

## THE LAW

# Outworkers are in for rights

Reforms tackle exploitation concerns.

**C**ontract outworkers in the textile, clothing and footwear (TCF) industry across Australia will be given the same rights as direct employees under amendments to the Fair Work Act.

Outworkers are generally subcontractors for small factories who are in turn contracted by other larger manufacturers or fashion houses to produce clothing and other goods. They are known as 'outworkers' because they work outside of standard business premises, generally in their own homes.

Introducing the amendments into the Senate, Manager of Government Business, Senator Joe Ludwig said there was widespread concern these arrangements often lead to exploitation.

"Most recently, a report by the Brotherhood of St Laurence in 2007 found that outworkers experience poor working conditions and are frequently underpaid, sometimes as little as two or three dollars per hour," Senator Ludwig said.

"These reviews have found, and the government accepts, that outworkers in the TCF industry suffer from unique vulnerabilities as a result of their engagement or employment in non-business premises.

"These vulnerabilities are made worse by the fact that outworkers are often migrants with poor English language skills, a lack of knowledge about the Australian legal system and low levels of union membership."

Under the amendments contract outworkers will be deemed to be employees of the company which

directly engages them and entitled to all relevant award conditions, such as rates of pay and superannuation. The amendments also strengthen protections for outworkers who are not paid by their employers, allowing them to claim payment from other entities in the supply chain who they work for indirectly.

The normal 24 hour notice period for union entry to a workplace will also be waived in most cases, giving unions more power to monitor conditions in the broader TCF industry.

"This recognises that poor practices in the TCF industry are not confined to work conducted in people's homes, but also take place in conventional workplaces operating under sweatshop conditions," Senator Ludwig said.

"The government believes that strong action on this issue is required, as reports continue of people working in sweatshops in the TCF industry."

While the changes have been supported by unions and community groups, they have faced strong criticism from businesses working in the sector. The Australian Industry Group labelled the amendments unfair and warned the changes would threaten the future of the entire industry.

"It is not legitimate or fair to deem contractors to be employees in circumstances where parties have agreed to enter into a contractor arrangement," the group said in a submission.

"It is not legitimate or fair to apply different right of entry regulations to employers in the TCF sector merely because they are employers in the TCF sector.

"It is not legitimate or fair to hold businesses accountable for the actions of others when they have no control or knowledge of those actions and indeed may never have any contractual relationship with that other party.

"Ai Group has a substantial membership in the TCF sector and is concerned that not only do these proposals assume that all operators in the TCF sector operate illegitimately but furthermore the terms of this bill may dramatically and adversely affect decisions regarding the engagement of outworkers and the ongoing viability of the TCF sector in Australia."

**"It is not legitimate or fair to hold businesses accountable for the actions of others"**

Christine Metcalfe, director of The Ark Clothing Co, said in a submission the amendments will harm the very people they are designed to protect by failing to recognise they are independent contractors rather than employees.

"Many outworkers run successful businesses and have done so for many years," Ms Metcalfe said. "The current regulatory framework is proving inflexible and does not cater for those outworker businesses that are successful and profitable.

"In some cases, the need for those outworker businesses to begin receiving employment-like benefits poses a risk to the continuing operation of their businesses."

However the Australian Immigrant and Refugee Women's Alliance said that in many cases the only reason outworkers are employed on a contract basis is to avoid employment obligations.

"AIRWA is gravely concerned about the ongoing exploitation of outworkers in the Australian clothing industry," AIRWA said in its submission.

"Outworkers have little or no control over their working conditions and pay, so to suggest they are contractors with freedom to negotiate their contracts does not reflect the reality."

**"Outworkers experience poor working conditions and are frequently underpaid"**

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## “Strong action on this issue is required”

Senator Ludwig acknowledged business concerns with the amendments, but said they were merely a national extension of similar legislation already in force in many states and territories.

“If a business already complies with the outworker provisions

in the TCF award and relevant state legislation, then these amendments should have limited impact,” Senator Ludwig said.

“Only those that flout existing laws — by exploiting outworkers, by forcing employees to work in sweatshop conditions, and by taking advantage of the vulnerable position of migrant workers — should be concerned.” •

## HEALTH

## Health e-records equal healthy treatment

### System to save lives and costs.

**N**ew e-health legislation passed by the House of Representatives will allow patients to access their medical history at any health practitioner in Australia.

Patients will be able to register for an e-health record of their medical information, which will be both accessible by the individual and available when they see a new doctor or other provider.

Former Health Minister and current Attorney-General Nicola Roxon told parliament the new system will improve consistency in treatment, helping to avoid unnecessary duplication of procedures and potentially serious medication errors.

“Medication errors currently account for 190,000 admissions to hospitals each year,” Ms Roxon said. “Up to 18 per cent of medical errors are attributed to inadequate patient information.”

Despite expressing concerns about the potential long-term costs of the project, the opposition supported the Personally Controlled Electronic Health Records Bill 2011, ensuring its passage through the House.

Shadow Parliamentary Secretary for Primary Healthcare Dr Andrew Southcott said a properly implemented e-health system could save both time and lives.

“The government’s own projections show that electronic health records alone will have a net economic benefit of \$1.5 billion up to 2025,” Dr Southcott said.

“In addition, forecasts by Booz and Co have shown that a comprehensive e-health platform, of which electronic records are a significant part, could save up to 5,000 deaths annually once fully operational.”

Registrations for the new system are set to begin from 1 July 2012. •