

Submission to the Senate Education and Employment Legislation Committee

Inquiry: Fair Work Amendment (Right to Work
from Home) Bill 2025

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Date: 15 January 2026

Executive Summary

- I strongly support legislating a statutory right to request work-from-home (WFH). The Bill, as introduced, would allow employees to request up to two days per week WFH, with limited grounds for refusal.
- The Bill should expressly include PhD researchers in Australia's higher-degree research (HDR) system as workers entitled to WFH and all workplace protections, with status determined by their funding arrangement:
 1. RTP-funded PhD candidates are effectively Commonwealth-funded subcontractors, with universities acting as administrators/prime contractors of the RTP;
 2. University-funded PhD candidates are employees of their university;
 3. Self-funded PhD candidates are clients/customers purchasing services from universities.
- In all cases, anti-discrimination and work health and safety protections must apply across supervision, workload, location of work, and mental-health accommodations. Your own research shows PhD candidates experience exceptionally high rates of depression (45%), anxiety (39%) and suicidality risk (36%), far above global averages—a structural, not individual, problem.
- International comparators (Netherlands, Denmark, Germany) already recognise doctoral researchers as employees, with contracts, salaries, social protection and WFH/flexible work under collective agreements. The UK still treats most PhD candidates as students on stipends, but even there, the national funder raised stipends and is revisiting welfare conditions. Australia can adopt a hybrid model that recognises worker status in law while aligning with research-training goals.

1) Introduction

The Right to Work from Home Bill creates a general, statutory right to request up to two WFH days, with refusal only on inherent-requirements grounds, and is now before a Senate inquiry (report due 26 March 2026). Its rationale—productivity, inclusion, retention—applies powerfully to HDR researchers, who already undertake most work asynchronously, desk/lab-based, data-analysis-heavy and often with remote collaboration.

Across Australia, flexible work is now a cornerstone of IR reform: the Bill builds on the post-pandemic hybrid normal and state-led initiatives (e.g., Victoria’s plan to enshrine a right to WFH two days/week). It complements the Fair Work Act changes on flexibility and the right to disconnect.

Amendment needed: the Bill is silent on PhD researchers—a large, vulnerable, and essential research workforce. Lack of explicit coverage allows universities to treat them as “students” only, evading duties that ordinary employers owe to workers.

2) Who are PhD researchers in Australia, and why must they be in scope

The Commonwealth’s Research Training Program (RTP) funds universities to train HDR candidates and pays stipends/living allowances administered by universities under federal guidelines. RTP terms recognise stipends, paid leave entitlements and institutional responsibility for training. In practice, RTP candidates produce research outputs under supervision and institutional direction, akin to dependent work. Typical stipend rates at major universities are \$35,000–\$39,000 p.a. (2024–26), well below professional entry salaries and under cost-of-living pressure.

The HDR system is large and strategically important. Universities Australia and independent analyses estimate ~10,000 PhD completions annually and a stock of ~180,000+ PhD holders, with indications of recent domestic HDR decline due to low stipends and cost-of-living pressures—a risk to national research capacity.

Research confirms a mental-health crisis in PhDs, driven by power asymmetries, patchy disability adjustments, and legal gaps: depression 45%, anxiety 39%, suicidality risk 36% in Australia, far higher than global meta-analytic ranges (depression 24–34%, anxiety 17–30%) (Mills, 2024). Reasonable adjustments are inconsistently provided; AHRC sees ~22 disability complaints p.a. about universities for denial of adjustments.

PhD researchers are de facto workers. Their work is directed, evaluated, and commercialised by universities and funders. Without explicit coverage, they fall through the cracks of proactive workplace law (Fair Work Act) and are left to reactive disability discrimination law, which is slow and adversarial.

3) Funding-based legal classification

I endorse an express funding-based test in the Bill (or accompanying regulations) to locate PhD researchers in the Fair Work framework:

1. RTP-funded: treat as Commonwealth-funded subcontractors performing research services, with the university as prime contractor administering RTP. They should be deemed employees for the purposes of the Fair Work Act (or, at minimum, “employee-like workers”), with full coverage of the WFH right and anti-discrimination/psychosocial safety duties.
2. University-funded (internal stipends, program-funded roles): recognise employment status—as many EU systems do—triggering all Fair Work Act protections and the WFH right.
3. Self-funded: treat as clients/customers of the university, purchasing supervision and infrastructure. Extend workplace-equivalent protections (anti-discrimination, WHS psychosocial risk management, WFH facilitation where feasible) via the Fair Work Act’s “employee-like” or a new HDR-customer category (mirroring protections recently extended to gig/employee-like workers).

This model aligns with reality while avoiding a one-size-fits-all approach.

4) Comparative evidence: what peer countries already do

- Netherlands: PhD candidates (“promovendi”) are employees under the national CAO-NU, with salaries, leave, social insurance and pension; salary scales are published nationally. The Supreme Court (2025) confirmed grant-funded PhDs at UMC Groningen were employees entitled to back pay and benefits—because they worked under organisational authority and embedded roles.
- Denmark: PhD fellows are salaried state employees under the AC collective agreement, with 37-hour workweeks, accrued leave, and parental/sick leave—plus specified departmental duties.
- Germany: Doctoral researchers generally hold employment contracts under TV-L scales; fixed-terms are governed by WissZeitVG, recently reformed to improve predictability (e.g., minimum contract terms). This is an employment-first model, not a stipend-first model.
- UK: Most PhD candidates are students on stipends (not employees), but the funder UKRI raised the minimum stipend to £20,780 from October 2025 and is overhauling leave/welfare

rules—an implicit recognition that current arrangements lack parity with worker protections.

Lesson for Australia: adopt a European-style employment footing—at least where funding is institutional (RTP, university)—and ensure WFH and workplace protections apply. Where candidates self-fund, extend client-equivalent protections to stop universities from contracting out of safety and anti-discrimination duties.

5) Mental health, psychosocial risk and WFH: the evidence case

Research documents elevated mental-health risk among Australian PhD candidates, compounded by uneven disability adjustments and supervisory power. WFH is not a panacea—but as part of a rights-based framework (contractual clarity, leave, adjustments, anti-bullying), it reduces travel time/costs, improves predictable scheduling, and can mitigate anxiety triggers. The Bill’s WFH right, paired with statutory recognition of PhD workers, is a low-cost, high-impact step toward prevention.

6) Economic and sectoral risk

Universities Australia and independent commentators flag a declining domestic PhD pipeline due to low stipends and the cost-of-living crisis; ABC has reported falling PhD enrolments for these reasons. Without urgent reform, Australia risks reputational harm, weakened research capability, and lower HDR intake—exactly the risk the education sector cannot afford.

7) Concrete amendments to the Bill

A. Insert coverage of PhD researchers (new section 12A, definitions)

“Higher Degree Research (HDR) researcher” means a person enrolled in a research doctorate or research master’s who undertakes research activities directed or overseen by a higher education provider (HEP) or a Commonwealth-funded research program, including the Research Training Program (RTP).

B. Funding-based status (new section 12B)

- (1) An HDR researcher in receipt of RTP funds administered by an HEP is deemed an employee of the administering HEP for the purposes of Part 2-2 Div 4 (Flexible Working Arrangements) and Part 3-1 (General Protections), and any provision enacted by this Bill.
- (2) An HDR researcher funded directly by an HEP is deemed an employee of the HEP.

(3) An HDR researcher who is self-funded is an employee-, like a worker, for the purposes of Part 3-1 and Part 2-2 Div 4, with rights to reasonable WFH, anti-discrimination, anti-bullying and psychosocial risk protections equivalent to employees.

(4) For subsections (1)–(3), the HEP is taken to be the employer or principal.

C. Right to WFH (amend s 65A new (4A) + reasons for refusal)

Add “*HDR researchers*” to the interpretive note and require universities to consider reasonable adjustments and psychosocial risk when assessing WFH requests; permit refusal only on clear inherent-requirements grounds with written reasons and review pathways (consistent with the Bill’s design).

D. Anti-retaliation clause (new section 340A)

Prohibit detriment (e.g., thesis delays, supervision withdrawal, authorship exclusion) for exercising WFH or making a complaint—closing a common gap in HDR settings identified by your research.

E. Reporting & guidance

Require the Fair Work Ombudsman and Fair Work Commission to issue HDR-specific guidance within 6 months of commencement; mandate annual reporting by HEPs on HDR WFH requests/outcomes and psychosocial-risk controls.

8) Addressing likely objections

“Universities say PhDs aren’t employees.”

European systems prove otherwise; the Netherlands Supreme Court has now confirmed that scholarship PhDs perform embedded, supervised work and are employees. Danish and German models likewise stress employment. Australia’s RTP framework already looks like publicly funded work administered by HEPs.

“Costs will rise.”

Evidence from the Netherlands/Denmark shows predictable costs and benefits (retention, productivity, social protections) under collective agreements. Australia is already paying in attrition, mental-health costs, safeguarding failures, and reputational damage. Stipend benchmarks (now \$35–39k) are outstripped by living costs; small adjustments to RTP and block grants can offset WFH compliance and minimum entitlements.

“WFH undermines lab/field-based research.”

The Bill permits refusal on inherent-requirements grounds, and your amendment text preserves that test—ensuring WFH is granted where feasible, not universally.

9) Recommendations

1. Pass the *Right to Work from Home* Bill with explicit HDR coverage (clauses above).
2. Adopt the funding-based test for HDR status (RTP-funded = employee; university-funded = employee; self-funded = employee-like worker).
3. Mandate psychosocial-risk management and reasonable adjustments when deciding WFH for HDRs, with anti-retaliation protection.
4. Lift and index RTP stipends to a living-wage benchmark (mirroring UKRI policy direction) to stabilise HDR intake and wellbeing.
5. Commission the Productivity Commission to quantify benefits (retention, completions, reduced attrition/claims) and track HDR participation trends under the Department of Education series.

Closing

Ignoring HDR researchers in this Bill would perpetuate a structural blind spot in Australia's workplace law. Recognising PhD candidates as workers (or employee-like), consistent with their funding—and guaranteeing WFH rights plus anti-discrimination protections—is the best way to protect a 55,000-strong research cohort (approx.) and secure our research future. The alternative is further attrition, mental-health harm, and reputational damage to the higher-education sector.