

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Supplementary Budget Estimates 2016 - 2017

Outcome 2 - Workplace Relations and Economic Strategy

Department of Employment Question No. EMSQ16-001047

Senator Marshall provided in writing.

Question

Sharing economy

- Have you looked at the potential risks of the sharing economy?
 - Safety risks?
 - Heightened work insecurity?
 - Unregulated wages and conditions?
 - Superannuation?
 - Workers compensation?
- Have you considered the potential illegal activity that could arise from the sharing economy including wage rates below the minimum wage?
- In May 2015, Mr Turnbull, when he was Communications Minister, praised the sharing economy and its services as being part of the “agile” economy he wants for Australia. Given your Department is presumably contributing this to the agile economy the Prime Minister speaks of, what are you doing to protect workers’ rights?
- Does an agile economy mean a race to the bottom on wages, where for services such as Airtasker, offer their services, bidding against one another until in all likelihood the lowest bidder will win the job?
- When it comes to the sharing economy, what policy discussions has the government had to strengthen workforce job security, preserve high wages and protect entitlements?
- Has the Department reviewed the potential risks of the sharing economy? What is their view about potential safety risks or the potential for high-wage full time jobs to be replaced?
- How many full time jobs does the Department believe will be replaced by the sharing economy?
- Has the Department considered the potential illegal activity that could arise from the sharing economy, including paying people wage rates below the minimum wage? What advice has the Department provided to the Government on this?
- Has the Department developed a policy rationale that looks at the employment challenges of the sharing economy? Will the Government protect job security, entitlements, conditions and superannuation of the workforce participating in the sharing economy?

Answer

The vast majority of Australians are not working in the sharing or gig economy. The Grattan Institute's April 2016 report *Peer-to-peer pressure: Policy for the sharing economy* states that it is likely that fewer than half of one per cent of adult Australians work on peer-to-peer platforms more than once a month. The Department does not publish employment projections for the sharing economy.

The model Work Health and Safety (WHS) laws that have been adopted by the Commonwealth and the majority of states and territories are flexible enough to capture arrangements in the 'sharing' or 'gig' economy. Among other things, the model WHS laws include a primary (general) duty of care imposed on a person conducting a business or undertaking (whether as an employer, self-employed person, principal contractor or otherwise) for the health and safety of employees within an expanded definition, and for the health and safety of other persons.

There are eleven major workers' compensation systems in Australia. Six Australian states and both territories have developed their own workers' compensation laws and the Commonwealth has three schemes. Workers' compensation generally covers employees. Independent contractors and other workers who are not employees can be privately insured against workplace injury.

The *Independent Contractors Act 2006* in conjunction with the *Fair Work Act 2009* protects the rights and entitlements of independent contractors.

The *Independent Contractors Act 2006* allows independent contractors to apply to the Federal Court or Federal Circuit Court to review a services contract on the grounds the contract is harsh or unfair. One of the grounds on which a court may find that a contract is unfair is if it provides for remuneration at a rate that is, or is likely to be, less than the rate of remuneration for an employee performing similar work.

The *Fair Work Act 2009* includes protections to prevent 'sham contracting', ensuring that employees cannot be improperly characterised and treated as independent contractors. The Fair Work Ombudsman can provide assistance and advice to workers who are unsure whether they are an independent contractor or an employee.

The Government supports the maintenance of a genuine safety net of minimum employment conditions, including the National Employment Standards, the national minimum wage and modern awards. The national minimum wage and the content of modern awards are set by the Fair Work Commission, not the Government.

The Department facilitates discussions about labour market developments with a wide range of stakeholders.