



Government  
of South Australia

MIR120041 - 12IR0014

Minister for Industrial Relations

Minister for State/Local  
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10 January 2012

Committee Secretary  
Senate Education, Employment and Workplace Relations Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Secretary

Thank you for the opportunity to make a submission to the Senate Education, Employment and Workplace Relations Committee concerning the *Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2011* (the Bill).

The South Australian Government supports the introduction of the Bill, and believes that this will provide a strong national framework for the enhanced protection of outworkers in this industry.

South Australia already has a range of legislative protections for clothing outworkers in place. This includes deeming provisions and extensive rights of recovery in the *Fair Work Act 1994 (SA)* (the SA FW Act). South Australia also introduced a mandatory *Clothing Outworker Code of Practice* in 2008, which seeks to secure the fair treatment of outworkers consistent with best practice in the industry.

I note that the right of recovery provisions in the Bill provide an important mechanism for outworkers to recover unpaid money from those responsible parties within the supply chain. However, unlike the right of recovery provisions in the SA FW Act, there appears to be a greater onus on outworkers to prove that they have taken all reasonable steps to recover underpayments further up the supply chain.

Whilst acknowledging that such steps may be necessary because of possible constitutional limitations for acquiring property, it nevertheless raises concerns about the capacity for outworkers with particular cultural and language barriers to take on this responsibility.

The introduction of a national code of practice will be an important step in providing a national framework for all parties in the supply chain to be responsible and accountable for the treatment of outworkers.

It still remains to be seen how a national code of practice would interact with the various state mandatory codes (including South Australia's) as well as the national and voluntary *Homeworkers Code of Practice*.

South Australia would not want to see any reduction in the rights and obligations set out in the existing national and state codes of practice, which helps reduce the exploitation of outworkers whilst increasing industry and consumer awareness about working conditions and the promotion of ethical credentials to consumers.

As you may be aware, South Australia participated in a national teleconference (facilitated by the Department of Employment, Education and Workplace Relations) on 13 December 2011 regarding the introduction of the Bill.

Further information from the Commonwealth regarding the Bill is requested, particularly in relation to how it interacts with the suite of state and national legislative protections.

I also request that I am kept informed of any developments and that further discussions continue to be held between all interested parties as the Bill progresses through Parliament.

To provide for the practical application of the new laws, I would like to ensure that South Australia is actively involved in the development of the related code of practice. This involvement will allow South Australia to address any technical matters in relation to the operation of the outworker provisions in this state.

I look forward to working with you further on the development of these important outworker protections.

Yours sincerely

**Hon Russell Wortley MLC**  
Minister for Industrial Relations