

**SUBMISSION OF THE
AUSTRALIAN UNION OF STUDENTS
REGARDING THE
PROPOSED
NATIONAL EMPLOYMENT STANDARDS**

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SUBMISSION FROM

AUSTRALIAN UNION OF STUDENTS

As well as representing university students, our voluntary student association also represents TAFE students and apprentices. Our apprentice members will therefore be directly affected by the proposed National Employment Standards once these come into effect. Also, our other members will be affected once they finish their studies and enter the workforce.

It is a very good thing for basic conditions of employment to be codified like this. Everyone then knows where they stand. It should have been done years ago. Our association has problems only with the content of the proposed standards.

We agree with the condition about Paid Public Holidays. However we would have two additional days included, that is, Melbourne Cup Day and Labour Day. It is very important to our members that Melbourne Cup Day be included in the National Employment Standards rather than having to be sought with a great deal of difficulty in award after award.

There should be an additional condition of employment, that is, Unpaid Weekend Leave. This will be a particular day of the week on which the employee cannot be asked to work. Unless otherwise agreed in writing, this day should be Sunday. If agreed in writing, the particular day could be Monday, Saturday or Friday.

This is not just about religions that stipulate an employee may not work on a particular day. Many sporting and other clubs organise their activities on a Sunday on the assumption that most of their members will be free that day. Being compelled to work on a Sunday unduly restricts the ability of employees to take part in sporting and other recreational activities.

It is a basic human right for people to take part in religion. Australia is obliged under the International Covenant on Civil and Political Rights not to put impediments in the way of the practice of religion. The main religions in Australia, that is, Christianity, Judaism and Islam, prohibit work on certain days. By not providing Unpaid Weekend Leave, job applicants are placed in the position of having to choose between practising their religion and getting a job.

Having Unpaid Weekend Leave will not prevent employers from opening on the weekend. Many employees will prefer to work on Sunday and have Monday as their day off. All this will mean is that employees will not have the threat hanging over their heads that they have to work on a day that doesn't suit them.

We agree with Parental Leave, but not in the proposed way in which it will be implemented. Instead of an employee being entitled to their job back, we think an employee should be entitled to preference in employment. If someone goes on parental leave, they should be entitled for seven years to be offered a suitable job that becomes available with the employer, before the job can be given to anyone who is not already an employee. What is more, the employee on parental leave can decline the job offer without it affecting their preferential status.

An employee on parental leave might decline a job offer for a number of reasons. They might not have had the baby yet. Or they might be still looking after the baby. Or the job might pay less than their previous job. Or the job might not be to their liking. But if they are too picky, the seven year period might expire before they get a suitable job offer.

If two employees of the same employer went on parental leave, a job that became available would be offered first to the employee who went on parental leave first, then next to the employee who went on parental leave later. So there would be a waiting list of employees on parental leave who would be entitled to preference in employment.

An employee could go on parental leave if a doctor certified the employee was pregnant, or if the employee's wife gave birth, or if the employee adopted a child under the age of five years. While an employee is on parental leave, if the employee gets pregnant again, or the employee's wife gives birth again, or the employee adopts another child under the age of five years, the seven year period would start all over again.

Our proposal has a number of advantages over the existing proposal. First, the employee can go on parental leave for a much longer period than one year. Secondly, the obligation is much less of a burden to the employer, but nonetheless still of great benefit to the employee. If the employee works for a large employer, she can take as much time as she likes to raise a family, and is practically guaranteed a suitable job once the children are going to school.

We disagree with four weeks of paid annual leave as a universal condition. While it would be good for employers to provide four weeks annual leave, or better still fifty-two weeks, we look at it from the employer's point of view. A small business, faced with anything over two weeks of paid annual leave, is going to look at employing people on a casual basis. And casual workers can't get mortgages. So if the conditions are stacked too much in the employee's favour, it comes back to bite the employee. Any condition involving four weeks of paid annual leave should be included in awards for particular industries such as banking and mining.

We disagree with the condition about the Fair Work Information Statement. In our view, a law is not a good law unless it passes the "Desert Island Test". The "Desert Island Test" is that the law would continue to work if people were stranded on a desert island. This part of the law would not work as it would be impossible to procure a supply of government pamphlets on a desert island. So it fails the "Desert Island Test". It is just more unnecessary "red tape".

We are against the Flexible Working Arrangements condition. This basically creates a pitfall for employees by encouraging them to make demands of an employer that are likely to antagonise the employer. If a situation arose where an employee found the working hours inconvenient, it would be better if the employee raised the matter informally, and appealed to the employer's "better nature". This proposal is likely to lead to many employees making formal requests and ending up being dismissed on some pretext.

We would like the Maximum Weekly Hours to be 40 hours a week. The 38 hours is not a community standard but rather something that has been included in a large number of awards. How the 38 hours came about was that German trade unionists, following the advent of the personal computer, got the idea that soon all work would be done by robots, along the lines depicted in the "Terminator" movies, and that humans would only need to work for two days a week. Using their extortionate bargaining position, these German trade unions got employers such as Volkswagen to adopt a two day week. Australian trade unionists sought to follow their example, and the 38 hours was intended as a preliminary step towards achieving a two day week. Now, however, unionists realise that the idea of robots doing all the work is a fantasy, and that the five day week of 8 hours a day is here to stay.

Penalty Rates should be included in National Employment Standards as a universal standard, rather than having to be sought in every award. An employee who works more than 40 hours a week should get "time-and-a-half", or 50% more than the normal hourly rate for hours worked in excess of 40 hours. An employee who works outside the hours of 7 am to 5 pm or on a public holiday or Melbourne Cup Day should get "double time", or twice the normal hourly rate for hours worked outside normal hours.

In summary, we propose that the conditions of "Flexible Working Arrangements" and "Fair Work Information Statement" be replaced by "Unpaid Weekend Leave" and "Penalty Rates".
