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Workplace Relations Framework Inquiry  
Productivity Commission  
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# Submission on Workplace Relations Framework Inquiry

The St Vincent de Paul Society (the Society) is a respected lay Catholic charitable organisation operating in 149 countries around the world. Our work in Australia covers every state and territory, and is carried out by more than 60,000 members, volunteers, and employees. Our people are deeply committed to social assistance and social justice, and our mission is to provide help for those who are marginalised by structures of exclusion and injustice. Our programs assist millions of Australians each year, including people living with mental illness, people who are homeless and insecurely housed, migrants and refugees, and people experiencing poverty.

On 22 January 2015, the Productivity Commission released Issues Papers on the Workplace Relations Framework Inquiry, and called for submissions. There are two particular issues in the Inquiry of importance to the Society: penalty rates, and the minimum wage. While the Government has announced that it will not be making changes to these features of the workplace relations framework,<sup>1</sup> given their importance to us, and after consultation with our members, we present this submission. We are happy to provide more written or oral evidence on any point.

## Penalty Rates

Modern awards are required to provide a fair minimum safety net, taking into account (among other things) additional remuneration for overtime, shift work, and hours outside the standard working week (weekends, public holidays, and ‘unsocial’ hours).<sup>2</sup>

The debate around penalty rates in the Issues Papers eschews overtime and shift work, but is centred around questions of additional pay for working non-standard hours, particularly in hospitality and retail.<sup>3</sup> These penalty rates would cover baristas who work on Saturdays, retail assistants working during Friday night shopping, staff keeping supermarkets and service stations open on public holidays, and waiters at evening events. More broadly, if the conversation were widened to all sectors, it would also include nurses working overnight in intensive care, tradespeople fixing toilets over the weekend, teachers aides helping out at school camps, and labourers who work early mornings and later evenings during busy periods. As such, reduction or abolition of penalty rates will have far-reaching consequences.

But who are the people who are currently relying on penalty rates? According to national research conducted by the University of South Australia last year, reliance on penalty rates is not spread evenly across the Australian population. Instead, those who rely on penalty rates to meet their household expenditure are far more likely to have any of the following characteristics: be single parents; women; in receipt of a household income less than \$30,000; not living in cities; be labourers; and be on contracts. Those who were least likely to rely on penalty rates are those with household incomes greater than \$90,000; managers; and people with no children.<sup>4</sup>

What this makes clear is that it is those Australians already doing it toughest who are relying on penalty rates to get by. Single parents, families living on less than the minimum wage, rural and regional Australians, and people in lower-paid professions are the most financially vulnerable to the

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<sup>1</sup> Hon Eric Abetz, *Australian Financial Review* (24 February 2015) at [afr.com/p/national/work\\_space/penalty\\_rates\\_set\\_abetz\\_stay\\_regardless\\_oCn3wOHrvXNfwUXHzFifrM](http://afr.com/p/national/work_space/penalty_rates_set_abetz_stay_regardless_oCn3wOHrvXNfwUXHzFifrM).

<sup>2</sup> *Fair Work Act*, cl 134 (1) (da).

<sup>3</sup> Issues Paper 2, 14.

<sup>4</sup> Tony Daly, *Evenings, Nights and Weekends: Working Unsocial Hours* (University of South Australia Centre for Work + Life, 2014).

removal of penalty rates.<sup>5</sup> This creates a very strong presumption that penalty rates should remain untouched.

As with the minimum wage, the argument for the abolition of penalty rates assumes that allowing lower rates of pay would mean that employers could employ more people to work more hours – thus resulting in a win for everyone. However, the Society disagrees with this argument for a number of reasons. Firstly, it places value on employment at the cost of all else, including an adequate standard of living. A society with full employment but low living standards is not a worthy aspiration. We must balance the need for more employment opportunities with the recognition that work must be meaningful, and adequately remunerated to provide the basics of a good life. This good life includes the ability to buy certain amenities – something that the many families relying on penalty rates would be unable to do on incomes of less than \$30,000 per year – but also a life that is not consumed by working to survive. The five-day standard work-week serves a valuable role in ensuring that people have a fair balance between work, caring activities and community life, recreation, and relaxing. Hours outside the basic working day should, as a matter of principle, be remunerated at a higher level to reflect the social price that these workers pay.

Secondly, the argument that deregulation of incomes will lead to better outcomes assumes that dissatisfied employees will be able to get more hours, or move on to better-paid work elsewhere. However, in the current employment market, with rising unemployment and one job for every thirteen jobseekers,<sup>6</sup> this seems highly unlikely. For those receiving penalty rates or the minimum wage, there simply aren't other, better-paid, jobs available to move into. Moreover, many people who receive penalty rates do not 'choose' to work weekends and evenings for a little extra money, but because they have a range of other obligations at other times, including studying, childcare, community involvement, or caring for relatives. These employees will not be able to give up their weekend work for more lucrative hours at other times. Instead, what will happen if penalty rates are abolished is that the working poor who are already struggling the most would be pushed even deeper into poverty.

Thirdly, the argument assumes that lowering pay will increase employment. As the Issues Paper points out, the reality is far more complicated, and in fact the reverse relationship might hold.<sup>7</sup> In any case, the cost to individuals who are already struggling must be weighed, as well as the risk that increased business income would not be used to employ more staff but for other purposes.

## Minimum Wage

A 'minimum wage' is the minimal amount of hourly pay that an employer can pay an employee. While the precise amount may differ based on the type of work undertaken, age, disability status and other factors, the national minimum wage is currently \$16.87 per hour (or \$640.90 per 38 hour week) (before tax).<sup>8</sup> Although there is no single estimate on how many Australian workers are paid the minimum wage, agreed estimates are between 4.1 and 9.1 percent.<sup>9</sup>

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<sup>5</sup> Daly, above n 4, 19.

<sup>6</sup> See ABS, *Labour Force Statistics* (February 2015) at <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/6202.0Main%20Features1Feb%202015>, ABS, *Media Release* (12 March 2015).

<sup>7</sup> Issues Paper 2, 3.

<sup>8</sup> [fairwork.gov.au/about-us/policies-and-guides/fact-sheets/minimum-workplace-entitlements/minimum-wages#current-national-minimum-wage](http://fairwork.gov.au/about-us/policies-and-guides/fact-sheets/minimum-workplace-entitlements/minimum-wages#current-national-minimum-wage).

<sup>9</sup> Bray, *Reflections on the Evolution of the Minimum Wage in Australia: Options for the Future*, Research School of Economics (Australian National University, 2013) 22.

The rationale for the minimum wage in contemporary Australia is threefold. Firstly, as employers and employees cannot negotiate a rate of pay lower than the applicable minimum wage, the minimum wage is **a safeguard** to prevent a working individual from being exploited unfairly, and is one important means to prevent the lowest-paid Australians from falling into inescapable poverty. The Society believes that the minimum wage fulfils a key responsibility of government: to ensure that work is remunerated adequately.

The value of the minimum wage is not simply to protect those from facing poverty, but extends to ensuring that employers do not unfairly treat workers in order to maximise profits. Redressing the **power imbalance** between workers and employers through a legally enforceable payment floor ensures that employers will not 'race one another' to the lowest possible payment of their employees.

Finally, ensuring the current level of minimum wage will also ensure that less pressure is placed on the **social welfare system**. Reducing the minimum wage would see the poorest workers requiring extra assistance from government services and community services that are already facing severe funding cuts.

For these reasons, the Society strongly supports the existing minimum wage, including annual increases in line with the rising cost of living.

## Conclusion

It is essential that penalty rates and the minimum wage be maintained in the Australian workplace relations framework. Both serve as essential buffers against extreme poverty, and are relied on by those Australians who are battling to make ends meet. Deregulating either would result in swinging the pendulum further in favour of employers – many of whom, history has shown, will take whatever steps they can to maximise their profits at the expense of employees' standards of living.

Our workplace relations system must be underpinned not just by a desire for profit and increased participation, but by values of fairness, human rights, and wellbeing. We do not want an Australia in which everyone is working, but in which inequality is insurmountable and living standards are low. We do not want an Australia in which individuals have to struggle desperately for sparse resources. Instead, the Society has a vision of an Australia in which everyone has an equal chance at a meaningful life and equal access to an adequate standard of living. For the reasons above, we believe that penalty rates and the minimum wage are an essential part of that vision.