



**Australian
Women
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Patron, The Honourable Chief Justice Susan M Kiefel AC

**SUBMISSION TO THE DEPARTMENT OF EMPLOYMENT AND WORKPLACE
RELATIONS REGARDING PROPOSED AMENDMENTS TO THE *FAIR WORK ACT*
2009 (CTH)**

Submitted by	Australian Women Lawyers
Submitted electronically	via wrsubmissions@dewr.gov.au
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Australian Women Lawyers (AWL) is a justice and equity champion advancing women in the legal profession and beyond. AWL’s objects include achieving justice and equity for women; furthering understanding and support for the legal rights of women; identifying, highlighting and eradicating discrimination against women inherent in the legal system and generally; and advancing equality for women in the legal profession.

AWL makes this submission further to these objects and in its role as the peak body for Australian women lawyers.

Regrettably, AWL is unable to provide a detailed submission in response to the discussion paper at this time due to capacity constraints.

However, we wish to specifically raise the issue of increasing access to justice in this jurisdiction.

Australian Women Lawyers represents:



Women Lawyers' Association
South Australia Inc



**WOMEN
LAWYERS**
of Western Australia

Fair Work Act disputes operate in a no cost jurisdiction, which in theory may limit costs exposure to litigants, but it also restricts the ability of costs to be recovered in meritorious cases.

Consequently, many meritorious cases 'fail to launch' due to cost concerns (and inability to recover costs even on a successful claim).

Further, FWA disputes are not, generally, able to be supported or serviced at litigation stage by community legal centres. Even if they are, such centres rely on goodwill of pro bono counsel to act.

AWL is concerned that prospective litigants, especially women, are unlikely to pursue a matter in circumstances where funded legal assistance is limited or non-existent. Accordingly, the jurisdiction may fail to protect those who are most vulnerable, especially in gender and other discrimination claims where there is already a perceived and/or real power imbalance between workers and employers.

AWL would be able to provide oral consultation on the discussion paper, if roundtables or consultation meetings are held.