

**NTEU** National Office



Secretary  
Senate Education and Employment Legislation Committee  
Email: eec.sen@aph.gov.au

**RE: Inquiry into Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020 [Provisions]**

Dear Secretary and Members of the Committee

The NTEU, which represents the industrial and professional interest of around 30,000 people that work in Australia's higher education sector, fully supports the ACTU's submission to this inquiry in urging the Senate Education and Employment Legislation Committee to recommend that the Fair Work Amendment (Supporting Australia's Economic Recovery) Bill 2020 be rejected outright.

If passed, the provisions of the Fair Work Amendment (Supporting Australia's Economic Recovery) Bill 2020, would:

- make insecure workers even less secure;
- allow employers to rush through enterprise agreements that undercut the safety net with lesser scrutiny;
- lock some workers out of enterprise bargaining for unacceptably long periods; and
- replace more effective criminal sanctions against wage theft with less effective ones.

If implemented, the Bill will have a detrimental impact on those workers employed in the higher education sector, be that teaching, research or as professional and administrative staff. The higher education sector already suffers from high levels of insecure employment, due in no small part to decades of decreased levels of public funding and the corporatisation of university structures and management, incentivised by successive governments. The change in workplace culture has run parallel to a growing trend for top heavy, generously paid senior executive structures and increased specialisation of the academic workforce, primarily through the proliferation of teaching only and research only positions. These positions are usually in the form of casual/sessional appointments or as rolling contracts, locking staff into years of insecure employment with little avenue for professional development or career progression. The NTEU and others in the sector are deeply concerned that these trends already risk the quality of Australia's higher education sector and our capacity for undertaking world leading research. This Bill, which will follow on from other damaging policy settings made by the Federal Government (most notably the Jobs-Ready Graduate Package and the refusal to allow public universities access to JobKeeper) will add further pressure and lead to even less

secure employment in what is already one of the most highly casualised sectors in the Australian economy.

The latest published employment data in relation to Australian higher education (see attachment) shows that in 2019 there were some 221,780 people employed at Australia's universities of whom:

- 99,482 (45%) were casual employees<sup>1</sup>;
- 45,575 (21%) were employees on limited term contracts; and
- 76,713 (34%) were permanent employees.

The data shows clearly that only one in three (34%) of all university employees had a permanent ongoing job in 2019. Two thirds of employees had insecure jobs with almost one in two (45%) being classified as casuals. NTEU is deeply concerned that this trend has amplified as a result of the COVID-19 crisis, particularly as so many universities across the country have permanently abolished so many ongoing positions.

Given the high levels of insecure employment, the NTEU is particularly concerned over the proposed statutory definition of casual employees, where an employer effectively determines a position is casual rather than the determination being based on objective criteria like the actual nature, duration of or pattern of work involved. This would reduce rather than improve the rights of workers who had had their work mislabelled or misclassified as casual. It would also make it easier for employers to entrench insecure employment as the permanent feature of their workforces.

Most concerningly, these provisions would effectively create a 'perfect storm' for insecure employment in higher education, in what is an already highly casualised sector.

Universities Australia recently announced that some 17,300 university staff had lost their jobs in 2020 (noting that further redundancy rounds are ongoing in many universities), along with the COVID related loss of \$4.9b of sector income. These job losses are already intersecting with the outcomes of the Federal Government's Jobs-Ready Graduate package changes, whereby universities are required to teach more students for less funding per student, and there is less government funding to support academic research. The push by Government for universities to adopt short courses (micro-credentials), which are also discounted, also contributes to pressure to 'teach more for less'. These factors, along with the continued reduction of sector income through the COVID related collapse of the international student market, will see universities respond with more low paid, insecure employment, particularly for 'teaching only' roles. We are concerned that, should this be a sector wide approach, the impact will lower the quality of education delivered and reduce our research capacity and productivity. In other words, the IR changes proposed by this Bill will simply make the erosion of quality teaching and research faster and easier.

While many employer groups may point to the casual conversion entitlements in the Bill to ameliorate these identified concerns, they are of simply no value in the higher education sector. This is because of a 12-month service eligibility requirement which many casuals in

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<sup>1</sup> DESE does not publish data on the number of casual employees – only Full Time Equivalent (FTE). NTEU estimates of number of casuals to be Casual FTE x 4.

the sector will rarely meet, as a result of work being semester-based. In short, the Bill will not protect casual workers employed in the higher education sector.

The NTEU is concerned that the stated aim of the Bill – economic recovery – will not be achieved through the provisions it contains. The higher education sector must provide secure, well paid jobs to ensure there is economic certainty in consumer spending and taxation. The Bill, which will have the outcome of increasing insecure work in the higher education sector, will have the reverse effect on the economy.

The NTEU also shares the ACTU's concerns about the proposed changes to the operation and content of Enterprise Agreements (EAs) and, in particular:

- the changes that would extend the time an employer has to provide the Notice of Employee Representative Rights (NERR), which ensures that workers receive essential information about bargaining and representation;
- weakening the Act's current requirements around genuine agreement from the workforce when voting on enterprise agreements; and
- the changes to the Better Off Overall Test (BOOT) including a public interest provision that could completely circumvent it.

Finally, the NTEU is concerned that a number of provisions in the Bill (such as excluding the operation of State and Territory laws which criminalise underpayments and certain record keeping transgressions) could, in some circumstances, weaken the criminal sanctions against wage theft. As outlined in some detail in our submission to Senate Economics Reference Committee Inquiry into Unlawful underpayment of employees' remuneration (Wage Theft) (<https://www.nteu.org.au/library/view/id/10218>), wage theft is emerging as major issue in higher education and we are strongly opposed to any changes that might weaken sanctions against employers that engage in such unconscionable activities.

Overall, this Bill does nothing to improve workplace conditions for higher education workers or assist with the quality of higher education. Instead, it is likely to drive up insecure employment even further – noting that the mass redundancies working in tandem with the Federal Government's Higher Education policy settings have already created pressure on the sector to increase insecure employment. The effect can only be greater risk to the quality and reputation of Australia's higher education sector.

The Bill must be rejected entirely.

If you have any further queries please do not hesitate to contact the NTEU National office

Yours sincerely

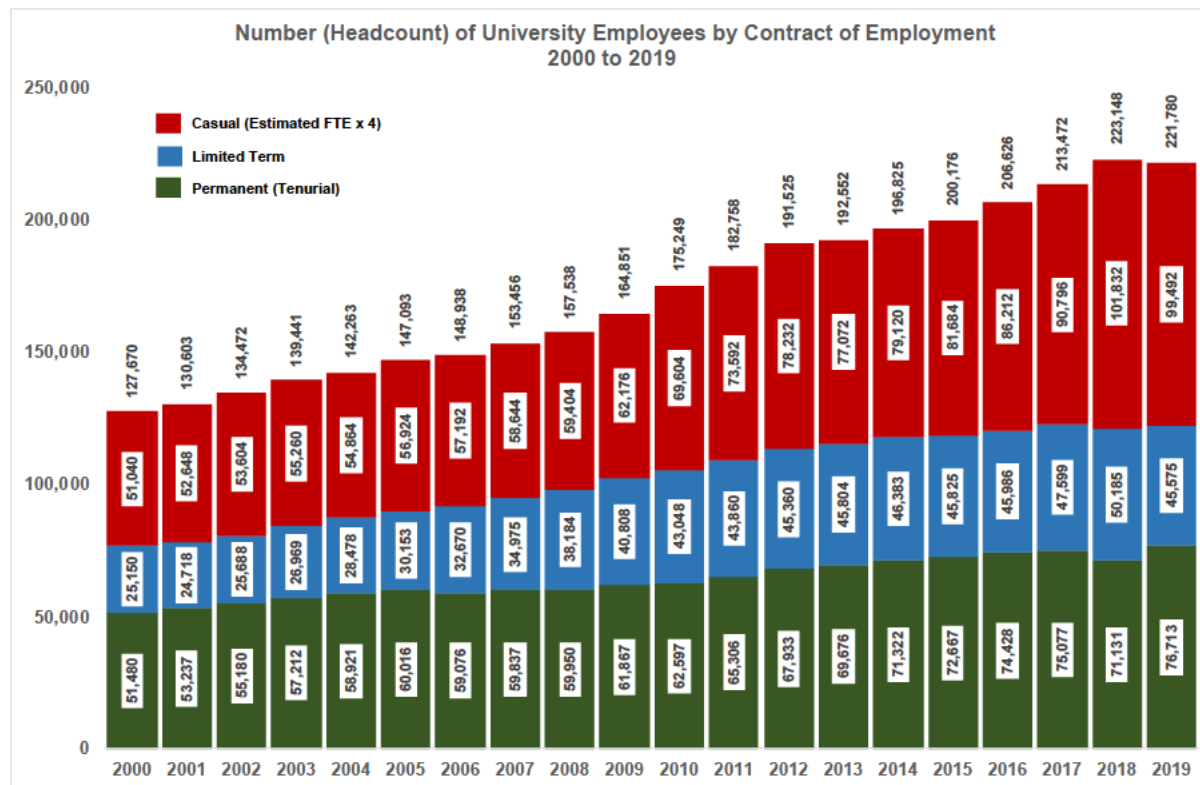
Matthew McGowan

NTEU General Secretary

## Attachment A

### University Employees

Figure 1



### Changing nature of university employment

In 2018 the NTEU published a comprehensive report on the changing nature of university employment titled *The Flood of Insecure Employment at Australian Universities* (<https://www.nteu.org.au/library/view/id/8988>) that showed employment at Australian universities was becoming:

- less secure;
- more feminised; and
- more specialised amongst academic staff.

The issue which is most relevant to this inquiry related to employment security and therefore the following provides a summary of and updates the data in the report in relation to employment security.

### Security Employment

In term of the number of employees:

- between 2000 and 2019 the total number of employees at Australian universities increased by 94,1100 an increase of 74%.
- over this period the number of:
  - continuing (tenurial) employees increased by 49%
  - limited term employees rose by 81%

- casual employees rose by 95%
  - the number of insecure (limited term + casual) accounted for 73% of all new employees
- the proportion of insecurely employed staff as share of the total employees has increased from 60% in 200 to 65% in 2019 (with casuals increasing from 40% to 45%)
- the proportion of insecurely employed staff varies considerably by university ranging from 46% to 76%