



Modern Awards Review 2023-24 (AM2023/21)

Submission cover sheet

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(Please provide the name of the person lodging the submission)

Cheryl Wolens

Organisation

(If this submission is completed on behalf of an organisation or group of individuals, please provide details)

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How to prepare a submission

Submissions should be emailed to awards@fwc.gov.au. Directions set out the due dates for submissions. Directions are issued by a Member of the Commission and will be published on the [Commission website](#).

Make sure you use numbered paragraphs and sign and date your submission.

Your submission. Provide a summary of your experience and any relevant issues. You may wish to refer to one or more of the issues outlined in the relevant discussion paper.

Issues

1. [Using numbered paragraphs, outline the main issues you want the Fair Work Commission to consider as part of the Modern Award Review 2023-34 including your responses to any questions set out in Commission discussion papers. Include, if possible, references to any relevant sections of the *Fair Work Act 2009*, or other legislation or specific clauses in modern awards that apply].

Proposals

2. [Tell us your proposals to the address the issues you have raised in the submission. If you are proposing that the Commission should consider varying an award, you should include draft wording for the proposed variation]

Signature: Cheryl Wolens

Name: Cheryl Wolens

Date: 15 January 2024



**Submission to Fair Work Commission –
Modern Awards Review 2023-24 (AM2023/21)**

Job Security Legislation Review Submission

January 2024



Industry Bodies, Associations and Associates



Australian Peak Shippers Association Inc. (APSA)



Submission to Fair Work Commission – Modern Awards Review 2023-24 (AM2023/21) -

Job Security Legislation Review Submission

1.0 Australian Meat Industry Council (AMIC)

- 1.1 AMIC is the peak body representing red meat and pork retailers, wholesalers, processors, and smallgoods manufacturers across the country. Our industry is one of the largest manufacturers in Australia today. We exist for a clear reason: to help our members achieve and maintain profitability and ensure our members are recognised for the crucial role they play in the agribusiness supply chain.
- 1.2 We are the only industry association representing the post-farmgate Australian meat industry. We work with members, governments, and industry groups to influence policy and provide technical and other services to the industry.
- 1.3 Our overriding goal is profitability for our members. To help our members achieve and maintain profitability, we work hard to solve our industry's key challenges and provide a range of services that make it easier for our members to run their businesses, from finding staff to complying with legislation.
- 1.4 The Australian Meat Industry Council is the voice of Australian businesses in the crucial and complex post-farmgate meat industry. Our 1500 plus members employ tens of thousands of people and are significant contributors to their local economies.
- 1.5 We are continually working towards a more competitive and prosperous meat and livestock supply chain that is good for members, good for industry and good for communities. We do this by advocating for effective and strategic policy, supporting our industry on important issues and providing members with tools to build and grow their businesses so they remain competitive and profitable within the Australian and global supply chain.

- 2.0 On the 15th of September 2023, the President issued a statement initiating a review of the Modern Awards. This was at the request of the Minister for Employment and Workplace Relations. AMIC have reviewed the discussion paper concerning job security and would like to provide a submission on behalf of AMIC's members as to the possible implications changes on our members for your detailed consideration. We are concerned by several of the changes and the significant cost implications and

disruptions it could have to the industry, but with no associated tangible benefits apparent.

- 2.2 We note that, in some instances, with the level of detail currently available, we can only approximate the full extent of the implications of these changes, so we put forward this submission with the obvious caveat, that this is our best efforts to estimate the implications at this point in time. We only submit on those changes that we believe (at this point in time) will have an impact on our membership and are not listed in priority.

THE ISSUES

3.0 Overview

- 3.1 The IR landscape is becoming more complex and harder to navigate for the everyday employer. Under the current government we have seen the flood gates open to change legislation in a bid to improve the employment landscape with an ultimate goal of a fair go for all. However, what we are seeing is a convoluted web of complex, burdensome, costly regimes, creating fear and a real chance of error and penalty, stagnating investment, productivity, innovation, and service delivery in a timely manner.
- 3.2 The objective of the Fair Work Act is to provide a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians by providing workplace relations laws that are fair to working Australians, promote job security and gender equality. Provide flexibility for businesses, promote productivity and economic growth for Australia's future economic prosperity, and take into account Australia's international labour obligations, and the need to improve access to secure work.
- 3.3 Key considerations include whether the terms of modern awards appropriately reflect the new object of the Act and the modern awards objective regarding job security, as amended by the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022.

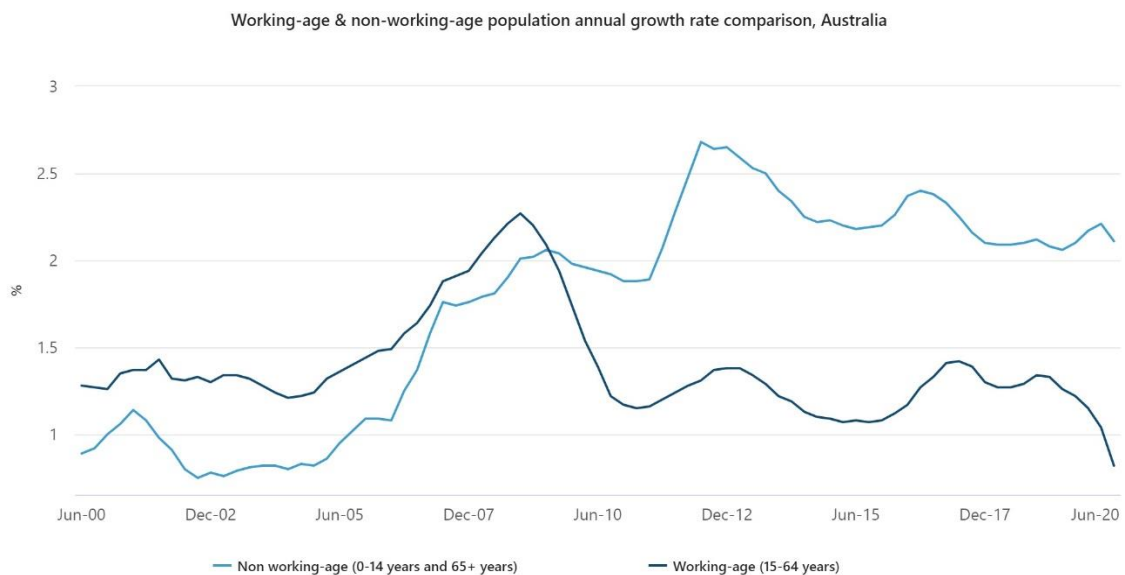
4.0 Detailed Analysis of some of the issues

4.1 Rise of 'non-standard' work.

Over the years there has been a rise in the various forms and ways organisations engage workers. This has been allowed and encouraged by government for years to assist with economic development, reduce unemployment, create opportunities and flexible employment forms.

- 4.2 In some part "non-standard" work options have been driven by labour shortages, the Covid pandemic, seasonal work requirements and full time workers (Monday to Friday) seeking additional work on weekends such as Uber driving to make extra money to keep up with rising costs of living in general, inflation, increase in housing prices, increased interest rates.

- 4.3 Also, with the rate of demand for services, it has also been a reactionary process, a need. It has meant that employers have had to work outside the square, and it led to the introduction of newer ways to service needs. Examples of these types of services include longer hours and accessibility to buy groceries after 5pm, Monday to Friday.
- 4.4 Life is much faster now than it was back in the 70's, 80's and 90's, and we live in a society that expects everything to be available immediately e.g. Digital shopping and platforms. A society that wants everything now, everything as a matter of convenience, and values time as a commodity, means that employers and employees need to be flexible in the way they approach their work and work hours. Thus, becoming the driver and the impetus of all of the non-standard work options. Governments have endorsed extended trading hours and encouraged actively working in global markets.
- 4.5 Increases to the working age have also had effect, we are now working longer, and statistics show that we have an ageing population as a result of sustained low fertility and increased life expectancy. This has resulted in proportionally fewer children (under the age of 15) in the population and a larger proportion of people aged 65 years and over (Australian Bureau of Statistics (17 December 2020), [Twenty years of population change](#), ABS Website, accessed 9 January 2024).



Source: Australian Bureau of Statistics, Twenty years of population change 17/12/2020

- 4.6 This also then supports a need for non-standard working hours as the older we get, the harder it is to work full time with big hours, physical demands, and stresses, so gig workers are the type of workers that these demographics are more drawn to.

5.0 Defining job security (and insecurity)

In a means to address job security (and insecurity) the Secure Jobs Better Pay Act was amended to include considerations for job security. On December 7, 2022, amendments took effect to address these issues including:

- Limiting the use of fixed term contracts (with anti-avoidance provisions).
- Strengthening the right to request flexible working arrangements to assist eligible employees to negotiate workplace flexibilities that suit them AND their employer; and
- Making it easier to collectively bargain for an enterprise agreement.

5.1 In the discussion paper, it is noted that the Job Insecurity Report found that casual workers are less secure. It seems inconceivable that we need a report to confirm this fact. Casual workers know that casual work has a lower job security, but also understand that there are penalty payments applied in a bid to compensate for that insecurity. Until now, this has always been an acceptable practice. It should be highlighted and acknowledged that many people who engage as casuals, **prefer to work as casuals** for that very reason. A better use of the reporting and investigating, would be to determine how much of the casual workforce prefer to be casual for the flexibility that it offers, and the loading. The engagement of casuals and having a casual workforce is also about what works for business as well, and there is a significant cost implication on a business for changing a casual employee to a permanent employee. The legislation appears to be forcing the employer's hand to take on these cost implications and ultimately lose the flexibilities, with no account for what either the employer or the employees want in relation to the matter.

5.2 The recent Closing the Loopholes Bill has put significant parameters around job security, to the detriment of businesses. Without profitable businesses, there is no need for workers. An interesting question to pose when it comes to the Modern Award Objective. If the Government continuously places overly complex and inflexible provisions and compliance on businesses to the extent that it is not viable or profitable to remain in business, then there will be decreased business, and decreased employment, and therefore less requirements for workers. This being the ultimate impost or impact on job security.

5.3 The promotion of artificial intelligence will also impact job security. There is already fear mongering about whose jobs are more susceptible to be no longer needed under the use of artificial intelligence, and the advertisements of 'start training for your new career now.'

5.4 It would be very interesting to help industry understand, when the government promotes in their spiel each year, that they have addressed unemployment by creating many hundreds and thousands of jobs, what the break down of those jobs are in permanent, part time, fixed term, casual and what the duration of the work or project is expected to be.

6.0 Is job insecurity growing?

6.1 It is interesting to note that beyond the immediate award context job security has a broader dimension and may be understood as the effect of general economic circumstances upon the capacity of employers to employ, or continue to employ, workers, especially on a permanent basis, over a casual basis. However, under recent legislative change, it appears that the intent is to:

- Cease employment due to the complexity.
- Force the hand of businesses to engage workers on a more permanent basis, (even when they may not be able to afford to or need to).
- Over burden business with requirements that then make it ultimately impossible to facilitate what they need to remain a viable business and ultimately have to close. Then everyone is out of work. Providing the ultimate loss of job security at a global level.

6.2 Section 134(1)(aa) of the Fair Work Act appears to have a different connotation to “job security” – making reference to the need to improve access to secure work RATHER than the general promotion of job security. It **notes the importance of employees having a choice to enter into secure employment.**

6.3 There is an intricate relationship between having workplace flexibility and job security. No job, even a permanent job, is secure. In this day and age, it would be a simple kind of thinking to assume that just because someone is “permanently employed” that they have secure employment. The Fair Work Commission is full of cases for all various types of dismissals. When Covid hit, this was a classic example of how a permanent job can become very insecure in the blink of an eye. If businesses are forced to have a permanent workforce in an industry heavily affected by season and drought, then they will have no chance but to enforce mass redundancies.

6.4 If there is a significant concern around job insecurity, then the focus should be at how fast everything is evolving, and what are we doing to future proof people's ability to hold a job (in whatever mode or capacity it might be). Technology, Artificial Intelligence, and the globalisation of labour markets all have quite an impact on job security. These do not seem to be addressed anywhere, and shortly more people will be out of work, and will be dependent on government handouts, as they do not have the skills, knowledge, capabilities to be in the workforce. It begs a very important question, where should the focus be, how can we empower our people to have job security, lets focus on fundamentally enabling them to be a valuable and knowledgeable person in the workforce, and this does not necessarily need to have any correlative relationship to what their mode of employment is. We should focus our attention on the laws of supply and demand and increase the knowledge, expertise, flexibility, and resilience of our workforce rather than forcing more compliance on employers. Is this where we want to be? Making our employers responsible for having a less skilled workforce because they have to?

6.5 The Government can change/amend legislation many times, but we should be focussing on the genuine issues, and focus on long term solutions to the issues of workforce security, and future jobs for all that want to work (in the mode of employment that they wish to work). It is the experience of the council (and the people that work for the council) that people want a fair day's pay for a fair days work, and be able to make ends meet, with a bit extra to survive on and not have to work multiple jobs, be stressed out over where the next dollar is coming to pay the increasing debts and bills that are looming just to live. For all the forcing of permanency where it is not wanted, and all the additional compliance and cumbersome law that employers have to invest so much money on working through, imagine if that money was given to the employees, allowing the freedom of the market, force people to learn more, work hard and work in the mode of employment that suits them and their family.

7.0 Employment types and job insecurity

7.1 The discussion paper outlines:

At [29] The Job Insecurity Report found that growth in the following categories of work indicated an increased prevalence in precarious and insecure work:

- part-time jobs.
- indirect employment, outsourcing and labour hire.
- on-demand and "independent" contractor jobs; and
- fixed term contract roles.

Workers take on these roles as a bid to secure work and have some income, and most will either commit to this work as it suits them OR they will do this until they decide they want or need a more permanent work arrangement.

It comes back to access to securing work rather than the general thinking of a secure job. Again, this demonstrates, choices versus no choices. All these listed categories have their place and advantages for various reasons. Taking away choice is worse than no choice for both employers and employees. Generally, workers will work in the mode of employment that suits them. There is very little evidence to show how many casual or fixed term contract employees are stating that they are working in that mode of employment because they had no choice. It also does not take the time to show how much more these types of work are being paid, the general loading that is applied to this mode of employment because of the lack of security. People work around that. If employers were not able to have that flexibility, in most cases, the job may not be there at all. Imagine, if employers are forced to make all work permanent, it seems ludicrous.

It is the experience of people, who have spent much time in the workforce, that there are too many people asking for part-time employment that it becomes untenable. Too many part-time people and too many job share arrangements, that it becomes difficult to navigate. People want part time and the flexibility that comes with it. People like the fact that they are not in the same role day in and day out and thrive on project work and the ability to move around and not stagnate in one job. Where is all this data? Government itself could not survive without having the option of fixed term contracts, project work, part time work and casual work.

7.2 For some communities, having various options of employment types is extremely workable and required for families to operate. Mums need to work school hours, part time or casual, these modes of employment are extremely beneficial to the economy, communities, and household budgets. It also assists those that need flexible working arrangements to provide caring responsibilities, health issues or care for people with disabilities or to be able to study for new skills. These modes of employments provide flexibility and opportunities. Opportunities for all to have an ability to be in the workplace and secure a form of work and income. We do not live in an employment world anywhere anymore that can be confined to just one way of doing things. Permanent staff working 9-5, Monday to Friday. We are a 24 X 7 workforce, with generally most people working or sharing family responsibilities, and must stay like that to compete in domestic and global

markets and stay competitive. It suits everyone to have all of these modes of employment, and for everything to work, for both employers and employees. Forcing employer's hands and providing restrictions around all of this means, something has to give. And whilst, in the first place, it might seem like that the employee's win, eventually, they will not.

8.0 Impacts of insecure work

8.1 Whilst we acknowledge that some forms of work are of a more insecure nature, the current awards do provide sufficient coverage to ensure that these categories of workers are not taken advantage of or are mistreated in any way. If there is concern, they always have legislated provisions under the NES and the Award to fall back against and the Fair Work Commission.

9.0 Which employees are said to be most affected?

9.1 Whilst there are groups of workers (or even certain industries) that are associated with being most affected, perhaps these should be the starting point of assistance to a more secure working arrangement.

9.2 Listed to be most affected in the discussion paper are:

- Women
- Young People
- New Migrants and culturally diverse workers

In our industry's experience, all of these groups are very well represented. However, lets also look at industry requirements, types of work, job requirements, attitude, tenacity, visa requirements. Some industries are not predominantly suitable for women, due to the physical nature of the work. Young people can be quite choosy in what role they want to perform. New Migrant workers (in our experience) receive an exceptionally good deal from government to support them into communities and workforces.

9.2 A number of our members state that women are great for the jobs that require a more nimble, hand eye coordination, or excellent dexterity. However, it comes back then to the hours they are available to work, the physical nature of the work, and caring responsibilities that makes it difficult and these are things that businesses do not have any control over.

9.3 Young people's feedback is that in the Meat industry, it is demanding work, long hours, physically demanding, the employees want to have days off to be able to socialise and hang out with friends, OR they want to start at the top instead of working their way to the top.

It can also be that the work arrangements do not fit in with their study requirements or visa requirements and therefore do not work for the employer's needs. While it is not a broad brush (and does not apply to all young people) this is our member feedback.

10.0 **Conclusion:**

- 10.1 Whilst a review of job security is important for many reasons, current consent is that the National Employment Standards, Awards, and workplace instruments already provide sufficient provisions to ensure job security and fairness across the board.
- 10.2 AMIC appreciates and acknowledges the importance of appropriate provisions in legislation to protect both the employer and the employee (and other parties who engage with the employer or employee). Without the variety of worker engagement options, and yes some will be less secure than others, we do believe this will hinder the ability to secure work generally, harder than ever.
- 10.3 Our intent with legislation should focus on the here and now, but also on longevity and consider broader concepts that support workforce engagement as opposed to what we can tie up in legislation that makes it impossible for anyone to offer work or find workers for all the red tape and requirements.
- 10.4 If we go back to the key consideration – whether the terms of modern awards appropriately reflect the new object of the Act and modern awards objective regarding job security, as amended by the Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022, we believe that the existing Fair Work Legislation does provide adequate provisions.
- 10.5 There are sufficient checks and balances in the current system and avenues to raise concerns about any employment issues that may arise, without having to rewrite or make more stringent rulings that confine the system and its intent.
- 10.6 There has already been significant change and real struggle under the government changes and IR reforms, leaving the average employer wondering what is next and how do they continue to move forward. There is no incentive for people to try and get ahead either, so it feels like a lose/lose situation for all involved.
- 10.7 Let us not make change just for change's sake. We urge the decision makers to **really consider if there is a genuine need for any changes around job security and not move forward without really listening to the impacts.**

10.8 There is the overall consideration here in relation to job security as a general concept. The short-term fix in forcing the employer's hand and reducing flexibility and enforcing permanency, has much more catastrophic medium and long term effects. There should be consideration to investing in our workforce, allowing employers/employees and the market dictate the modes of employment being employed, and use funds and rule of law to ensure that our workforce is getting stronger, more knowledgeable, resilient, and experienced.

All of the modes of employment, provide flexible and responsive employment options for all of the different kinds of people, and how they want to live their life. Our modern world does not allow one type of mode of employment anymore, people want to study, spend time with family, tag team their partner who is working shifts, work with people overseas, support their family with disabilities, or like to change their employment regularly. Whatever the reason, forcing security through law does not achieve the Modern Award objective, it does quite the opposite. We should be allowing our workplace relations system to support all types and modes of employment for both our employees and employers. Focusing and responding to our ever-changing world and making sure our employees are ready for it, not forcing employers to make employees become permanent, and in some predetermined box. The Government should invest the money in helping raise wages, or battle the cost of living, rather than forcing employers to spend money on professionals to manage compliance. The current changes are an ill-fated, a short-term fix, dictating change that people do not even want or need. One could argue that the changes that have been made (or are being made) will have the opposite effect on job security in the medium and long term. The more that our laws/Awards support our employers and help them thrive (by having a flexible and responsive workforce), the more work, and the more confident employers will be to employ and employ with permanency.