

# Unlawful underpayment of employees' remuneration

**3 March 2020**

## **Joint Submission by NSW Young Lawyers Workplace and Safety Law Committee & Human Rights Committee**

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The NSW Young Lawyers Workplace and Safety Law Committee and Human Rights Committee (together, the **Committees**) make the following submission in response to the Senate's inquiry into the unlawful underpayment of employees' remuneration (the **Inquiry**).

## **NSW Young Lawyers**

NSW Young Lawyers is a division of The Law Society of New South Wales. NSW Young Lawyers supports practitioners in their professional and career development in numerous ways, including by encouraging active participation in its 15 separate committees, each dedicated to particular areas of practice. Membership is automatic for all NSW lawyers (solicitors and barristers) under 36 years and/or in their first five years of practice, as well as law students. NSW Young Lawyers currently has over 15,000 members.

## **The Workplace and Safety Law Committee**

The NSW Workplace and Safety Law Committee is responsible for the development and support of members of NSW Young Lawyers who practice in, or are interested in, employment law. The Committee takes a keen interest in providing comment and feedback on employment law and the structures that support it, and considers the provision of submissions to be an important contribution to the community.

## **The Human Rights Committee**

The Human Rights Committee comprises a group of over 1,500 members interested in human rights law, drawn from lawyers working in academia, for government, private and the NGO sectors and other areas of practice that intersect with human rights law, as well as barristers and law students. The objectives of the Committee are to raise awareness about human rights issues and provide education to the legal profession and wider community about human rights and their application under both domestic and international law. Members of the Committee share a commitment to effectively promoting and protecting human rights and to examining legal avenues for doing so. The Committee takes a keen interest in providing comment and feedback on legal and policy issues that relate to human rights law and its development and support.

## **Summary of Recommendations**

1. The Commonwealth government should allocate more funding and resources to the Fair Work Ombudsman to enable it to fulfill its functions.

2. The Commonwealth should implement information-gathering protocols by the Fair Work Ombudsman (**FWO**) in order to increase detection of unlawful underpayments. There should be a firewall to prevent information sharing from the FWO to other government agencies, such as the Department of Home Affairs, in order to increase reporting by migrant workers of underpayments without having their visa status threatened. There should also be an immunity provision to ensure that information gathered by the FWO is not used by other agencies unless those agencies gathered the information from a separate investigation.
3. The Commonwealth government should amend the *Fair Work Act 2009* (Cth) (**FW Act**) and give the Fair Work Commission (**FWC**) the power to conduct dispute resolution and hearings for underpayment claims, similar to the FWC's power to conciliate and determine unfair dismissals under Part 3-2 of the FW Act. There should be no cap on the recovery of underpayments.
4. The Commonwealth Government should work with all State and Territory governments to implement a compensation scheme for stolen wages with similar scope to the Queensland Settlement Distribution Fund.
5. All non-small businesses<sup>1</sup> (defined as businesses with 15 or more full-time equivalent employees) should be required to report to the Workplace Gender Equality Agency annually on the six gender equality indicators including gender composition of the workforce and equal remuneration between women and men.
6. The Commonwealth government should increase the Paid Parental Leave scheme from 18 weeks to 26 weeks and Dad and Partner Pay should be increased from 2 weeks to 4 weeks. Dad and Partner Pay should be renamed Partner Pay in recognition that fathers may be primary carers; and
7. The Commonwealth government should pay superannuation (at the current guarantee rate) on top of paid parental leave and partner pay.

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<sup>1</sup> See generally *Fair Work Act 2009* (Cth) s 23.

## Forms of wage theft

**Terms of Reference: (a) the forms of and reasons for wage theft and whether it is regarded by some businesses as ‘a cost of doing business’.**

While there have been a significant number of reports in the media about businesses that appear to have set out to take advantage of vulnerable workers, many employers unknowingly participate in wage theft.

Employment entitlements can be drawn from many sources, including legislation (sometimes at both the Commonwealth and State level), industrial instruments and from an employee’s individual employment contract, which can be confusing for employers and employees without legal assistance. The Committees identify three categories of unlawful underpayment:

1. **Intentional wage theft:** where an employer deliberately underpays employees for its own benefit;
2. **Negligent wage theft:** where an employer fails to take reasonable steps to ensure employees are being paid in accordance with their lawful entitlements; and
3. **Other wage theft:** where an employer is unaware that the steps it has taken to ensure employees are being paid correctly has in fact, resulted in underpayments which are corrected efficiently when identified.

The Committees submit that enforcement action should be focussed on those businesses where intentional wage theft and negligent wage theft is or has occurred rather than other wage theft. Where intentional wage theft or negligent wage theft has occurred and not been rectified efficiently, criminal and civil penalties should be pursued.

The Committees are of the view that all businesses have a responsibility to ensure their employees are paid correctly.

## Uncovering Wage Theft

**Terms of Reference: (c) the best means of identifying and uncovering wage and superannuation theft, including ensuring that those exposing wage/superannuation theft are adequately protected from adverse treatment.**

The best means of identifying and uncovering wage and superannuation theft would be to enhance intergovernmental agency cooperation and information/resource sharing practices.

Presently, the Fair Work Ombudsman's (the **FWO**) scope of powers includes the following:

1. An ability to issue compliance notices. If a FWO Inspector '*reasonably believes a person has contravened minimum employment terms*',<sup>2</sup> they can give that person a notice requiring them to take certain action or produce evidence demonstrating adherence to the notice. However, the practicality of compliance notices is limited in that '*the legal threshold to issuing a compliance notice is not significantly different from that required to commence legal proceedings for the recovery of [underpaid wages]*'.<sup>3</sup>
2. The FWO can also issue infringement notices '*as an alternative to taking court proceedings in respect of a breach of a civil penalty provision, infringement notices are currently limited to breaches of record keeping and pay slip obligations, contraventions that are straightforward and easy to determine*'.<sup>4</sup>
3. The FWO has information gathering powers. These powers were recently strengthened by the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017* (Cth).<sup>5</sup>
4. FWO Inspectors have the ability to enter premises. For example, if the Inspector reasonably believes that there are records or documents relevant to compliance purposes they may, without force, enter a premises.<sup>6</sup>

The FWO has limited resources to effectively combat wage theft. Allocating the FWO greater funding and resources would more consistently allow it to recover unpaid wages for individual complaints who have not been underpaid a significantly large sum or by a high profile employer. This would save individuals the time, cost and reputational risk of pursuing a claim in court against their current or former employer.

However, various Memorandums of Understanding (**MOUs**) have resulted in successful outcomes due to the cooperation of various regulatory agencies. For instance, the joint agency initiative Taskforce Cadena between the Department of Home Affairs, Australian Border Force and the FWO,<sup>7</sup> aims to 'detect and disrupt criminal syndicates that profit from the criminal exploitation of foreign workers and Australia's migration system.'<sup>8</sup>

The FWO also works in conjunction with the Australian Securities and Investment Commission (**ASIC**) to ensure employer compliance with pay slip and record-keeping requirements and that employees are paid

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<sup>2</sup> *Fair Work Act 2009* (Cth) s 716.

<sup>3</sup> Attorney-General's Department (Cth), *Report of the Migrant Workers' Taskforce*, (March 2019) p90.

<sup>4</sup> *Ibid.* See generally FWA s 799.

<sup>5</sup> *Ibid.*

<sup>6</sup> FWA s 799.

<sup>7</sup> Attorney-General's Department (Cth), above n 16, p52.

<sup>8</sup> Australian Border Force, *Taskforce Cadena* (2 July 2019) <<https://www.abf.gov.au/about-us/taskforces/taskforce-cadena>>.

correctly.<sup>9</sup> In May 2016, this joint effort recovered almost \$40,000 for unpaid workers in Brisbane's CBD, Fortitude Valley, South Brisbane and West End.<sup>10</sup>

Another example of joint agency initiatives is the Australian Taxation Office (**ATO**) and the FWO who have worked together to 'identify, manage and monitor suspected illegal "phoenix" activity'.<sup>11</sup> Phoenix activity is where businesses avoid their responsibilities, such as taxes and employee entitlements, by liquidating their assets and starting new businesses.<sup>12</sup>

The process of sharing information in relation to FW Act breaches should be streamlined so that when a government agency becomes aware of a breach, that information is passed on to the FWO to give effect to the full consequences. However, the streamlining process is unlikely to be straightforward. There are a number of difficulties which are likely to arise including:

1. the need to establish MOUs or other agreements between government agencies in order to facilitate sharing of information to the FWO;
2. limitations on the use and disclosure of personal information in accordance with the *Privacy Act 1988* (Cth) which would necessitate uniform updates to privacy policies and disclaimers/agreements used when information is collected;
  - a. the need for limitations on the use and disclosure of information to protect vulnerable workers from negative consequences as a result of reporting wage theft, for example, migrant workers who may fear visa cancellation;
3. the practical difficulties of sharing data between government agencies, where that data is stored in different ways; and
4. the reality of the under resourced nature of government bodies like the FWO and the delays that are likely to arise from this.

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<sup>9</sup> Australian Securities and Investments Commission, *17-190MR FWO and ASIC target Melbourne businesses in joint campaign* (20 June 2017) <<https://asic.gov.au/about-asic/news-centre/find-a-media-release/2017-releases/17-190mr-fwo-and-asic-target-melbourne-businesses-in-joint-campaign/>>.

<sup>10</sup> Fair Work Ombudsman, *Joint campaign by FWO and ASIC proves a success* (12 January 2017) <<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/january-2017/20170112-fwo-asic-campaign-release>>.

<sup>11</sup> Australian Taxation Office, *Phoenix Taskforce* (9 December 2019) <<https://www.ato.gov.au/General/The-fight-against-tax-crime/Our-focus/Illegal-phoenix-activity/Phoenix-Taskforce/?=redirected>>.

<sup>12</sup> Fair Work Ombudsman, *Phoenix activity reports* (2019) <<https://www.fairwork.gov.au/about-us/access-accountability-and-reporting/research-reports>>.

## Recommendations

- **The Commonwealth government should allocate more funding and resources to the Fair Work Ombudsman to enable it to fulfill its functions.**
- **The Commonwealth should implement information-gathering protocols by the Fair Work Ombudsman (FWO) in order to increase detection of unlawful underpayments. There should be a firewall to prevent information sharing from the FWO to other government agencies, such as the Department of Home Affairs, in order to increase reporting by migrant workers of underpayments without having their visa status threatened. There should also be an immunity provision to ensure that information gathered by the FWO is not used by other agencies unless those agencies gathered the information from a separate investigation.**

## Resolution and remedy

**Terms of Reference: (f) the most effective means of recovering unpaid entitlements and deterring wage and superannuation theft, including changes to the existing legal framework that would assist with recovery and deterrence.**

### The existing recovery framework

There are several causes of action to pursue unpaid entitlements. These include breach of a modern award term,<sup>13</sup> breach of enterprise agreement,<sup>14</sup> and a breach of contract.

Breach of an award term is the most common avenue to seek recovery of wages and entitlements. Often such claims are pursued in the Federal Circuit Court of Australia or Federal Court of Australia. For claims not more than \$20,000, the Federal Circuit Court can adopt a small claims procedure.<sup>15</sup> Civil penalties are available and can work as a strategy to deter an employer as well as other employers from engaging in wage theft. Additionally, claims for unpaid wages and entitlements can also be made through an '*eligible state or Territory court*'.<sup>16</sup> This includes a District or Local Court.<sup>17</sup>

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<sup>13</sup> *Fair Work Act 2009* (Cth), s 45.

<sup>14</sup> *Ibid* s 50.

<sup>15</sup> *Ibid* s 548.

<sup>16</sup> *Ibid* s 539.

<sup>17</sup> *Ibid* s 12.

Another important consideration is the ability of employers to avoid a costly and time-consuming adversarial process and simply cooperate with the FWO in the case of underpayment. Presently, there is scope for employers to enter into an enforceable undertaking (**EU**) with the FWO instead of going to court. This involves the employer acknowledging that they have engaged in unlawful conduct and agreeing to take certain actions to remedy the breach. This usually results in the repayment of wages and apologies, but may also require the issuing of public notices and other measures. Employers are also often required to undertake future compliance measures, such as reporting to the FWO or providing their employees with training to prevent further breaches in future.

EU's are a valuable, practical tool that can achieve more than just correcting underpayments in a binding way. While EU's ensure workers are repaid, they also raise awareness in the broader community in a way that legal action does not, but also give well-intentioned employers who made mistakes, to address underpayments in a cost effective manner. This approach may not be appropriate for more egregious and intentional breaches, where it is apparent that the business acted with no regard for the law, and a punitive penalty is more appropriate.

As previously mentioned in this Submission, allocating the FWO greater funding and resources would increase the FWO's capacity to pursue underpayment claims for more employees, ultimately achieving better outcomes, like the implementation of EU's, for all involved.

### **Case Study on Enforceable Undertakings**

In June 2019, Sydney horticulture labour-hire company Cherries Farm Employment Agency Pty Ltd (**Cherries Farm**) entered into an EU with the FWO,<sup>18</sup> following an underpayment of \$12,933.08 to a Chinese student who was paid a cash in hand rate of \$15 per hour, an amount well below her actual wage entitlements under the applicable modern award. Cherries Farm had also created false and misleading records to disguise the cash payments.

The EU required Cherries Farm to do a number of things, including:

1. rectify the underpayment within 90 days, and if they were unable to locate the employee for this purpose they were required to pay the money into the Commonwealth Revenue Fund;

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<sup>18</sup> Fair Work Ombudsman, *Enforceable Undertaking between The Commonwealth of Australia (as represented by the Office of the Fair Work Ombudsman) and Cherries Farm Employment Agency Pty Ltd trading as Cherries Farm Employment Agency and Ms Hsin-Jung Hsieh* (June 2019) <<https://www.fairwork.gov.au/ArticleDocuments/1416/cherries-farm-pty-ltd-enforceable-undertaking.pdf.aspx>>.

2. provide the FWO with comprehensive details of all of its systems and processes relating to pay;
3. ensure that all employees with a human resources function in the business have completed the FWO online training;
4. send a letter of apology to the employee;
5. engage a professional to conduct a compliance audit (in accordance with specific instructions provided by the FWO), and rectify any contravention which it becomes aware of as a result of the audit within 30 days;
6. display in all common areas of its workplace and on its social media accounts a notice setting out pay rates of all employees in a form prescribed by the FWO; and
7. make a contrition payment to the Commonwealth Revenue Fund of \$5,000.

### **Underpayment claims in the Fair Work Commission**

The FWO and the ATO are presently limited in their ability to enforce action against some employers. Pursuing an underpayments action in the Federal Circuit Court is also difficult for self-represented litigants due to delays, the limited availability of free legal assistance, and the procedural complexity.

Given these barriers to recovering unpaid entitlements, a more accessible avenue for recovery of underpayments is needed.

### **Recommendation**

- **The Commonwealth government should amend the *Fair Work Act 2009* (Cth) (FW Act) and give the Fair Work Commission (FWC) the power to conduct dispute resolution and hearings for underpayment claims, similar to the FWC's power to conciliate and determine unfair dismissals under Part 3-2 of the FW Act. There should be no cap on the recovery of underpayments.**

## **Related Matters**

### **Terms of Reference: (h) Any Related Matters**

The Committees raise two further matters that are relevant to this Inquiry, namely, historical indigenous stolen wages and the gender pay gap.

### **Historical Indigenous stolen wages**

In 2006, a Senate Committee reported on its inquiry into “Unfinished business: Indigenous stolen wages”. Chapter 7 dealt with the topic of “Repayment of monies by Governments”.<sup>19</sup> It stated:

‘On 11 March 2004, the then Premier, The Honourable, Mr Bob Carr, formally apologised to the Indigenous people of NSW in relation to the management of monies paid into the Aboriginal Trust Fund’ (7.76).

A NSW Aboriginal Trust Fund Repayment Scheme (**NSW Scheme**) operated from 2004 to 2011 to repay with interest wages held by the NSW Government at the date 31 July 1938. According to a researcher the outcome of the NSW Scheme was mixed:

‘How successful was the Scheme at making repayments? It has proved impossible to get a detailed breakdown, despite freedom of information requests I made to the Department of Premier and Cabinet. What is known is that by March 2008, the majority of direct claims had been assessed and repayments or offers of repayment had been made to 93 direct claimants for a total of \$978,025. These figures suggest that only 24% of direct claimants were successful, the remaining 76% failed in their claims either because there were insufficient or no records or because the records showed that their Trust Fund monies had in fact been repaid to them by the Boards. While accurate figures for descendant claims are not available, it is known that there was a high failure rate in these claims also. Official documentation indicates that ex gratia repayments totalling \$12.9 million were made over the life of the Scheme, suggesting that there were approximately 1164 successful descendant claims, a success rate of only 20%. This was due to the previously discussed difficulties with the records and because descendant claimants often lacked precise information on their relatives’ interactions with the Boards.

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As outlined in this chapter the Scheme could only operate within the framework determined by the Government. That is, it could only repay money placed into the Aboriginal Trust Funds and found to be owed based on evidence from the archival records or oral submissions from claimants. It was not a reparation scheme in that it could not compensate claimants for the many injustices they experienced while were under the control of the Aboriginal Protection Board [Aboriginal Protection Board] or the AWB [Aboriginal Welfare Board]. In addition, as the statistics show, many claimants

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<sup>19</sup> Senate, Unfinished business: Indigenous stolen wages, <[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2004-07/stolen\\_wages/report/index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2004-07/stolen_wages/report/index)>.

were disadvantaged by the evidential requirements of the Scheme due to the inadequacies of the archival records.<sup>20</sup>

In Queensland, a Settlement Distribution Scheme has been set up following the class action known as the Stolen Wages case.<sup>21</sup> According to the website run by the administrators of the Settlement Distribution Scheme:

‘The Applicant and the Queensland Government agreed in 2019 to settle the Stolen Wages Class Action. The Queensland Government agreed to pay \$190 million for compensation and legal costs. This is called the “settlement fund”. The settlement fund is in addition to the approximately \$56.5 million which has already been paid by the Queensland Government under the Reparations Scheme.’<sup>22</sup>

The Committees submit that the Commonwealth should work with all States and Territories to establish a compensation scheme for stolen wages with similar scope to the Queensland Settlement Distribution Scheme.

The NSW government should establish a compensation scheme for stolen wages with similar scope to the Queensland Settlement Distribution Scheme, as we submit that the NSW Aboriginal Trust Fund Repayment Scheme was too limited in its scope.

## **Recommendation**

- **The Commonwealth government should work with all State and Territory governments to implement a compensation scheme for stolen wages with similar scope to the Queensland Settlement Distribution Scheme.**

### **The gender pay gap**

Despite increases in women’s education and participation in the labour market, major reports have found a global increase in the gender pay gap - the difference between women’s and men’s average weekly full-time equivalent earnings. The International Labor Organization’s Global Wage Report, found that women continue

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<sup>20</sup> Marilyn Hoey, *Repaying the Trust: A history of the operation and outcomes of the NSW Aboriginal Trust Fund Repayment Scheme 2005 to 2011* (2017) <<https://opus.lib.uts.edu.au/bitstream/10453/120198/2/02whole.pdf>>

<sup>21</sup> *Pearson v State of Queensland* [2017] FCA 1096.

<sup>22</sup> Grant Thornton Australia, *What is the Stolen Wages Class Action* (2020) <<https://www.stolenwages.com.au/the-class-action.html>>.

to be paid approximately 20 percent less than men.<sup>23</sup> In Australia, the Workplace Gender Equality Agency estimates the gender pay gap is 14 per cent, when considering full-time earnings.<sup>24</sup> However, the gap is much higher when total average weekly earnings (including wage and top-up benefits) and average weekly earnings of part-time workers are considered.<sup>25</sup> The gender pay gap is compounded by other factors including time spent out of the workforce, resulting in women having far less retirement savings and superannuation than men, and a higher risk of living in poverty in retirement.<sup>26</sup>

The right to be paid equally for work of equal or comparable value is protected in international human rights law. Article 11 of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) states:

'1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

...

(d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work...'<sup>27</sup>

The right to just and favourable conditions of work in Article 7 of the International Covenant on Economic, Social and Cultural Rights<sup>28</sup> also encompasses:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work...'<sup>29</sup>

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<sup>23</sup> International Labor Organization, *The Global Wage Report 2018/19: What Lies Behind Gender Pay Gaps* (2018) <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_650553.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_650553.pdf)>.

<sup>24</sup> The Workplace Gender Equality Agency, *Australia's Gender Pay Gap Statistics* (15 August 2019) <<https://www.wgea.gov.au/data/fact-sheets/australias-gender-pay-gap-statistics>>.

<sup>25</sup> In 2018, the gender pay gap in women's and men's total full-time average weekly earnings was 18 per cent. In 2017, the gender pay gap in average weekly earnings for full-time and part-time workers was 32 per cent: Sara Charlesworth and Meg Smith, 'Gender Pay Equity' in Andrew Stewart, Jim Stanford and Tess Hardy (eds) *The Wages Crisis in Australia: What it is and what to do about it* (University of Adelaide Press, 2018) 85.

<sup>26</sup> Workplace Gender Equality Agency, *The Gender Pay Gap* (2018) <<https://www.wgea.gov.au/topics/the-gender-pay-gap>>.

<sup>27</sup> Convention on the Elimination of All Forms of Discrimination against Women, adopted 18 December 1979, UNTS 1249 (entered into force 3 September 1981) art 14.

<sup>28</sup> Signed 16 December 1966, UNTS 993 (entered into force 3 January 1976) art 7.

<sup>29</sup> *Ibid* art 7(a)(i).

Part 2-7 of the *Fair Work Act 2009* (Cth) allows the Fair Work Commission to make an equal remuneration order requiring certain employees be provided equal remuneration for work of equal or comparable value. However, such provisions have had a limited impact on addressing the consistent undervaluation of women's work,<sup>30</sup> with only one successful case finalised under these provisions to date.<sup>31</sup> Pursuant to the *Workplace Gender Equality Act 2012* (Cth) all non-public sector employers with 100 or more employees in their corporate structure are required to report to the Workplace Gender Equality Agency annually on six gender equality indicators, including gender composition of the workforce and of government bodies and equal remuneration between women and men. Further, Commonwealth anti-discrimination legislation makes it unlawful for an employer to discriminate on the grounds of sex in regard to the terms and conditions of employment provided to employees, including pay and other benefits.<sup>32</sup>

The gender pay gap, which disproportionately affects women from marginalised communities remains a persistent problem in Australia. The UN Committee on the Elimination of Discrimination Against Women, in reviewing the eighth periodic report of Australia on our compliance with the provisions of CEDAW, urged the Australian government to adopt measures including “a minimum of 26 weeks’ paid maternity leave, which should be remunerated at the mother’s actual revenue level, introduce at least an additional four weeks of paid leave to be taken by the supporting parent, and count the entirety of such periods of leave towards superannuation benefits”.<sup>33</sup>

## Recommendations

- **The Committees recommend that all non-small businesses<sup>34</sup> (defined as businesses with 15 or more full-time equivalent employees) be required to report to the Workplace Gender Equality Agency annually on the six gender equality indicators including gender composition of the workforce and equal remuneration between women and men.**
- **The Commonwealth government should increase the Paid Parental Leave scheme from 18 weeks to 26 weeks and Dad and Partner Pay should be increased from 2 weeks to 4 weeks. Dad and Partner Pay should be renamed Partner Pay in recognition that fathers may be primary carers; and**
- **The Commonwealth government should pay superannuation (at the current guarantee rate) on top of paid parental leave and partner pay.**

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<sup>30</sup> Charlesworth and Smith, above n 25, 90.

<sup>31</sup> *Equal Remuneration Case* [2011] FWAFB 2700; [2012] FWAFB 1000.

<sup>32</sup> *Sex Discrimination Act 1984* (Cth) s 14.

<sup>33</sup> Committee on the Elimination of Discrimination against Women, Concluding Observations on the Eighth Periodic Report of Australia (25 July 2018) UN Doc CEDAW/C/AUS/CO/8, 12-13.

<sup>34</sup> See generally *Fair Work Act 2009* (Cth) s 23.

NSW Young Lawyers and the Committees thank you for the opportunity to make this submission. If you have any queries please contact us at your convenience.

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