University of Sydney Policy Reform Project

Research Paper for NSW Council of Social Service: Strategies to Address Precarious Employment in NSW and Australia

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About the University of Sydney Policy Reform Project

The University of Sydney Policy Reform Project ('Project') facilitates University of Sydney students to write research papers for policy organisations, and submissions to government inquiries, under supervision from University of Sydney academics. The Project is a volunteer, extra-curricular activity.

The Project is an initiative of the Student Affairs and Engagement Team within the Faculty of Arts and Social Sciences, and the Division of Alumni and Development, at the University of Sydney. The Project is funded by a donor to the University of Sydney.

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Introduction

Precarious employment is a multidimensional concept which signals a significant change in the historic relationship between employer and employee. Precarious or uncertain work is defined by the following: irregular working hours, limited or no access to paid leave and other entitlements, low wages, underemployment or inadequate work hours, a mismatch between educational outcomes and work (which may be repetitive and not complex). Precarious work is most visible in the service industries of health, education, tourism and hospitability, which mirrors the growth of Australia's service economy and the decline of its manufacturing capacity (BCEC 2018, p. vii & xi). Academic tutors, food delivery drivers and assembly workers are all affected by job precariousness, despite their differing skill sets. In this way, precarious work is a shared experience with serious implications for individual health and community wellbeing. Recent COVID infection clusters have been linked to workers in hotel security and aged care homes where workers rank among the lowest paid employees in Australia. Increasingly, the pandemic is revealing the consequences of casualisation in sectors with high community interface (Sparrow 2020).

Workplace precarity represents a significant departure from the 'old industrial order' of workplace regulation and strict protections (Sparrow 2020). The 'golden age of capitalism' after World War Two foregrounded secure employment relations (Benach et al. 2014, p. 231). The Fordist model of industrial production and Keynesian welfare principles merged in the form of strong labour unions with bargaining power. It is important to note that this 'golden age' principally benefited the ideal type of male, wage-dependent workers, excluding workers outside of this singular norm (Benach et al. 2014, p. 231). The fiscal shocks of the 1970s catalysed a new approach to labour, which sought to deregulate industry and encourage flexibility. In Australia, the Hawke and Keating governments encouraged workers to view themselves as 'free agents in an economy of free agents', eroding centralised bargaining and curtailing the industrial power of unions in the process (Sparrow 2020). The Great Recession of 2008 compounded neo-liberal austerity as businesses recovered losses through job cuts and outsourcing, triggering a widespread and historic decline in living conditions in OECD countries. Today, precarious work is a central feature of Australia's employment landscape.

The study of precarious employment is an expanding field of national research, centring on the foundational right of all Australians to have a job that provides an 'adequate wage and security' (BCEC 2018, p. xii). This review will examine and summarise the available literature, which proposes legal and legislative strategies to address precarious employment in NSW.

These strategies have been produced by a broad range of policy actors, from public institutions and national employment bodies, to unions, courts and federal government departments. The strategies are analysed via the following key worker groups in NSW:

1. Casual, part-time or fixed-term contract workers.
2. Labour-hire and independent contractors.
3. International students studying and working in Australia.
4. Migrant workers.

1. Casual Workers and Contract Workers

Casual workers experience higher degrees of employment insecurity than fixed-term employees, as their work is characterised by a lack of paid leave entitlements and irregular working hours (Carney & Stanford 2018, p. 10). 1 in 4 workers are casuals (Alexander 2019, p. 9) and most part-time workers are casuals too (Carney & Stanford, 2018, p. 7-8). While more women are employed casual and part-time, there is a growing trend of casual and part-time work for men (Carney & Stanford 2018, p. 7-9). Fixed term contract workers are also insecure as employers opt for temporary work, leaving employees facing 'uncertainty every time their contract is up for renewal' (Alexander 2019, p. 7). Women also dominate industries such as health and education which are rife with fixed-term and casual work (Alexander 2019, p. 6), highlighting the gendered impact of precarious employment. While non-permanent casual, part-time and fixed-term contract workers share different attributes of precariousness, strategies to address their insecurity are interconnected and not mutually exclusive.

1.1 Conversion to Permanent Roles

One strategy to address impermanence of employment – including rolling renewal of fixed-term contracts and the insecurity of casual work – is to enable non-permanent employees to apply for conversion to permanent positions after a certain duration of time (Alexander 2019, p. 9). The ability for casual workers to convert to permanent positions is important, as it may affect their future employment security, particularly for young people who are more likely to be casually employed (Cassells, R et al. 2018, p. 99).

As highlighted by Whitehouse, Lafferty and Boreham's (1997) case study on conversion from casual to permanent roles in retail and hospitality, this strategy may address the precariousness of working in non-permanent casual, part-time or fixed-term roles. This may benefit the psychosocial wellbeing of workers insecurely employed by providing continuity, predictability and regularity of working hours, and provide casual workers with access to better entitlements.

There are limitations to permanent part-time positions too, however, as they can enable employers to avoid giving workers full-time, predictable hours and less entitlements. Further, though it has been argued by employers that this offers more flexibility for workers, there is 'little evidence that permanent part-time status offers significant advantages' (Whitehouse, Lafferty & Boreham, 1997, p. 45).

Moreover, conversion to permanent positions, particularly part-time ones, is not likely to affect broader employment conditions or the broader trend of casualisation in the Australian workforce. It is not a stand-alone strategy to address precarious employment. One difficulty is that conversion applications are still determined by employers (Alexander 2019, p. 9). However, Whitehouse, Lafferty and Boreham's (1997) study when analysed in conjunction with the data on job satisfaction by Cassells et.al. (2018) suggests that there is room for the development of more beneficial working conditions for permanent part-time employment, that include flexible employment conditions and collective, unionised enterprise bargaining.

1.2 Empowering Workers Through Unions

Hardy (2011, p. 117) suggests that non-state actors' involvement in improving working conditions for precariously employed workers may address gaps in regulation, breaches of regulation. Non-compliance with regulation leaves already insecurely employed workers more vulnerable as minimum protections are not implemented (Hardy 2011). Collaborative non-state actors such as unions can play an important role in promoting regulatory compliance, if they are well organised and well resourced. For example they can do this by engaging in dispute resolutions and improving working conditions through claim progression in enterprise bargaining agreements. (Hardy 2011, p. 123). However there have been significant declines in union membership density from 35 percent in 1994 to 13.9 percent in 2016 (Gilfillan & McGann 2018). As reported by the ACTU (2018), enterprise bargaining coverage declined by 39% between 2014-2018, leaving more workers covered only by Modern Awards (ACTU 2018, p.35; Carney & Stanford, 2018, p. 12; Pennington & Stanford 2020, p. 335). Barnes and Lafferty (2010, p. 7) highlight that while minimum National Employment Standards have been

legislated, and the *Fair Work Act* (2009) may enable provisions for 'multi-enterprise collective bargaining and agreements', current minimum awards may limit the ability of workers to take industrial action. Therefore, as Hardy (2011, p. 123) argues, workers only covered by minimum awards without formal and robust non-state actor representation (including through unions), lack the power for collective arbitration, which is needed to facilitate enforcement of labour regulations, and to negotiate decent working conditions and living wages. Strengthened support and resourcing for unions and independent non-union actors, could allow them to better educate workers of their rights and to regain influence to negotiate in workplaces. This could, in comparison to management-established mechanisms, provide more insecurely employed workers with a voice outside of employer constraints (Barnes & Lafferty 2010, p. 8-9). Pennington (2018, p. 78-83) suggests there are six potential strategies which could support increases in enterprise bargaining, briefly outlined below:

1. **Collective bargaining at an industry level.** Coordinated, industry-wide collective bargaining could grow the scope of enterprise agreements (EAs) by allowing minimum industry standards to be set above the National Employment Standards, and subsequently encourage redistribution in worker-employer relations through wage growth and equality, productivity and investment in training and development (Pennington 2018, p. 80).

2. **Prohibition of EA termination during bargaining periods.** This would allow workers to have continued protection under pre-existing agreement in cases where new agreements are prolonged or not sought by employers. This would be assisted further by strengthening provisions in the *Fair Work Act*, to assist unions to pressure employers into bargaining (Pennington 2018, p. 80-81).

3. **Removing limitations on union activity.** Unions should be reinstated as an authority for regulation compliance, through removal of limitations on union workplace visits. Further, the expansion of industrial strike action outside of specified bargaining periods could 'promote a more even balance of power between workers and employers' (Pennington 2018, p.81).

4. **Effective and efficient umpire system.** Procedures should be developed and made accessible to support quick resolution of arbitrations for workers, and to ensure workers and unions are sufficiently resourced in litigation. Employer responsibilities should also be enshrined in legislation and enforced by an umpire system to ensure further regulatory adherence (Pennington 2018, p. 81-82).

5. **Conversion of non-union EAs to union EAs.** This could increase scope, efficacy and authority of collective bargaining, as well as remove risk of undue employer influence, which is a risk currently posed to non-union EAs (Pennington 2018, p. 82).

6. **Sustainable financial resourcing for unions.** Diminishing union membership resulting from voluntary unionism, and free legal protection for free riders who do not contribute to collective bargaining, could be counter-acted through the introduction of a sustainable funding mechanism for union bargaining (Pennington 2018, p. 83).

2. Labour Hire and Independent Contractors

There are approximately one million independent contractors within the Australian workforce, with a large proportion of them being 'dependent' contractors who either 'exclusively rely on a single client for work or who have no authority over their work' (Rawling 2015). Under Australian law, firms are not required to provide independent contractors with a minimum wage, penalty rates, superannuation, paid sick leave or annual leave, as contractors are defined as self-employed individuals running their own businesses (FWO 2020a). The ACTU (2011) estimates that up to 450,000 independent contractors are employed in sham contracting arrangements. Defined by the Fair Work Ombudsman (FWO) as '[an attempt by] the employer to disguise an employment relationship as an independent contracting arrangement… [to avoid] responsibility for employee entitlements', sham contracting has become a widespread problem throughout the Australian workforce (FWO 2020a). Businesses – especially within construction, commercial cleaning, call centres, and private security – have adapted their practices to misclassify employees as independent contractors. This shifts economic liabilities onto workers and minimises business labour costs by circumventing the provision of employment entitlements, including minimum wages, annual and sick leave, overtime and penalty rates, and workers compensation (Rawling 2015).

2.1 Redefining Independent Contractors and Regulating Sham Contracts

One strategy to mitigate the rise of precarious employment is to legislate new definitions for employees and independent contractors. The CFMEU has suggested that 26% to 46% of independent contractors working in construction are engaged on sham contracts (ACTU 2018c). By establishing key criteria to identify the differences between employees and independent contractors, there could be a reduction in incidences of sham contracts and

triangular employment relationships, and therefore a reduction in precarious employment within the Australian workforce. An example of such a framework that redefines and reclassifies independent contractors was passed by the California State Assembly in September 2019. California Assembly Bill 5 (AB-5) imposed stricter restrictions on defining independent contractors by codifying and ratifying the 'ABC' test; a three-point assessment to determine the classification of a worker as either an employee or independent contractor (LWDA 2020). The employer must prove that the worker satisfies all three of the following conditions to be classified as an independent contractor. If one or more of these conditions are not met, then the worker is classified as an employee and is eligible for employee benefits:

1. The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;

2. The worker performs work that is outside the usual course of the hiring entity's business; and

3. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.

This law has ensured that more independent contractors are eligible to receive access to basic labour and employment protections, including minimum wage and overtime protections, paid sick leave, workers' compensation benefits, and unemployment insurance benefits (McNicholas & Poydock 2019). Furthermore, the law is expected to recoup some of the estimated $7 billion in annual state tax revenue lost to misclassification (McNicholas & Poydock 2019). However, this law has faced significant opposition from the business sector in California – especially from ride-sharing firms including Uber and Lyft and delivery companies like Deliveroo – due to the additional financial costs related to reclassifying independent contractors as employees. These costs include higher labour costs, taxes for social security, health care, and unemployment insurance, workers' compensation insurance, and basic leave entitlements for employees. The short and long-term economic impacts of this legislation is currently unknown, as the COVID-19 recession has distorted economic activity and employment statistics.

2.2 Increasing Regulation on Labour Hire Agencies and Triangular Employment Relationships

Many temporary workers and independent contractors are employed through labour hire agencies. These companies are under-regulated and, in recent years, have faced scrutiny over allegations of exploitative, illegal practices including wage theft, coercion, substandard living conditions, and unpaid superannuation (ACTU 2018b). Companies may also employ labour hire companies to create triangular employment relationships between the worker, the labour hire agency – who is the legal employer – and the end-use enterprise, where the work is undertaken (ACTU 2018c). The government should construct a comprehensive national framework scheme for the registration, licencing and regulation of labour hire agencies in Australia (ACTU 2012). The Queensland Government has implemented a mandatory labour hire licensing scheme to protect labour hire workers and ensure that firms are complying with all relevant industrial relation laws (LHLQ 2020). This scheme ensures that employment standards and practices are maintained, and that labour hire employees receive their entitled employment benefits and are provided greater job security. This legislation also provides specialised recourse for workers employed by labour hire agencies and has enabled workers to check that their labour hire provider is legitimate and licensed. Similar schemes in Canada, South Korea, Japan, Germany, France, and other European countries have been legislated to monitor labour hire agencies, and to expand labour protections and entitlements to labour hire employees (ACTU 2012). The *Fair Work Act 2009* (Cth) could be amended to require both the labour hire agency and the end-user enterprise to be jointly responsible for ensuring that workers receive their entitled pay and benefits (ACTU 2018c). If the labour hire provider does not meet their legal obligations, the worker can seek compensation from the end-user enterprise, and both companies will receive financial penalties for their actions.

3. International Students in Australia

From January to December 2019, there were 758,154 international students enrolled in Australia – a nine percent increase from December 2018 (Australian Government Department of Education, Skills and Employment 2020). Close to 50 percent of these students were pursuing higher education while 30 per cent were engaged in vocational education and training (AGDESE 2019). Between 2002 and 2019, there had been almost three million (2,895,799) international students who had undertaken studies in Australia (AGDESE 2020). Despite this growing trend, there is limited (and quite dated) information on the extent to which international students are participating in the domestic labour force. According to the Subclass

500 visa conditions #8104 and #8105, international students are allowed to work for a maximum of 40 hours per fortnight while their courses are in session, and for an unlimited number of hours during course breaks (Australian Government Department of Home Affairs 2019).

The most prevalent dimension of precarious work for international students in Australia relate to different forms of wage abuse. Cases of underpayment, where international students are paid below the legal minimum wage are widespread. A 2005 case study found that 58 per cent of international students in higher education disclosed earning less than half of the prescribed wage (Nyland et al 2009). The 40-hour work restriction on international students normally leads them to pursue casual and uncertain work (Berg 2016). Employer practices of 'undeclared work' for the purpose of evading tax, social security and/or labour law responsibilities are also common (Campbell, Boese & Tham 2016). Regardless of the circumstances, international students and secondary visa holders who are found to be in breach of the 40-hour limit are subject to non-discretionary cancellation of their visas. Once in breach of their visas, the risks of international students' vulnerabilities, now as illegal workers, are tremendously heightened (Reilly 2012).

3.1 Enforcing Employer Sanctions

To address the wage exploitation of students, employer sanctions were integrated into the *Migration Act 1958* (Cth) as a means to hold abusive employers accountable. Employers are liable if they are aware or reckless of the fact that the person is a non-citizen whose work rights are restricted and who is in breach of their visa condition, while additional 'exploitation' of the worker constitutes a higher offence (Migration Act s 245AC). According to the government-commissioned Howells Report in 2010, employer sanctions were inadequate and made no direct impact in improving employers' exploitative behaviour towards migrants, nor to international students. The report posits that 'knowledge' or 'recklessness' is challenging to prove since there is no way of knowing about students' other jobs (Howells 2007). Successful prosecutions are unlikely as evidence primarily depends on workers, who would be unwilling to provide such information, as this may result in their visa being cancelled.

3.2 Role of Education Providers

Another strategy that has been proposed to address precarious work conditions of international students has been to strengthen existing institutional mechanisms (Reilly 2012). This includes increasing the role of education providers in protecting the working rights of

international students, particularly as these work entitlements are closely related to their study privileges. The 2012 Baird review of the *Education Services for Overseas Students Act* recommended that education providers should introduce more effective protection practices and mechanisms to safeguard international students' general rights, and not merely their rights as consumers of education products (Baird Review 2010, p. v-vii). Meanwhile, the Fair Work Ombudsman has recently intensified its campaign to raise awareness of international students' workplace rights, to encourage international students to access help for free advice and assistance (Fair Work Ombudsman 2017).

3.3 Reforming International Student Work Entitlements

As mentioned previously, the work restrictions in international students' visa conditions result in their work being precarious in various ways, including through risk of visa breach. As a result, two kinds of reform to international students' work entitlements have been suggested: either further restricting these work privileges (even removing the work privileges completely), or easing the restrictions on these work privileges. The option to remove students' work entitlements are often based on arguments about the various negative effects on students of working while studying on students (Neil et al. 2004; Rodan 2009). This strategy aims to eliminate students' willingness to: (1) work for below minimum wages and in poor working conditions, which in turn entices them to work beyond the authorised work hours; and (2) work with no pay to gain experience in their pursuit for permanent residency (National Union of Students 2009, p. 8).

However, supporters of the other reform option – to ease the restrictions on international student work privileges – argue that the government is unlikely to entirely remove students' work entitlements. This is because along with holiday visa holders, international students contribute significantly to Australia's unskilled labour market (Reilly 2012), and because international student work rights are an indispensable part of Australia's international education tourism package (Ong & Ramia 2009). However, neither side of the debate proposes strategies to directly address the conditions of precarious work experienced by international students. They merely seek to either eliminate students' contravention of the visa working conditions completely, or make sanctioning of abusive employers more straightforward. As such, these reforms may need to be accompanied by broader labour and migration law reforms.

4. Migrant Workers in Australia

In this section, migrant workers are defined as all foreign-born workers in Australia who hold a temporary visa with working rights. This includes, for example, Working Holiday Makers and holders of the Temporary Skill Shortage visa. Migrant workers are primarily employed in low-skilled jobs on a casual or part-time basis and are among the most vulnerable workers in the Australian economy (Unions NSW 2020). These workers are easy to exploit due to their weak English skills and limited knowledge of Australian workplace laws (Migrant Workers' Taskforce 2019). Fundamental labour standards and minimum wage laws are frequently undermined in relation to migrant workers (Carney & Stanford 2018). Currently, a large proportion of migrant workers are also being grossly underpaid. For example, the Wage Theft in Australia Report conducted in 2016 found that, of the 4322 migrant workers surveyed, approximately 30% earned $12 per hour or less (Migrant Workers' Taskforce 2019). Equally concerning is the fact that migrant workers are being restricted from pursuing legal action against employers because they may only be in Australia for a limited period of time (Senate Legal and Constitutional Affairs Reference Committee 2018).

4.1 Provision of Bridging Visas

To overcome the time barriers which impede migrant workers from pursuing legal action against employers, one proposed strategy is to provide migrant workers who have initiated proceedings against their employer, with a bridging visa that lasts for the duration of their claim (Senate Legal and Constitutional Affairs Reference Committee 2018). The Senate Education and Employment References Committee (2016) characterises this provision of bridging visas as 'necessary' to ensure that all temporary visa holders are not denied access to justice that Australian workers in a similar position would have access to.

One potential limitation of the strategy is that bridging visas may be abused by migrants to illegally extend their stay in Australia (Hemingway 2016). However, this limitation can be easily addressed. The Law Council of Australia, for instance, views the adoption of 'expedited court and tribunal procedures' as sufficient to mitigate the duration for which a bridging visa may be required (Senate Legal and Constitutional Affairs Reference Committee 2018). Similarly, Hemingway agrees that 'fast-track[ing] claims processes' is likely to curtail the abuse of bridging visas by migrants (Hemingway 2016). Another way to prevent such migrant workers from overstaying**,** is to make the award of the bridging visa conditional on a legal practitioner or other relevant government agent, such as a Fair Work Ombudsman officer, certifying the legitimacy of the migrant's claim (Bassina & Berg 2020). The establishment of a separate

mechanism for migrant wage claims could also prove effective in keeping bridging visas lengths to a minimum (Bassina & Berg 2020). Finally, the Senate Education and Employment References Committee (2016) argue that there already appear to be adequate provisions in place to preclude the abuse of the bridging visa.

Notably, the provision of bridging visas does not expand the quantity of work available. However, by assisting migrant workers to pursue their claims against employers, the strategy affords migrant workers a stronger voice and thus may facilitate improved access to protections and entitlements for migrant workers.

Conclusion

This literature review has explored several facets of precarious employment in NSW. It has utilised a definition of precarious employment as work where one has (1) limited or no access to paid leave, (2) irregular working hours, (3) unpredictable wages, (4) limited or no access to union support and (5) jobs that are repetitive and are divorced from educational outcomes. In Australia, a wide range of workers are at risk of precarious employment, from casual workers and international students to new migrants and independent contractors. The COVID-19 pandemic has certainly compounded the alienation and discomfort that accompanies precarious work. The pressing need to earn income, and to support dependents, exposes precarious workers to sickness and infection, especially for jobs in which working from home is not an option.

This literature review has identified and critically assessed multiple strategies designed to improve the working conditions of groups vulnerable to precarious employment. Some of the strategies speak to the importance of unions and civil society actors in informing precarious employees of their rights. Other strategies have spotlighted key pieces of legislation that protect precarious employees in theory, but are inadequately enforced in practice. The strategies explored here are not mutually exclusive, but are interdependently linked.

References

Ai Group 2016, *The Emergence of the Gig Economy Thought Leader Paper: Education & Training Policy Team*, Ai Group, viewed 1 October 2020, http://cdn.aigroup.com.au/Reports/2016/Gig_Economy_August_2016.pdf.

Alexander, L 2019, *Understanding Insecure Work in Australia*, The McKell Institute, Queensland, viewed 1 October 2020, https://mckellinstitute.org.au/app/uploads/McKell-Institute-Queensland-Understanding-Insecure-Work-in-Australia-1-2.pdf.

Australian Council of Trade Unions 2018, 'The Future of Work: Greater Inequality and Insecurity Unless We Act: ACTU Submission to the Senate Select Committee on the Future of Work and Workers Inquiry 2018', https://www.actu.org.au/media/1385167/d39-submission-to-the-future-of-work-and-workers-senate-inquiry.pdf.

Australian Council of Trade Unions 2019, 'ACTU Submission to The Senate Education and Employment Legislation Committee Inquiry into The Fair Work Amendment (Right to Request Casual Conversion) Bill 2019', https://www.actu.org.au/media/1385466/d7-actu-submission-re-right-to-request-casual-conversion-bill.pdf.

Australian Council of Trade Unions n.d., *The Rise of Insecure Work in Australia*, Australian Council of Trade Unions, Melbourne, viewed 1 October 2020, https://www.actu.org.au/media/1385243/d88-a4_the-rise-of-insecure-work_fa.pdf.

Australian Council of Trade Unions 2011, *The future of work in Australia: dealing with insecurity and risk*, ACTU, viewed 17 October 2020, https://www.actu.org.au/media/125289/Future%20of%20work%20industrial%20options%20paper.pdf.

Australian Council of Trade Unions 2012, *Lives on hold: unlocking the potential of Australia's workforce*, ACTU, viewed 17 October 2020, https://www.actu.org.au/media/349417/lives_on_hold.pdf.

Australian Council of Trade Unions 2018a, *ABN Abuse: The Rise of Sham Contracting*, ACTU, viewed 17 October 2020, https://www.actu.org.au/media/1385230/d182-the-rise-of-sham-contracting-and-abuse-of-the-abn-system-14-september-2018.pdf.

Australian Council of Trade Unions 2018b, *Australia's insecure work crisis: Fixing it for the future*, ACTU, viewed 17 October 2020, https://www.actu.org.au/media/1033868/insecure-work_final-18052018-final.pdf.

Australian Council of Trade Unions 2018c, *The Future Of Work: Greater Inequality And Insecurity Unless We Act*, ACTU, viewed 17 October 2020, https://www.actu.org.au/media/1385167/d39-submission-to-the-future-of-work-and-workers-senate-inquiry.pdf.

Australia Government Department of Education, Skills and Employment 2019, 'International Student Data monthly summary', viewed 18 October 2020: https://internationaleducation.gov.au/research/International-Student-Data/Documents/MONTHLY%20SUMMARIES/2019/Dec%202019%20MonthlyInfographic.pdf.

Australian Government Department of Education, Skills and Employment 2020, 'Student numbers', viewed online 18 October 2020: https://internationaleducation.gov.au/research/DataVisualisations/Pages/Student-number.aspx.

Australian Government Department of Home Affairs 2019, 'BR0097 Student Visa and Temporary Graduate Visa Program Report', viewed 18 October 2020: https://www.homeaffairs.gov.au/research-and-stats/files/student-temporary-grad-program-report-june-2019.pdf.

Australian Trade and Investment Commission (Austrade) 2020, *Australian business taxes*, viewed 17 October 2020, https://www.austrade.gov.au/International/Invest/Guide-to-investing/Running-a-business/Understanding-Australian-taxes/Australian-business-taxes.

Barnes, A and Lafferty, G, 2010, 'The Fair Work Act: As Good as it Gets?' *The Economic and Labour Relations Review*, 21(1), 1-12.

Bassina, F & Berg, L, 2020, *Temporary Migration*, UNSW & UTS, Sydney, viewed 1 October 2020, https://www.aph.gov.au/DocumentStore.ashx?id=82c81f56-64f8-4967-aa1f-e06fcd2ff714&subId=679599.

Benach, J, Vives, A, Amable, M, Vanrolen, C, Tarafa, G & Muntaner, C 2014, 'Precarious Employment: Understanding an Emerging Social Determinant of Health', *Annual Review of Public Health*, vol. 35, 231.

Berg, L 2016, *Migrant rights at work Law's precariousness at the intersection of immigration and labour*. Oxon, New York: Routledge.

California Labor & Workforce Development Agency (LWDA) 2020, *ABC Test*, viewed 17 October 2020, https://www.labor.ca.gov/employmentstatus/abctest/

Campbell, M 2010, 'Perspectives on Working Conditions of Temporary Migrant Workers in Australia'. *People and Place* 18(2), 51-55.

Campbell, I, Whitehouse, G & Baxter, J 2009, 'Australia: Casual Employment, Part-time Employment and the Resilience of the Male-Breadwinner Model', in eds. Vosko, L F, MacDonald, M, and Campbell, *Gender and the Contour of Precarious Employment*, London: Routledge 2009, 60-75.

Campbell, I, Boese, M, & Tham, J-C 2016, 'Inhospitable workplaces? International students and paid work in food services', *Australian Journal of Social Issues, 51(3),* 279–298.

Canon, G 2019, 'California's controversial labor bill has passed the Senate. Experts forecast more worker rights, higher prices for services', *USA Today*, 11 September, viewed 17 October 2020, https://www.usatoday.com/

Carney, T. and Stanford, J. 2018 *The Dimensions of Insecure Work: A Factbook*, *The Australia Institute, Centre for Future Work*. Available at: https://d3n8a8pro7vhmx.cloudfront.net/theausinstitute/pages/2807/attachments/original/1528337971/Insecure_Work_Factbook.pdf?1528337971.

Cassells, R. et al. 2018 *Future of Work in Australia*, *Focus on the States Series, No.6/18*. Available at: http://bcec.edu.au/assets/BCEC-Future-of-Work-in-Australia-Report.pdf.

De Flemingh, J and Bell, C, 2020, 'Employment law: Doubling down on 'double dipping': The full federal court's decision in 'Rossato'', *Law Society of NSW Journal*, 68, 69-71.

Douglas, S, and Watt, G, 2018, 'Implications of the Fair Work Commission's modern award review for casuals', *Journal of New Business Ideas & Trends*, 16(2), 30-40.

Duncan, A, Cassels, R and Dockery, M 2020 *Labour Market Update – July 2020*, Perth, viewed 17 October, https://bcec.edu.au/assets/2020/09/Monthly-Labour-Market-Update-August-2020.pdf.

FAETHM 2020, *Technology Impacts on the Australian Workforce*, ACS, Sydney, viewed 1 October 2020, https://www.acs.org.au/insightsandpublications/reports-publications/technology-impacts-on-the-australian-workforce.html.

Fair Work Ombudsman 2017, 'New strategy to raise international awareness of workplace rights', viewed 18 October 2020: https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/september-2017/20170925-international-students-release.

Fair Work Ombudsman 2020, *Independent contractors*, Fair Work Ombudsman, viewed 1 October 2020, https://www.fairwork.gov.au/find-help-for/independent-contractors.

Fair Work Ombudsman (FWO) 2020a, *Independent contractors and employees*, viewed 17 October 2020, https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/independent-contractors-and-employees.

Fair Work Ombudsman (FWO) 2020b, *Casual employees*, viewed 17 October 2020, https://www.fairwork.gov.au/employee-entitlements/types-of-employees/casual-part-time-and-full-time/casual-employees.

Hardy, T 2011. 'Enrolling Non-State Actors to Improve Compliance with Minimum Employment Standards'. *The Economic and Labour Relations Review*, 22(3), 117-140.

Hemingway, C 2016, *Not just work: ending the exploitation of refugee and migrant workers*, WEstjustice, Melbourne, viewed 1 October 2020, https://www.westjustice.org.au/cms_uploads/docs/westjustice-not-just-work-report-part-2-(1).pdf

Howells, S 2007, Report on the Review of the Migration Amendment (Employer Sanctions) Act, Department of Immigration and Citizenship, https://core.ac.uk/download/pdf/30680909.pdf.

Knight, M 2011, *Strategic Review of the Student Visa Program,* Australian Government, https://www.homeaffairs.gov.au/reports-and-pubs/files/2011-knight-review.pdf.

Labour Hire License Queensland (LHLQ) 2020, *About the licensing scheme*, viewed 17 October, https://www.labourhire.qld.gov.au/about-the-licensing-scheme.

Marginson, S, Nyland, C, Sawir, E & Forbes-Mewett, H 2010, *International Student Security*, Cambridge, Cambridge University Press.

McNicholas, C & Poydock, M 2019, 'How California's AB5 protects workers from misclassification', *Economic Policy Institute*, 14 November, viewed 17 October 2020, https://www.epi.org/.

Migrant Workers' Taskforce, 2019, *Report of the Migrant Workers' Taskforce*, viewed 1 October 2020, https://www.ag.gov.au/sites/default/files/2020-03/mwt_final_report.pdf

National Union of Students 2009, 'International Students' Security and Safety Needs in Australia Report', http://unistudent.com.au/home/images/national%20union%20of%20students%20report%20on%20international%2.

Nyland, C, Forbes-Mewett, H, Marginson, S, Ramia, G, Sawir, E, & Smith, S, 2009 'International student-workers in Australia: a new vulnerable workforce', *Journal of Education and Work*, 22(1), 1-14.

Ong, D and Ramia, G 2009, 'Study-work-life balance and the welfare of international students', *Labour & Industry,* 20(2), 181-206.

Pennington, A and Stanford, J, 2020. 'Deunionisation and wage stagnation: A commentary on recent Reserve Bank Research'. *Australian Journal of Labour Law*, 32, p. 318-337.

Pocock, B., Buchanan, J and Campbell, J, 2004. 'Meeting the Challenge of Casual Work in Australia: Evidence, Past Treatment and Future Policy. *Australian Bulletin of Labour*, 30(1), p. 16-32.

Pocock, B, Prosser, R & Bridge, K 2004 '"Only a Casual…"; how casual work affects employees, households and communities in Australia', Discussion Paper, Adelaide, Labour Studies, University of Adelaide.

Rawling, M 2015, 'Regulating Precarious Work in Australia: A preliminary assessment' *Alternative Law Journal*, vol. 40, no. 4, p. 252–256, doi:10.1177/1037969X1504000408.

Reilly, A 2012 'Protecting Vulnerable Migrant Workers: The Case of International Students' (February 14, 2013), *Australian Journal of Labour Law.* p.181-208, U. of Adelaide Law Research Paper No. 2013-08.

Senate Legal and Constitutional Affairs Reference Committee, 2018, *Inquiry into the effectiveness of the current temporary skilled visa system in targeting genuine skills shortages*, Law Council of Australia, Canberra, viewed 1 October 2020, https://www.lawcouncil.asn.au/publicassets/86f83be3-ab1e-e911-93fc-005056be13b5/3562%20-%20Skilled%20visa%20system%20inquiry.pdf.

The Senate Education and Employment References Committee 2016, *A National Disgrace: The Exploitation of Temporary Work Visa Holders*, viewed 1 October 2020, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/temporary_work_visa/Report.

Sparrow, J 2020, 'Workplace insecurity pervades the whole economy, just when every job is under threat', The Guardian, accessed online 10th October; https://www.theguardian.com/commentisfree/2020/jul/25/workplace-insecurity-pervades-the-whole-economy-just-when-every-job-is-under-threat.

Unions NSW, 2020, *Inquiry into the impact temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions*, Unions NSW, Sydney, viewed 1 October 2020, https://www.unionsnsw.org.au/wp-content/uploads/2019/06/Submission-642.pdf.

Whitehouse, G, Lafferty, G and Boreham, P, 1997, 'From Casual to Permanent Part-Time? Non-Standard Employment in Retail and Hospitality', *Labour & Industry: a Journal of the Social and Economic Relations of Work*, 8(2), 33-48.

WorkPac Pty Ltd v Rossato 2020, FCAFC 84.

Workplace Relations Amendment (Work Choices) Act 2005 (Cth).