalty rates, non payment of tax, no superannuation contributions despite the modern award and the arrival of the Fair Work Act.

Fair Work Australia acknowledges in its regular reports on the activities of its compliance inspectorate that thousands of employers are regularly engaging in underpayment of wages and non compliance with entitlements to their workforce. It is not confined to hospitality and retail by any means.

Complaints from workers indicate these practices are also common in the food industry. We have provided advice to several workers who have lodged complaints and back pay claims with Fair Work Australia who were working in local restaurants. Construction is riddled with a

proliferation of ABN workers who have been told that the only way they can work on some sites is if they have their own ABN number and they describe themselves as a subcontractor. Clearly many of these people are not subcontractors as they work for a single employer, using the employers tools and have their hours and conditions determined by that employer. When people are conned into becoming an ABN worker they lose not only correct pay, but also superannuation and workers compensation entitlements are often forgone too.

In the ACT we had a serious bridge collapse in 2011 during a concrete pour where 6 workers were quite badly injured. None of these workers were employed correctly, no workers compensation had been paid on their behalf and no superannuation contribution was made for them either. All of these people had been recruited as day labourers in the days leading up to this job where coincidentally no proper Occupational Health & Safety procedures were in place either. These practices are endemic in the construction industry particularly on the smaller construction sites in Canberra and on some larger Commonwealth sites where the unions' right of entry is made very difficult.

A scheme which has been very successful in addressing the insecurity of work in the construction industry is the Redundancy Fund – ACIRT which compels employers to contribute a levy per worker into a secured fund which is managed like a Superannuation fund. When workers finish work or are made redundant they can access these funds to enable them to have financial security to cover their living expenses when the work dries up. This type of scheme in industries like hospitality, manufacturing and retail would go a long way to providing the sort of financial security that many workers need. Australia's economy revolves around a rate of home ownership which is very dependent on workers being able to maintain mortgage payments. The collapse in this market in the US has revealed how vulnerable our economy could be if the unregulated labour market is allowed to grow.

A redundancy scheme for workers in particular industries where work is insecure or driven by contracts or grants which are limited would be a very good way to provide security to those workers and would help to develop workforce viability where labour shortages occur in those industries.

## **We can just do a special deal for you but don't tell the other workers here how much you are getting paid?**

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Individual contracting with workers by employers whereby one or more workers are getting paid less than the general workforce is a practice that is used with vulnerable workers such as women returning to the workforce after years rearing children, migrant workers, 457 visa workers and many backpacker labour. The impression is given to the worker that they are getting paid more than the other workers when invariably the opposite is the case!

We have heard many stories from individuals from these groups where this practice seems to be quite common. Also we have had some 457 visa workers who have not received payment for

their work for several weeks or are having substantial deductions taken from their wages to repay the costs the employer incurred to bring them to Australia. Some pay nearly all their wages back to their employer in hefty rent and boarding fees often in very substandard accommodation where over 20 such workers may be living in the one house yet paying very high market rents to employers who are also their landlords.

## **If you don't like the job here we will dob you into Immigration and you will be sent home!**

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This is a common refrain from the worst of employers who exploit the Visa Worker scheme to bring foreign workers here to Australia. These workers have been identified in a number of industries but are most common in the meat industry, hospitality, clothing, textile & footwear industry, food processing and fruit picking to name just a few.

We are aware of a number of complainants here in Canberra who have taken their cases to Fair Work Australia to seek redress.

UnionsACT has worked with both affiliates and a group in the community to produce simple flyers that explain the correct rates of pay in the Hospitality sectors and the construction industry. WE are currently working on a similar flyer for the Retail industry. We have also produced tables that clearly show how getting paid cash in hand- or without tax is not a benefit compared to the Award rate or an EBA rate of pay. This simple one page depiction of the information is quite important and much easier to understand for all workers and is easily passed around by hand or word of mouth.

We have also printed thousands of copies of such fliers and handed them out at university campuses, schools and construction sites as well as public meeting places. We always get a good response from younger people with this methodology and they often express gratitude at the access to this information.

**KIM SATTLER**

**SECRETARY**

**UNIONSACT**

**25 January 2011**