

## Wages and Employment Conditions

### Policy Framework

1. Congress reaffirms that:
  - a) Union organisation and collective bargaining are the primary means by which unions achieve fair wages and employment conditions for union members. Union members earn on average 12 per cent more than non-unionists, and union members have greater access to leave, superannuation and other employment conditions.
  - b) The National Employment Standards and Modern Awards play a crucial role in underpinning bargaining. They are the principal means of achieving wage justice for those unable to bargain. An open, agile and transparent process for setting minimum wages and conditions is the foundation for a robust and fair labour market.
  - c) The role of unions in organising collectively raises standards for all Australian workers and therefore assists in achieving broader social justice objectives. By extending union gains to all workers the exposure of strong union sites to the downward pull of wage competition and incentives to de-unionise is diminished.

### Overall Objectives

2. The broad objectives of wages and employment conditions policy over the next three years are to:
  - a) Achieve real wage increases for union members;
  - b) Achieve substantial improvements in award minimum wages;
  - c) Improve job and income security;
  - d) Build and extend collective bargaining;
  - e) Achieve equal remuneration for women;
  - f) Improve rates and conditions for apprentices, include adult apprentices;<sup>1</sup>

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<sup>1</sup> The VET Policy deals with apprentice wages and conditions in more detail.

- g) Remove wage discrimination impacting upon young people, casual workers and others;
  - h) Build union membership and organisation through campaigns over wages and employment conditions, particularly at the industry and occupational level;
  - i) Build and extend portability of entitlements, particularly on an industry or sector basis;
  - j) Support the growth of decent work – quality training, work/life balance, secure accrued entitlements;
  - k) Ensure that minimum entitlements remain relevant and enforceable and that awards cover all workers; and
  - l) Build sustainable workplaces.
3. These broad objectives are to be pursued through collective bargaining, the award system, legislative and public policy change and campaigns in the community.

### Minimum Wages

4. Congress reaffirms award rates of pay as a key component of wages policy in that:
- a) Award rates provide vital protection to award dependent workers; and
  - b) Increases in award rates reduce the gap between award and agreement rates of pay.
5. Congress is concerned at growing inequality between award dependent workers and the wages and conditions of those covered by agreements, together with the needs of the low paid.
6. The ACTU and unions are committed to raising and restoring the relevance of award rates of pay through annual cases before the Minimum Wage Panel of Fair Work Australia, based on:
- a) Promoting social inclusion and increased workforce participation;
  - b) Relative living standards and the needs of the low paid;
  - c) Equal pay for work of equal or comparable value; and
  - d) Securing fair minimum wages for juniors, trainees/apprentices and workers with disability.
7. Congress resolves to continue to:

- a) Substantially lift the real value of award minimum rates through national wage case proceedings;
  - b) Raise the Federal Minimum Wage to \$660 per week within in the next three years;
  - c) Broaden efforts to achieve minimum wage improvements through public campaigning aimed at highlighting the position of the low paid, and mobilising workers and others in the community to demand greater wage justice; and
  - d) Develop strategies to ensure award wages provide a relevant floor for bargaining.
8. Congress rejects the proposition that minimum wages be frozen or restrained on the basis of creating more jobs and containing inflation.
  9. Congress recognises the importance of skill based career paths and wage progression for productivity, equity and social inclusion.
  10. Congress recognises that low paid workers are particularly affected by the social wage, which includes tax and social security policy and the provision of public services including health, education, housing and transport. Congress will campaign for social wage improvements to lift the living standards of low income households, as a complement to – but not substitution for – real minimum wages increases.

### Fair flexibility

11. Congress is committed to ensuring that individual flexibilities do not undermine the safety net or remove award entitlements for individual workers.
12. Congress notes there is a growing body of evidence that Individual Flexibility Arrangements (IFAs) do not assist workers to access genuine flexibility or provide sufficient protection from disadvantage.
13. Congress will pursue better safeguards on IFAs, including formal certification requirements, that ensure employees are genuinely better off overall than they would have been had they not entered into an arrangement.
14. Persons wishing to negotiate the terms of an Individual Flexibility Arrangement should have a right to seek the assistance of Fair Work Australia and be informed of that right and their right to be represented in doing so.

### Equal Remuneration

15. Congress notes that the gap between average male and female earnings has widened in the last ten years.
16. The ACTU and unions are committed to achieving equal remuneration for work of equal or comparable value through the following:

- a) Build on the equal remuneration principles identified in the SACS Pay Equity Case and continue to pursue applications to Fair Work Australia to make equal remuneration orders;
- b) Increase the participation of women in enterprise bargaining, by increasing the representation of women delegates in the bargaining process, improving access to training and pursue equities in pay, benefits and employment conditions;
- c) Use low paid multi-employer bargaining to increase access to collective bargaining for workers in female dominated occupations and industries;
- d) Improve the low paid bargaining provisions of the FWA to ensure low paid workers on inferior workplace agreements are not excluded from assisted bargaining;
- e) Undertake regular evaluations of remuneration practices to ensure they are transparent, free of gender bias and reward work value;
- f) Use provisions in the Fair Work Act to pursue equal remuneration and benefits: including work and family, anti-discrimination, good faith bargaining principles, and the 'better off overall test';
- g) Monitor the compulsory flexibility clauses in agreements and awards to ensure women are not disadvantaged; and
- h) Use the review of modern awards for equal remuneration purposes and to remove discriminatory terms.

17. To achieve equal remuneration Congress calls on the Government to review the Equal Opportunity for Women in the Workplace Act to:

- a) Require workplaces to report meaningful, quantitative equal remuneration and equality indicator data annually;
- b) Establish industry specific minimum standards which employers must meet in order to comply with their obligations under the legislation;
- c) Require employers to consult with employees and to develop, monitor and implement practices to promote and achieve equal remuneration;
- d) Provide unions with an opportunity to comment on organisations' reports prior to Agency assessment for compliance;
- e) Increase regulatory measures to prevent unequal remuneration, including performance improvement notices and mandatory action plans where appropriate, with the purpose and role of gathering data, monitoring and investigating equity in pay, conditions and benefits; and

- f) Reform the *Sex Discrimination Act (Cth) 1984* and other anti-discrimination legislation to promote equal remuneration for work of equal or comparable value.
18. The ACTU will provide appropriate resources to assist affiliates to achieve equal remuneration: including assistance in making applications for orders, and ensuring equal remuneration is included in all ACTU education programs and bargaining resources.
  19. Congress commits to ensure that Government policies decrease the wages gap between men and women. This includes ensuring equivalent support and assistance for men and women, and for male and female dominated industries.

### Protection against Discrimination

20. Congress notes that the framework of discrimination laws must be improved if we are to genuinely strive to eliminate discrimination and promote substantive equality.
21. Congress calls on the government to ensure that its consolidation of federal anti-discrimination laws shall not diminish existing employee protections, rather, it should aim to enhance current protections by developing a single, consolidated Equality Act which:
  - a) Includes clear, positive objectives to prevent and eliminate discrimination and promote substantive equality;
  - b) Removes out-dated definitions and technical requirements which serve to make it difficult for meritorious claims to progress;
  - c) Facilitates resolving systemic discrimination by empowering relevant organisations to initiate investigations and claims of systemic discrimination;
  - d) Improves the accessibility, efficiency and affordability of the complaints process; and
  - e) Contains regulatory tools enforcement provisions to encourage and assist organisations to prevent and eliminate discrimination.
22. Congress notes that most discrimination occurs in the workplace and recommends the Fair Work Act maintain its protections against discrimination including the jurisdiction of industrial and employment Tribunals to prevent discrimination and enforce anti-discrimination at the workplace. Congress recommends that the Fair Work Act be amended to:
  - a) Reflect a consolidated Equality Act;
  - b) Ensure the provisions of the Fair Work Act apply where State and Territory laws are silent or inconsistent; and

- c) Include a new ground of protection for employees experiencing family violence.

## Aboriginal and Torres Strait Islander Workers

- 23. Congress commits to address the employment, wages and working conditions of Aboriginal and Torres Strait Islander workers.
- 24. To facilitate progress, the ACTU will, in conjunction with affiliates, develop a bargaining claim framework of minimum entitlements for Aboriginal and Torres Strait Islander workers which will:
  - a) Address cultural and ceremonial leave;
  - b) Recognise the concept of “kinship” in addition to immediate family as outlined in the NES; and
  - c) Undertake research and consultation around modern, innovative and culturally relevant clauses to support workers with native title responsibilities.
- 25. The ACTU and affiliates will continue to campaign for Aboriginal and Torres Strait Islander workers to have access to real sustainable employment.
- 26. The ACTU and affiliates continue their opposition to the use of CDEP workers in the provision of essential services and government employment.
- 27. The ACTU and affiliates will continue to advocate for the rights of CDEP workers. Unions will collaborate to ensure appropriate strategies are developed to ensure access to at least the minimum standards of the appropriate industrial instrument, and the working rights, conditions and entitlements for CDEP workers.

## Young Workers

- 28. Young people should have access to decent work, fair conditions of employment, union representation and collective bargaining.
- 29. Congress is committed to defending and strengthening minimum shift provisions in awards and agreements. Minimum engagements ensure that employees are adequately compensated for the costs and inconvenience associated with attending work for short periods of time.
- 30. Congress rejects moves by employer groups to reduce the minimum engagement for young workers. Congress calls for the reinstatement of the minimum 3 hour shift in the retail award.
- 31. Congress reaffirms its opposition to the discrimination of workers on the basis of age. The retention of junior rates for workers that have reached the age of majority is illogical. Discounted rates contribute to the financial difficulties faced by young people that rely on minimum wages to meet their living costs.

32. Congress believes that wages should be based on skills, abilities and work value and not the age of the worker. Congress calls on the ACTU and Affiliates to:
- a) progressively eliminate discounted junior rates for employees aged 18 years and over in awards and agreements; and
  - b) where appropriate, pursue award variations and bargaining claims to increase the junior percentages that apply to each age level.
33. Congress recognises that a significant number of young workers are engaged in formal study. Congress will campaign for a new right to request flexible working arrangements that enables young people to balance paid employment with formal, recognised training and education.

### Employees with Disability

34. Congress is concerned by the proliferation of wage assessment tools used to determine pro-rata wages for employees of supported employment services. These tools have resulted in extremely low and inconsistent wage outcomes for employees with disability.
35. The ACTU and unions will pursue the development of a single wage setting tool that provides fair minimum wages for employees whose productivity is affected by disability.

### Conditions of Employment

36. Congress recognises the importance of maintaining and securing further improvements to the safety net. The following reform priorities are in addition to those outlined above:
- a) The Fair Work Act should be amended to provide Award and NES dependant workers and their unions the capacity to bring disputes to Fair Work Australia and have them arbitrated;
  - b) Extending the right to request flexible working arrangements to all employees;
  - c) Pursuing additional rights for casual workers under the NES including access to leave entitlements and redundancy pay;
  - d) Establishing a national minimum standard on public holidays, based on best existing practice under State and Territory laws;
  - e) Developing a national minimum standard on long service leave, that maintains and extends the role of portable schemes, and is based on best existing practice under awards and legislation;
  - f) The NES redundancy entitlements scale should be improved to remove the discrimination faced by long term employees and increase redundancy

payment for workers with 10 years service or more to a minimum of 18 weeks pay;

- g) Restoring leave and other award entitlements in excess of the NES including annual leave, personal leave, jury service leave, accident make up pay, small business redundancy and minimum engagement provisions; and
- h) Ensuring that accessing NES entitlements does not result in a reduction of an employee's weekly earnings.

37. The ACTU and unions will:

- a) Call on the Government to build on the National Employment Standards;
- b) Pursue improvements to the safety net through the four yearly review of modern awards and variations to modern awards outside the four yearly reviews where appropriate;
- c) Ensure that awards are reviewed regularly to include conditions that are made common across the sector or industry through bargaining;
- d) Campaign to extend award coverage to all employees.

### Security of Workers' Entitlements

- 38. Recent improvements in the provision of workers entitlements are welcomed. However, workers should have the security of knowing that 100% of their entitlements are protected by law.
- 39. Congress notes that the government has proposed that the GEERS system be replaced with a legislative scheme. Such a scheme must be legislated urgently and must provide for 100% protection of all entitlements including superannuation contributions. Furthermore, such a scheme should be focussed on providing the earliest possible assistance to workers in cases of corporate collapse and should not require the company to be placed in liquidation.
- 40. The capacity to recover entitlements lost should include all entitlements owed to employees including authorised payroll deductions.
- 41. To complement the protection of entitlements through such a scheme, further amendments are required to corporations, taxation and other legislation to ensure that:
  - a) Employee entitlements are ranked in priority to secured creditors in insolvency situations, irrespective of whether those entitlements arise from awards, agreements or contracts;
  - b) Employee entitlements are included in the definition of "debt" for the purposes of insolvency;



- c) Related companies can be treated as single entities for the purpose of protecting entitlements;
- d) Directors' responsibilities are strengthened so as to require earlier action where companies are likely to become insolvent, and to place the onus on directors in cases where they have allegedly avoided their obligations or traded while insolvent;
- e) The policing powers of ASIC are enhanced to permit effective pursuit of directors of insolvent firms, particularly those who fail to pay employee entitlements in full.