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# JOBS WORTH FIGHTING FOR

## FIVE IDEAS TO REFORM AUSTRALIAN WORKPLACES

Bringing together unions, employers, civil society and governments to address the nation's shared economic challenges and some of the most pressing issues in our workplaces.



# ABOUT UNIONS NSW

Unions are the organisations that workers create when they come together to get a fair go at work. Unions NSW is the peak body for unions in New South Wales and represents over 600,000 workers across the state.

We campaign in workplaces to ensure union members get a fair go, with decent wages and conditions. We argue publicly for policies and laws that support the right of working people to live with dignity. Unions NSW is funded by its members, working people, and is not funded through government.

## ABOUT THIS REPORT

Unions NSW welcomes the opportunity to be a part of the Albanese Labor Government's Jobs and Skills Summit in Canberra on September 1 and 2.

Bringing together unions, employers, civil society and governments to address the nation's shared economic challenges is a critical chance to address some of the most pressing issues in our workplaces.

Unions NSW is proposing five key reforms which are designed to arrest chronic wage stagnation, boost productivity and ensure fairness for employees and employers.

These measured and constructive suggestions set out ways to address problems in enterprise bargaining, skilled migration, unpaid overtime and workplace rights and obligations education.

This discussion paper outlines the nature of the challenges faced and the reform agenda needed in response.

Policies developed through the Summit and subsequent employment white paper can provide answers to vital economic questions including the cost-of-living crisis which is underpinned by years of wage stagnation.

We hope all participants in the Summit will engage constructively with our reasonable proposals to strengthen Australia.

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# FAIR ENTERPRISE BARGAINING

## STOP FREE RIDING ON UNION AGREEMENTS

Union-negotiated enterprise agreements consistently deliver better pay and conditions for workers. Non-union members enjoy the superior benefits of collective bargaining without contributing financially to the costs of the legal and industrial work undertaken to deliver better outcomes for workers.

This free riding must stop. It is unfair to union members whose dues make these negotiations possible and give them the strength needed to bargain for good outcomes. It also creates perverse economic outcomes that have fuelled Australia's wage growth crisis.

The Summit and subsequent employment white paper expressly intends to focus on "boosting productivity and incomes" and "delivering secure, well-paid jobs and strong, sustainable wages growth".

Unions NSW analysis has revealed high levels of free riding, which is a critical contributor to wage stagnation, inequality and collective bargaining decline. Under union agreements in which ballots for industrial action were held, 27 per cent of workers were free riders who benefitted despite not being members. In the private sector, 30.7 per cent of workers benefit from an enterprise agreement. Just 9.5 per cent contribute union dues.

Under this proposal, a charge on free riders would be capped at 70 per cent of yearly union dues and only payable if the benefit to the worker from the enterprise agreement is higher than this amount.

In contrast to Australia's legal protection of free riding, New Zealand, the United States, Canada and South Africa are among countries which permit charging free riders in various forms. Australia is one of just a few OECD nations with a blanket ban.

Australia requires urgent reform to revitalise collective bargaining. This will help with wage stagnation, support economic growth and improve overall living standards.

It's time free riders started paying their way. Every worker who benefits from a collective agreement should contribute to the cost of achieving these outcomes.

# BAN FREE WORK

## PROHIBIT UNPAID OVERTIME FOR WORKERS EARNING LESS THAN THE HIGH INCOME THRESHOLD

Unpaid overtime is on the rise with employers cashing in as workers adapt to pandemic-driven flexibility.

While flexible arrangements can be a positive thing for both employers and employees, there is also the risk of working for free. Even in more traditional work settings, many workers are doing more hours without overtime.

A 2021 Centre for Future Work study found Australians worked an extra 319 hours a year without being paid. That's the equivalent of \$125 billion in free labour employers are benefiting from.

The average Australian worked 6.13 unpaid hours a week, up from 5.25 hours in 2020 and 4.62 hours in 2019.

This comes at a major cost for communities with regional Australia the hardest hit. There is a correlation between the rise in unpaid overtime and a sharp decline in volunteering.

The 2021 census recorded a 19 per cent fall in volunteering since the last national snapshot in 2016. Australian Bureau of Statistics data shows that while 29.5 per cent of people volunteered in 2019, the figure dropped to 24.8 per cent in 2020. In 2010, it was 36.2 per cent.

Emergency services, sporting clubs and other critical community organisations are feeling the brunt of this societal change.

Unpaid overtime can take many forms. From arriving early to staying late, many employees' dedication is not matched by their employer's responsibility in monitoring workloads and compensating people for extra work.

Workers may also work through breaks, work on nights and weekends, and respond to calls, emails and messages outside of agreed work hours.

This common-sense reform would ban employers from asking for or accepting unpaid overtime. It would be up to individual employers to ensure employees are not giving up their time for free. The proposal would apply to all workers earning under the high income threshold, which for the 2022/23 financial year is an annual salary of \$162,000.

# FIX SKILLED MIGRATION

## SCRAP INEFFECTIVE LABOUR MARKET TESTING AND REFORM MIGRANT WORKER SALARIES

Australia's labour market testing regime has proven to be ineffective in resolving skills shortages. In the low unemployment environment, is it likely that even a best-practice labour market system would not stop widespread shortages in almost every industrial sector.

Labour-market testing is easy to manipulate, does nothing to reduce migrant worker exploitation and adds complexity to the nomination process. The regime is unable to provide evidence of an employer's real attempt to prioritise an Australian worker for the position.

The Committee for Economic Development of Australia has found temporary skilled migration does not have a negative impact on Australian workers' wages. In many instances, increasing migration raises wages, generates employment and drives economic growth.

Temporary skilled migrants actively contribute to the Australian economy through paying taxes. It is estimated that by 2050, each migrant will be contributing 10 per cent more to Australia's economy than an existing resident.

Unions NSW is proposing streamlining of the temporary skilled work visa. Employers would be allowed to sponsor migrant workers provided the job pays 30 per cent above the median annual wage paid to employees within the occupation.

The skilled list system should be removed over time with employers allowed to sponsor workers in any occupation provided the wage threshold is satisfied.

Australia must retain the best talent by providing reliable and shorter permanent residency pathways for international students transitioning from student to graduate visas.

International students who transition to permanent residency after gaining local work experience and integrate to Australian society will positively impact wages, as they are more likely to find jobs commensurate with their experience and academic qualifications.

The Summit and white paper will seek to tackle Australia's acute post-pandemic skills shortage, which is the second worst in the world according to OECD data.

This proposal allows industry to determine where migrant workers need to fill worker shortages while creating an incentive to train Australians. It would stimulate higher wages across the industry and push employers to attract the highest skilled migrant workers.

# STOP TERMINATION THREATS

## OUTLAW UNILATERAL TERMINATION OF ENTERPRISE AGREEMENTS TO MAKE NEGOTIATIONS FAIRER

Existing workplace laws give employers unfair advantage over workers in enterprise bargaining negotiations.

The threat of agreement termination is being increasingly used as a tactic by employers. One of the most egregious recent examples was during unions' negotiations with Sydney Trains over the past 16 months.

The NSW government has repeatedly threatened to terminate the enterprise agreement, which would drastically reduce pay and conditions with workers put on the award minimum.

Unions NSW will ask a future Labor NSW government to commit to not doing it in the public sector. This would be a positive step for Australia's biggest employer. But the federal government has the power to take major action in repairing the nation's broken bargaining regime.

We welcome Workplace Relations Minister Tony Burke's strong condemnation of threatening to apply for agreement termination as a "rort" and "loophole" that disgusted him.

We agree with the Minister that the tactic cannot be justified. Backing up these strong statements with changes to the Fair Work Act removing employers' ability to unilaterally apply. Let's take the nuclear option off the table.

Agreement termination is one of the greatest drags on wage growth in Australia. It sends wages backwards and reduces the number of employees who enjoy the benefits of union-negotiated outcomes.

Any government serious about fixing enterprise bargaining will adopt this key reform.

# FUND WORKPLACE EDUCATION

## GIVE THE WORKPLACE REGULATOR ENOUGH FUNDING TO HELP EMPLOYERS AND UNIONS PROVIDE EDUCATION

The Fair Work Ombudsman's budget needs a boost to provide more information to employer and union peak bodies around education. Peak bodies should be equipped to play a key role in communicating workplace rights and obligations to business and workers.

This is particularly important for migrant workers who should be armed with knowledge that helps them call out misconduct and stop exploitation.

A portion of the Ombudsman's budget should be allocated to funding union and employer peak bodies providing education. Peak bodies are best placed to educate workers and employers on their rights and obligations.

Unions NSW and the Victorian Trades Hall Council have established bodies to assist vulnerable migrant workers including young workers and migrant communities. Visa Assist and the Migrant Workers Centre have assisted thousands of migrant workers who were exploited at work.

This vital work needs more funding.

A financial commitment to peak bodies should also include adequate resources to fund prosecutions of offending employers. Union and employer peak bodies are best placed to work with their affiliates to identify serious offenders and target prosecutions accordingly.

Unions NSW welcomes the Federal Government's commitment to abolish the anti-worker and ideologically motivated Australian Building and Construction Commission and Registered Organisations Commission.

Defunding these union-busting waste of taxpayers' money will free up more budget resources for the Fair Work Ombudsman. The Ombudsman needs to be given an adequate amount to ensure all workers and employers know their rights and obligations. Ombudsman education programs should always be conducted in consultation and partnership with relevant unions, employers and peak bodies.

Employees should not be able to claim ignorance as a reason for breaching legal obligations. Funding education will make these excuses untenable.