



12 March 2019

Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600

Email: eec.sen@aph.gov.au

FECCA submission regarding the Fair Work Amendment (Right to Request Casual Conversion) Bill 2019 Inquiry

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations.

FECCA provides advocacy, develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from diverse cultural and linguistic backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

FECCA would welcome the opportunity to expand on this submission as required. For enquiries please contact FECCA CEO Mohammad Al-Khafaji

Key recommendations

- FECCA welcomes the introduction of this Bill in enhancing the rights of casual workers.
- FECCA recommends quantitative and qualitative research into the numbers of migrants in casual employment and the barriers CALD people face in the employment sector.
- FECCA recommends the use of ethno- and language-specific channels in improving the understanding of the intricacies in the law regarding the right to casual conversion and the general workplace rights of the individual to people from CALD backgrounds in Australia.

- FECCA recommends that all people working in Australia have appropriate access to relevant information in their preferred language and where necessary are provided the support of accredited interpreters.
- FECCA recommends targeted pathway programs which assist those vulnerable to or currently employed in casual work to access training and skills development.
- FECCA recommends appropriate funding for the Fair Work Ombudsman to provide training and support for CALD workers in the understanding of and applying for casual conversion and about the role of the Fair Work Commission.
- FECCA is concerned that the economy-wide structural changes in the labour market with the trend towards casual employment will increase the disproportionate balance of power between employer and employee and increase the barrier to apply for casual conversion

Right to Request Casual Conversion and Vulnerable Workers

FECCA welcomes the introduction of this Bill in enhancing the rights of casual workers. Whilst the principle of casual conversion for workers from culturally and linguistically diverse (CALD) backgrounds is a positive step towards increasing their rights in the workplace, FECCA emphasise the need to protect vulnerable workers in this process.

Research suggests that migrants and refugees represent some of the most educated, driven and entrepreneurial members of our society¹, and are eager to contribute to Australia through meaningful employment. However CALD Australians, in particular those recently arrived as migrants from new and emerging communities or as refugees, face a number of barriers to obtaining employment. FECCA's own research has highlighted some key challenges including:

- difficulties obtaining recognition of skills, qualifications and experience earned overseas
- lack of Australian qualifications or work experience
- English language proficiency, including employer discrimination with regards to accent
- experiences of discrimination, prejudice or racism
- lack of networks for seeking and securing employment.

Experiencing these barriers, often in combination, means that many people from CALD backgrounds find themselves in lower-skilled and low-paid jobs.

The Australian Council of Trade Unions (ACTU) states 'around 40% of workers are engaged in insecure work arrangements such as casual work, fixed term work, contracting or labour hire.'² It is unclear how many of these workers are from a CALD background although it is likely that CALD Australians are overrepresented in insecure employment.

Adding to the increased vulnerability in the workplace produced by insecure/casual work is the disproportionate power dynamic experienced between employers and newly arrived migrants as employees. Often a person's visa type and conditions will exacerbate their reliance on their employer with many newly arrived requiring their employers sign-off to allow them to remain in Australia. Changes to legislation having been passed or currently before parliament, like increasing the wait time for newly arrived residents to qualify for social security and increasing the wait times for eligibility for permanent residency and Australian Citizenship will only exacerbate this problem further. Another reason for this disproportionate balance of power between a newly arrived migrant employee and their employer is where that employee has struggled to find employment. The 2016 census data shows 31 per cent of recent migrants

¹ 2 CGU, Migrant Small Business Report (2018), https://www.cgu.com.au/migrantsmallbusiness/assets/CGU_Migrant_Small_Business_Report.pdf.

² See https://www.australianunions.org.au/about_actu

who have had a job in Australia reported experiencing some difficulty finding their first job³. This time searching for their first job, without any income, often leaves migrant workers in a fragile financial situation that they do not want to risk repeating. This disproportionate balance of power diminishes the ability for workers to report illegal practices and harassment due to fear of losing their job, income, safety at work and their right to live in Australia. Additionally, disproportionate power balance must also be taken into consideration in the process of applying for casual conversion. Fear of dismissal or fear of worse employment arrangements if such an application is made may hinder many in making the application.

CALD workers in casual work may also face additional barriers when understanding their right to casual conversion and when writing a letter to apply for this conversion. Australia's employment legislation contains many protections for workers. However, Australia's Fair Work Act and associated regulations, rules and awards are complex. For workers who may have limited time and limited knowledge of government infrastructure and where to find information – it is very difficult for them to navigate systems and processes and understand their rights.

More information needs to be provided in simple English, languages other than English, through multiple channels and be industry specific. Efforts should be made to make this information available to all visa holders with links to advocates, legal services as well as the Fair Work Ombudsman to help workers to pursue their rights. Adequate funding of ethno-specific organisations with knowledge in worker rights as well as resources for community legal services for employment-related caseload is essential.

³ <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6250.0>