3 March 2023

Committee Secretary
Senate Standing Committee on Finance and Public Administration
PO Box 6100Parliament House
CANBERRA ACT 2600

Sent electronically online

Dear Committee Secretary,

**Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2023**

The SDA welcomes the opportunity to make a submission to the Senate Standing Committee on Finance and Public Administration's inquiry into the Workplace Gender Equality Amendment (Closing the Gender Pay Gap) Bill 2022 (**Bill**).

The SDA made a submission[1] to the Review of the *Workplace Gender Equality Act 2012* (Cth*)* (**Act**) and many of the recommendations we made have been reflected in the recommendations of the WGEA Review Report (**Report**)[2], including those being implemented by the Bill.

The SDA also participated in consultations in relation to the Review of the Act and the implementation of the Review recommendations.

Improvement in gender equality in Australian society, and in particular Australian workplaces, continues to lag and the gender pay gap remains stubbornly high. The SDA commends the recent changes to legislation, including the *Fair Work Act 2009* (Cth) and the *Sex Discrimination Act 1984* (Cth) that seek to provide more rights and protections for women in the workplace and aim to focus the law on the achievement of equality between women and men.

The SDA supports a robust, effective, outcomes and action-based gender equality reporting framework as another important measure to drive the change needed to achieve gender equality in Australian workplaces and society.

The SDA welcomes and supports the Government's commitment to implementing the recommendations of the Report which was published in March 2022 and supports the amendments proposed in the Bill as the first step**.**

The changes to the Act proposed in the Bill, and in particular, that the Workplace Gender

[1] Department of Prime Minister and Cabinet, *WGEA Review Report: Review of the Workplace Gender Equality Act 2012, December 202,* submission-100-shop-distributive-and-allied-employees-association.pdf (pmc.gov.au)
[2] Department of Prime Minister and Cabinet, *WGEA Review Report: Review of the Workplace Gender Equality Act 2012, December 2021*

Equality Agency will have the power to publish orgnisational level gender pay gaps, are an important step to drive change in Australian workplaces and will provide the incentive needed to focus employers on the task of reducing the gender pay gaps in their organisations.

The SDA also supports changes to the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* and the *Workplace Gender Equality (Minimum Standards) Instrument 2014* (**Instruments**) referred to in option 3 of the *Changes to the Workplace Gender Equality Act 2012 and Associated Instruments Report* in the Explanatory Memorandum.

We made several recommendations in our submission to the Review in relation to the need to strengthen and expand the matters that employers must report to WGEA to make it more meaningful, and outcomes based. While many of the recommendations have been reflected in the recommendations of the WGEA Review Report and the proposed amendments to the Act and Instruments, not all have been included. We refer you back to our submission to the Review and won't restate those here, however, we have included below the recommendations made to the Review that the SDA believes should be considered for inclusion in the amendments to the Act and Instruments:

1. The SDA recommends that all private business including labour hire, regardless of size, should be required to report to WGEA.

2. The SDA recommends the following broadening and strengthening of the reporting framework:

    - Requiring all reporting organisations to have a policy and strategy in place to support all gender equality indicators as a minimum requirement to meet the minimum standard.

    - Extending the requirement to report on minimum standards to all reporting organisations, not limited reporting organisations with 500 or more employees.

    - Require employers to take positive corrective action against all the GEIs, as well having as policies and/or strategies.

    - Empower an appropriately qualified body or bodies to conduct detailed remuneration and gender equity audits where needed to measure actual year on year progress towards gender equity against outcomes-based Minimum Standards.

    - Introduce financial penalties for failing to report or providing inaccurate or misleading responses.

    - Extend disaggregated data required for all GEI questions to include occupations the company reports against, rather than just manager/non-managers.

3. *The Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* should be amended to require employers to provide remuneration data for Chief Executive Officers (CEOs) or the equivalent.

4. That Section 3 of the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* be amended to require employers to report disaggregated data on the actual earnings of part-time and casual employees as well as the number of hours employees are engaged, for managers and non-managers by gender, age and by workplace profile categories, instead of full-time equivalent annual earnings. (Also WGEA Review Recommendation 15)

5. That the *Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1)* be amended to require the reporting of annual superannuation payments (disaggregated by gender for managers, non-managers, and by employment status) separate to the full-time annualised total remuneration.

6. That data on superannuation also be expanded to include questions about the following:

    - Superannuation Guarantee rate applied by gender, employment status and manager/non-manager,
    - other measures to boost female superannuation balances
    - the payment of superannuation while on parental leave including while in receipt of the government Parental Leave Payment, employer funded paid parental leave and unpaid parental leave period. The data should also be disaggregated to provide sight of access and eligibility. This information should be a mandatory reporting requirement.

7. That data provided under the GEIs also be disaggregated by occupations reported on e.g., for retail industry employers it would include data on access to these for sales workers compared to support office-based employees.

8. That employers be required to report the date the policy they are reporting on was most recently updated and confirm it meets at least minimum legislative requirements.

9. That Section 16A of the Act be amended to require relevant employers to inform employee associations it has lodged its report **and** provide them with a copy of the report.

10. That employers be required to consult with employees and their unions on measures to improve gender equity; and to report on the action taken as a result of such consultation. (See also WGEA Review Report Recommendation 19).

11. That the WGEA be given greater powers of enforcement under the Act, including the power to issue financial penalties on relevant employers who are required to report but fail to do so and who are non-complaint for other reasons under the Act.

12. That WGEA be appropriately funded to be able to perform all its powers and functions and additional funding must be provided following this review and any expansion of its powers and functions.

The SDA also supports the submissions of the ACTU.

The SDA looks forward to the amendments to the Act provided in the Bill and the imminent changes to the Instruments which implement some of the remaining recommendations of the WGEA Review Report and ask that the Committee consider the further recommendations provided above.

Yours faithfully,

Gerard Dwyer
National Secretary-Treasurer

# About the SDA

The Shop, Distributive and Allied Employees' Association (the SDA) is one of Australia's largest trade unions with over 210,000 members. Our members work in retail, warehousing, fast food, hairdressing, beauty, pharmacy, online retailing, and modelling.

The majority of SDA members are women (60%, approximately 131,000), under 35 years (57%, approximately 120,000 workers), and low-income. Retail and food services are two of the three lowest industries for median weekly earnings.

The SDA has a long history of advocating on behalf of members. We do this through enterprise bargaining; making submissions regarding Awards and the National Employment Standards to provide a relevant safety net; and through numerous submissions made to parliamentary and government inquiries and other important reviews.

The SDA has 10 policy principles that guide our engagement in these reviews.
For a list of these, see Attachment 2

# Rationale for SDA policy positions

SDA policy is driven by providing value to our members whose work is regulated by a broken industrial framework. We seek an economic system that supports, protects and advances the interests of working people in this country.

Our predecessors built the conciliation and arbitration system which provided the foundations to our nations prosperity over a century ago, it is now our responsibility to build a system for the next generation.

Since the introduction of the Fair Work Act 2009 and subsequent radical changes to the financial and digital context inequality has grown and economic and political power has concentrated in the hands of a few.

We believe that fundamental not incremental change is needed. In contributing to policy, we seek to drive a new system that acknowledges the change that has occurred and will withstand the emerging world of work.

We engage in topics that help us drive this agenda and are guided by ten principles that we believe will create value for our members. Those principles are:

1. **Address Inequality & Enshrine Fairness**
   Minimum expectations must be set and adhered to.
2. **Equity & Empowerment**
   All workers must be supported to progress so that no-one is left behind.
3. **Mobility & Security**
   A socially successful economy must provide opportunity for all, regardless of their background. Systems must be built in a way that support success and adaptation in a rapidly changing world of work.
4. **Delivering Prosperity & Growth For All**
   A foundation for prosperity and economic growth must be achieved.
5. **Protection in Work & Beyond**
   Workplaces and the community must be healthy and safe for all workers and their families during and beyond their working lives.
6. **Workers Capital & Superannuation**
   Workers capital and superannuation must be an industrial right for all workers and treated as deferred earnings designed for dignity and justice in retirement.
7. **A Strong Independent Umpire**
   A strong, independent, cost effective and accessible industrial umpire and regulator must be central to the future system of work in Australia.
8. **Protection & Support for Our Future**
   Protecting and supporting our future requires a strong and vibrant retail industry and supply chain providing jobs with fair and just remuneration and contributing to the economy including through skilled workers.
9. **Work & Community**
   Work is a fundamental human activity that provides for personal, social and economic development. Work as it operates in community must build and protect a balance between life at work and life so that workers can contribute to society through the wider community.
10. **Institutional Support for Collective Agents**
    Institutional support must provide for collective agents (registered organisations) so that they are recognised, enshrined and explicitly supported as central to the effective functioning of the system.

Details of specific policy positions can be discussed by contacting the SDA National Office