



By email: employment.reps@aph.gov.au

2 March 2026

House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training

Dear Committee,

Youth Law Australia welcomes this inquiry into the operation and adequacy of the National Employment Standards (NES). We understand that the objective of this inquiry is to ascertain whether the NES continue to meet the needs of employees, employers and the wider economy.

Our submission is focused on the need for a new employment standard regulating employment contracts. While our submission is informed by our experience advising young workers, we submit that this change would benefit all workers.

Acknowledgment of Country

Youth Law Australia acknowledges the Traditional Owners and Elders of the Bedegal People of the Eora Nation and all the custodians of the other lands on which we live and work. We pay our respects to their Elders past, present and emerging, and commit ourselves to the ongoing journey of Reconciliation.

About Youth Law Australia

Youth Law Australia (YLA) (formerly the National Children's and Youth Law Centre) is an accredited, national, community legal centre dedicated to helping children and young people under the age of 25 years and their supporters to understand their legal rights and find solutions to their legal problems.

We operate a national, specialist employment law service for children and young people, called the Young Workers' Rights Service (YWRS). Our submission is informed by the experiences of young people who are under the age of 25 who have engaged with our service, and our experience assisting them to resolve workplace issues and disputes.

Position summary

We submit that a new National Employment Standard (NES) regulating employment contracts is necessary to achieve the Objectives set out in Section 3 of the *Fair Work Act*

2009 (Cth), to improve transparency of employment terms, to improve compliance with federal workplace laws, and to increase access to justice.

We submit that the current NES framework inadequately protects young workers from exploitation. As a youth community legal service, we have assisted thousands of young people across Australia who have entered into working relationships with little or no understanding of their rights or obligations. This has made young workers vulnerable to various forms of exploitation, including systemic underpayment and unlawful workplace conditions.

Youth Law Australia submits that the NES should include a requirement that a written employment contract, in a form prescribed by the Regulations, must be provided by employers to employees as a Statement of Working Terms and Conditions (STWC) at the start of any employment relationship covered by the federal workplace relations system. In our view, a regulated standard-form written employment contract is needed to clarify the agreed terms and legal minimum entitlements of all parties, and to promote compliance with Australia's federal workplace laws.

In our experience, the lack of any such regulatory mechanism is a persistent source of confusion, insecurity and exploitation.

This idea builds on the observations made by labour law academics Iain Campbell and Sara Charlesworth and their proposal to replace the generic Fair Work Information Statement with a Statement of Terms and Working Conditions, thus "rectifying a major omission in the Australian regulatory system".¹ This idea also has a precedent, having been implemented in Aotearoa/New Zealand and other jurisdictions, as well as in Australian tenancy laws.

Outline of Submission

In our submission, we have outlined:

1. the scope of what a Statement of Terms and Working Conditions (STWC) should include
2. comparative models from other jurisdictions and other areas of law
3. de-identified case studies that demonstrate the need for a standard-form contract within the NES
4. how inclusion of a STWC within the NES is necessary to achieve the Objectives of the *Fair Work Act 2009* (Cth) (FWA).

1. Scope of Statement of Terms and Working Conditions (STWC)

In our submission, the NES should require a Statement of Terms and Working Conditions (STWC) to be provided as a written standard form contract in every employment

¹ Iain Campbell and Sara Charlesworth, "The National Employment Standards: An Assessment" (2020) 33 Australian Journal of Labour Law 36 at p.49.

relationship. This standard form contract should address the basic terms of the employment relationship in a clear and recognisable form.

The STWC should set out essential/mandatory terms including Award/EA coverage, classification, whether part-time, casual or full-time, hours of work and remuneration. Other standard terms should be included to reflect the minimum entitlements in the *Fair Work Act 2009* without deviation, such as reciprocal minimum notice periods, leave entitlements, and the right to refuse to work unreasonable additional hours or public holidays.

The standard form contract should also specifically anticipate and prevent the inclusion of arbitrary, unfair or unenforceable terms that contravene the *Fair Work Act 2009*, for example by forbidding terms purporting to facilitate unlawful deductions, penalties for early cessation of work, unreasonable requirements to re-pay training costs, damages incurred in the course of performing duties as an employee (e.g. motor vehicle accidents), the imposition of post-employment restraints of trade, and unlawful pay secrecy provisions.

2. Comparative models from other jurisdictions and areas

In our submission, the technology already exists for a STWC to be created in accordance with up-to-date Award provisions and the *Fair Work Act 2009*, and there is sound international precedent for requiring legally compliant terms of employment to be provided at the outset of every employment relationship. We have briefly outlined relevant precedents in other jurisdictions, and in other areas of law, in this section.

We note too, that the Australian Government Department of Business already has a free and optional [Employment Contract Tool](#) to help small business employers to make basic employment contracts that comply with federal workplace laws.²

Aotearoa/New Zealand

In Aotearoa/New Zealand, section 65 of the [Employment Relations Act 2000](#) requires an employer to provide an employment agreement in writing that must contain specific terms including a description of the work to be performed, hours of work, wages or salary payable, and must not contain anything unlawful or inconsistent with the Act.³ New Zealand's Department of Employment sets out these requirements on their [website](#)⁴, and links to a contract-building [template](#).⁵

² Australian Government Department of Business Employment Contract Tool: <https://employ.business.gov.au/>.

³ [Section 65 Employment Relations Act 2000 \(New Zealand\)](#).

⁴ Employment New Zealand website: <https://www.employment.govt.nz/starting-employment/employment-agreements/creating-an-employment-agreement#scroll-to->.

⁵ Employment Agreement Builder website: <https://eab.business.govt.nz/employmentagreementbuilder/startscreen>.

United Kingdom

In the United Kingdom, an employer must provide an employee with a Principal Statement of Employment Particulars on the first day of employment, and a wider written statement within 2 months of the start of employment.⁶ The Statement of Employment Particulars must contain certain details, including a description of the work, hours of work and how much and how frequently the employee will be paid.

European Union

In accordance with the [Directive 2019/1152 on Transparent and Predictable Working Conditions](#), all workers in the European Union have a right to receive information on the essential aspects of their work, early and in writing.⁷

Residential Tenancies

Finally, we note that Australia's state-based legislative residential tenancy regimes demonstrate how standard-form agreements have been essential in clarifying legal rights and balancing the power of contracting parties. All jurisdictions (except the Northern Territory⁸) require the use of a standard form residential tenancy agreement. For example, section 15 of the *Residential Tenancies Act (NSW) 2010* states that the regulations may prescribe a standard form of residential tenancy agreement, with terms that may also be regulated, and which must be consistent with the Act and the regulations.⁹ [Section 4](#) of the *Residential Tenancies Regulation 2019 (NSW)* states that residential tenancy agreements must be in a standard form as set out in [Schedule 1](#) of the Regulations¹⁰.

3. Case Studies

Currently in Australia, there is no legal requirement for an employment contract to be in writing, let alone in any specific form.

Employment "agreements" can range from a few spoken words, Facebook messages, texts or emails, to wads of "legalese" that an employee rarely even tries to read before signing.

Young workers often start a job without understanding the terms and conditions of their employment or any assurance that they comply with minimum legal entitlements. In such

⁶ See Gov.UK website: <https://www.gov.uk/employment-contracts-and-conditions/written-statement-of-employment-particulars>.

⁷ Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L1152>.

⁸ Section 19 of the *Residential Tenancies Act (NT) 1999* states that a residential tenancy agreement must be signed, in writing and address certain specific terms. Section 19(4) states that the agreement prescribed in the *Residential Tenancies Regulations 2000* will apply if there is no signed written agreement between landlord and tenant.

⁹ [Section 15 Residential Tenancies Act NSW \(2010\)](#).

¹⁰ [Section 4 Residential Tenancies Regulation NSW \(2019\)](#).

circumstances, the potential for underpayment and exploitation of young workers - whether accidental or intentional - is enormous.

In our experience, it is very common for young workers to be underpaid, either intentionally or unintentionally, by their employers. Young workers are often vulnerable to underpayment for a variety of reasons, including lack of skills, awareness of their rights, higher incidence of casual employment, and lower rates of union membership.¹¹

Young workers are often unaware that they have been underpaid until they seek legal advice about other issues.

At Youth Law Australia, we receive enquiries every single day involving confusion, misunderstanding and disputes about entitlements where these have not been set out in writing at the outset of employment.

We also commonly encounter "terms of employment" or "letters of offer" that are impossible to decipher, replete with outlandish, unlawful and unenforceable terms, while not even referencing the basics of Award coverage, classification or pay rates.

We have set out some case studies that highlight these issues. Please note that names and other identifying details have been changed to protect client confidentiality.

Case Study – Jihan

Jihan was given a contract to work at a gym that was 25 pages long. He was asked to sign it before commencing, even though he hadn't read it or sought legal advice. The contract did not reference any award, classification or pay-rate. Upon resigning, Jihan's employer pointed to a clause in the employment contract that stated he would need to pay the company \$5,000 for leaving within the first year. Jihan felt compelled to stay. He had no idea that this type of clause would be legally unenforceable as a penalty clause until he sought advice from Youth Law Australia.

Case Study - Ramala

Ramala had been working at a gift-shop for three years. She received a written contract of employment that said she was a casual, but it did not specify what Award or Classification she would be. She is now in a dispute with her employer about what she should be paid as she is working alone and having to close the shop. Since querying this, Ramala not been given any shifts.

Case study – Chang

Chang worked as a casual in the advertising industry. He did not have a contract of employment and he did not get any payslips. His employer deducted \$350 from his first pay as a "bond" against him resigning without notice. Chang sensed this was unusual, and was

¹¹ [Senate Economics References Committee, Parliament of Australia, Systemic, sustained and shameful – unlawful underpayment of employee's remuneration \(Report, March 2022\)](#) at p.32.

worried he would be further exploited, so he resigned. His employer refused to pay him for his hours worked until Youth Law Australia became involved in the matter.

Case Study - Ethan

Ethan started working as a casual labourer for a demolitions company when he finished school. There was nothing in writing. After about two years in the job, Ethan's boss asked him to do a heavy vehicle license course, so he could drive the trucks as they were short on drivers. Ethan agreed and Ethan's boss paid for the course. After driving the trucks for a year, Ethan resigned to take up an apprenticeship elsewhere. Ethan's boss with-held his final pay claiming that Ethan owed him for the cost of the truck license, despite there being no written agreement about this. Ethan asked the Fair Work Ombudsman to help but they were unable to resolve the dispute.

Case study – Albert

Albert was a fork-lift driver who contacted Youth Law Australia for advice about unfair dismissal. Upon reviewing Albert's payslips, it became apparent that he had been paid below Award for several months. As his contract of employment did not set out his Award coverage, classification or pay-rate, Albert would likely never have realised that he was being underpaid without getting legal advice.

Case Study – Sushila

Sushila is an international student from Nepal. She met her employer through Facebook, who told her that she would be working "part-time" in a nail studio. There was nothing in writing. Sushila worked unpredictable hours and days each week but was paid at the part-time rate. She did not know that she should have been paid at the casual rate until she spoke with Youth Law Australia about housing difficulties arising from her financial situation. Her employer has not responded to her requests for back-payment at the casual rate. The Fair Work Ombudsman has declined to assist on the basis that the employer is not engaging with their enquiries either.

In our submission, a STWC is an important missing piece in Australia's employment regulatory framework and has the potential to drastically improve and simplify workplace relations and improve legal compliance.

4. Objects of the *Fair Work Act 2009* ('FWA')

We also submit that the inclusion of a NES requiring a written contract would advance the objectives of the FWA, and in particular its objectives to achieve: cooperative and

productive workplace relations, that are fair to working Australians, and which promote job security, productivity, and economic growth.

Co-operative and productive workplace relations

The over-arching object of the *Fair Work Act 2009* is “to provide a balanced framework for cooperative and productive workplace relations that promotes national economic prosperity and social inclusion for all Australians”¹².

The inclusion of a STWC within the NES is necessary to advance this object. It is essential for employers and employees to begin their relationship with a mutual and accurate understanding of legal rights and responsibilities.

Regulating the establishment of employment relationships within the federal workplace system has the potential to unlock significant productivity gains across the whole economy by addressing workplace exploitation and underpayment of young workers, supporting employers to ensure compliance with federal workplace laws, thus reducing the significant regulatory burden borne by the Fair Work Ombudsman, public expense of court administration, and prohibitive enforcement costs.

Fair to working Australians

Section 3(a) of the FWA states that the objects are to be met by “providing workplace relations laws that are fair to working Australians, promote job security and gender equality, are flexible for businesses, promote productivity and economic growth for Australia's future economic prosperity and take into account Australia's international labour obligations”.¹³

We have seen that the lack of regulation at the inception of an employment relationship makes it very difficult for workers to understand and enforce their legal entitlements, which continues to result in systemic underpayments.

As Campbell and Charlesworth note,

*“Lack of information has ... negative consequences. It prompts misunderstandings and confusion, which effectively disempower employees. It also supports reprehensible practices of employer noncompliance, including underpayments, which have spread widely within certain industry sectors in Australia”.*¹⁴

Requiring a STWC within the NES will help young workers, who are particularly vulnerable as they enter the workforce, to easily identify and understand their legal rights, receive their correct legal minimum entitlements, recognize any problems and address them with greater confidence and certainty in a timely manner. This will be a much-needed step towards breaking the cycle of young worker exploitation and consequent financial hardship

¹² [Fair Work Act 2009 section 3](#).

¹³ [Section 3\(a\) Fair Work Act 2009 \(Cth\)](#).

¹⁴ Campbell and Charlesworth, see note 1, at pp.50-51, citing E Cavanough and L Blain, *Ending Wage Theft: Eradicating Underpayment in the Australian Workplace*, Report, McKell Institute Victoria, Melbourne, March 2019.

associated with poorer mental and physical health and educational outcomes. We submit that it will make the system fairer for young workers.

Promote job security, productivity and economic growth

It is submitted that the lack of regulation at the inception of an employment relationship contributes to high rates of underpayments and unlawful conditions, at enormous cost to productivity, economic participation and regulatory enforcement efforts.

The scale of non-compliance is readily apparent in the Fair Work Ombudsman's annual reports. In 2024—25, the Fair Work Ombudsman recovered more than \$358 million in unpaid wages for more than 249,000 workers, representing real money returned to workers who earned it.¹⁵

In fast food, restaurants and cafes, the Fair Work Ombudsman, has identified "persistent and significant non-compliance in the sector. Workers are commonly young, and include visa holders, who may be unaware of their workplace rights or unwilling to speak up". In 2024—25 the Fair Work Ombudsman recovered \$3.1 million for 1,814 underpaid fast food, restaurant and cafe workers.¹⁶

In our submission, the difficulty and expense of existing enforcement avenues highlights the obvious need for the inclusion of a STWC to help meet the objects of the *Fair Work Act 2009*.

While the Fair Work Ombudsman is sometimes able to facilitate agreement from an employer to pay an employee's outstanding entitlements directly, this is not always possible, as illustrated in the case studies above. Whether the matter will be referred within the Fair Work Ombudsman for further investigation or compliance involves an exercise of discretion in consideration of that agency's priorities and resource constraints.

In situations where the Fair Work Ombudsman has not been able to resolve an underpayment complaint, the only option left for an employee seeking to be paid their outstanding entitlements is to make a court claim pursuant to section 539 of the FWA.

Young workers are often deterred from taking action to remedy their unpaid wages or entitlements because of the lack of accessible avenues to justice. A Senate Committee Report dated March 2022 found that current avenues – including the 'small claims' jurisdiction under the *Fair Work Act* - were 'intimidating, inaccessible, costly, complex, inefficient and ineffective' in relation to vulnerable workers.¹⁷

In many cases, a young person may only have worked for a short period of time before they leave an exploitative employment situation. In such cases, the amount of underpayment may be relatively little. Employees often no longer have access to payslips or time sheet records, making it even more difficult to substantiate their claims.

¹⁵ [Fair Work Ombudsman Annual Report 2024-25](#) at p. 56.

¹⁶ [Fair Work Ombudsman Annual Report 2024-25](#) at p. 62.

¹⁷ [2022 Senate Economics Reference Committee report on Unlawful Underpayment of Employees' Remuneration \(Underpayments Inquiry Report\)](#), see note 11 at p. 107.

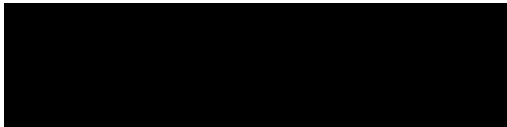
As existing enforcement mechanisms can be inaccessible to individual workers and place strain on the Fair Work Ombudsman's resources, it is submitted that the inclusion of a STWC within the NES is required to clarify legal entitlements from the outset of employment relationships, reduce rates of non-compliance and relieve some of the burden on enforcement mechanisms. In this way, the inclusion of a STWC within the NES would be a workplace law that meets the objects of the Act in promoting job security, productivity and economic growth.

Conclusion

In our submission, the inclusion of a STWC within the NES is necessary to improve compliance with federal workplace laws and to plug a significant gap in the Australian system of employment regulation.

If you would like to discuss this submission, please contact Anastasia Coroneo on (02) 9067 6510 or via Anastasia.coroneo@yla.org.au.

Yours faithfully,



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This submission gratefully acknowledges the contributions of Meredith Hagger, Principal Solicitor, Youth Law Australia.

Endorsements

This submission has received the endorsement of the following organisations:



