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NATIONAL ABORIGINAL AND
TORRES STRAIT ISLANDER WOMEN'S ALLIANCE

Submission to the Statutory Review of the Fair Work Legislation Amendment (Closing Loopholes) Acts 2023 and 2024

Prepared by: National Aboriginal and Torres Strait Islander Women's Alliance (NATSIIWA).

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1. Executive Summary

The National Aboriginal and Torres Strait Islander Women's Alliance (NATSIIWA) is the national peak body representing Aboriginal and Torres Strait Islander women across Australia. NATSIIWA provides a collective national voice to ensure that the leadership, lived experience, and policy priorities of Aboriginal and Torres Strait Islander women are centred in government decision-making.

NATSIIWA works across policy reform, systemic advocacy, and community engagement to address the structural barriers that Aboriginal and Torres Strait Islander women face in employment, economic participation, safety, health, housing, education, and justice systems. Our work is grounded in self-determination, cultural authority, and community-led solutions.

Through direct engagement with Aboriginal and Torres Strait Islander women in urban, regional, rural, and remote communities, NATSIIWA gathers qualitative evidence about workplace discrimination, job insecurity, wage inequity, racism, cultural unsafety, and barriers to accessing workplace rights. These experiences are shaped by the ongoing impacts of colonisation, intergenerational disadvantage, and systemic exclusion from secure employment pathways.

Aboriginal and Torres Strait Islander women are:

- Overrepresented in insecure and low-paid work.¹
- Concentrated in government-funded and community services sectors
- Disproportionately impacted by short-term contracts and funding uncertainty
- More likely to experience intersectional discrimination (race and gender)
- Often primary carers within families and communities

NATSIIWA's policy work therefore focuses on strengthening structural protections in labour law to ensure that workplace reforms deliver equitable outcomes for Aboriginal and Torres Strait Islander women, rather than unintentionally reinforcing existing inequalities.

¹ Australian Bureau of Statistics (ABS), Labour Force Characteristics of Aboriginal and Torres

NATSIWA is funded under the Australian Government's Gender Equality Strategy through the Office for Women and works collaboratively with National Women's Alliances, First Nations organisations, and cross-sector partners to advance gender equality and economic justice.

This submission reflects the lived experience insights shared with NATSIWA by Aboriginal and Torres Strait Islander women working across community services, health, education, retail, government, and regional employment settings.

NATSIWA supports the intent of the Closing Loopholes reforms to strengthen job security, address labour hire inequity, criminalise wage theft, and improve protections for vulnerable workers. For Aboriginal and Torres Strait Islander women, these reforms are significant. However, legislation alone does not guarantee equity.

Aboriginal and Torres Strait Islander women are disproportionately represented in insecure, feminised and government-funded sectors. Structural labour market segregation, racism, funding instability and geographic isolation continue to shape workplace experiences.

This submission highlights key implementation risks, emerging unintended consequences, and targeted recommendations to ensure reforms deliver measurable improvements in job security, wage equity and culturally safe workplaces.

2. Overarching Position

Aboriginal and Torres Strait Islander women are overrepresented in feminised and undervalued sectors highly dependent on government funding cycles. Funding volatility frequently translates into employment precarity through short-term contracts and casual engagement.

Structural labour market segregation, racism, and geographic isolation mean complaint-based mechanisms alone cannot resolve systemic insecurity. Effectiveness must be measured against lived experience outcomes.

The reforms are appropriate in intent and direction. They aim to improve job security, fairness, and gender equity. However, effectiveness is uneven in practice, particularly for Aboriginal and Torres Strait Islander women. Implementation must be assessed through a culturally informed and intersectional lens. Aboriginal and Torres Strait Islander women experience compounded disadvantage shaped by race, gender, geography and economic marginalisation.

Success should be measured by improved lived outcomes: secure employment, fair wages, safe workplaces and the confidence to assert rights without fear of retaliation. Many women are not aware of their rights or do not understand how to exercise them. Legal processes can be complex and intimidating, particularly in regional and remote areas.

The amendments rely on workers initiating complaints. Aboriginal and Torres Strait Islander women are overrepresented in insecure work and may fear retaliation, reducing their willingness to act. Where breaches occur, remedies can be slow and difficult to pursue. Without strong enforcement, legal rights may not translate into practical protection.

In small labour markets, raising concerns can lead to reputational harm or exclusion from future employment, limiting the practical operation of the amendments.

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3. Labour Hire – Same Job, Same Pay

Parity provisions relating to labour hire arrangements are highly relevant in sectors where Aboriginal and Torres Strait Islander women are overrepresented, including aged care, disability services, community services, cleaning, hospitality and education support roles. These sectors are characterised by feminised workforces, government funding dependency and high rates of contingent employment.²

In community services and aged care in particular, labour hire is frequently used not solely to meet genuine short-term labour demand, but to manage funding uncertainty and organisational risk. Where service delivery contracts are short-term or subject to renewal cycles, employers may rely on labour hire arrangements to reduce direct employment liability. This practice can create a structural tiering of workers within the same workplace.

As a result, Aboriginal and Torres Strait Islander women may perform identical duties to directly employed workers — delivering the same services, working the same shifts, and meeting the same professional standards — without equivalent job security, leave entitlements, enterprise agreement coverage, or progression pathways. This inequity can entrench wage disparity and limit long-term career development.

The introduction of “same job, same pay” parity provisions is therefore a significant reform. However, effectiveness depends on the strength of implementation and enforcement.

The review should assess whether anti-avoidance safeguards are sufficiently robust to prevent indirect circumvention. There is a risk that employers may respond to parity obligations by:

- Redesigning roles to create minor distinctions in duties
- Reclassifying positions to avoid comparability
- Fragmenting job descriptions across multiple roles
- Increasing reliance on casual or fixed-term contracts instead of labour hire

Such strategies, while potentially compliant on their face, may undermine the substantive intent of parity provisions.

Effectiveness also depends on accessible enforcement mechanisms, particularly in regional and remote areas. In smaller labour markets, labour hire providers and host employers may have ongoing commercial relationships, and workers may rely on repeat placements. Fear of reduced shifts, exclusion from future placements or informal reputational signalling may deter workers from raising concerns about parity.

Protection from subtle retaliation is therefore critical. Anti-retaliation frameworks must recognise that exclusion from future engagements or reduced allocation of shifts can operate as de facto punishment for asserting rights.

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The review should consider whether monitoring systems are capable of identifying sector-wide shifts in labour hire practices following reform, and whether additional guidance or legislative clarification is required to ensure that the spirit — not merely the letter — of parity provisions is upheld.

For Aboriginal and Torres Strait Islander women, labour hire parity will be meaningful only if it results in tangible improvements in pay equity, job security and career progression — without exposing workers to disproportionate risk for asserting their rights.

4. Any Unintended Consequences of the Amendments

Increased Casualisation or Contracting

While the Closing Loopholes reforms are intended to strengthen job security and reduce exploitative arrangements, increased regulatory complexity may incentivise some employers to adopt risk-avoidance strategies. These strategies can include greater reliance on short-term contracting, fixed-term engagements or casual employment models in an effort to minimise perceived exposure to compliance obligations.

Where employers respond to reform by fragmenting roles, redesigning duties or increasing casual engagement, the underlying objective of strengthening secure work may be undermined. Aboriginal and Torres Strait Islander women, who are already overrepresented in insecure and feminised sectors, may disproportionately bear the impact of these shifts.

In government-funded and community service sectors in particular, funding volatility may intersect with regulatory change, leading organisations to favour short-term or contingent employment arrangements. While technically compliant, such approaches may reduce permanency opportunities and limit career progression pathways.

The review should therefore consider whether current safeguards sufficiently deter indirect avoidance behaviours and whether monitoring mechanisms are capable of identifying systemic shifts toward increased casualisation following reform.

Subtle Retaliation and Indirect Adverse Impact

Retaliation following the assertion of workplace rights does not always take the form of dismissal. More commonly, it may manifest subtly through:

- Roster changes or reduction in shifts
- Non-renewal of fixed-term contracts
- Exclusion from training or professional development
- Reassignment to less favourable duties
- Informal workplace pressure or social isolation

These actions are difficult to evidence and may fall short of clearly defined adverse action thresholds, yet they can have a materially harmful impact on income stability, wellbeing and long-term career progression.

For Aboriginal and Torres Strait Islander women working in small labour markets, the consequences may extend beyond a single workplace. Informal reputational signalling can limit future employment opportunities, particularly in tightly connected regional or sectoral networks.

Fear of these subtle forms of retaliation may deter workers from asserting rights in the first instance. If workers perceive that protections are insufficient to shield them from indirect consequences, the practical accessibility of the reforms is diminished.

The review should therefore assess whether current anti-retaliation provisions and evidentiary presumptions adequately capture indirect or cumulative adverse impacts.

Administrative Complexity

Increased procedural requirements and regulatory complexity may create unintended barriers for both workers and small employers. While robust compliance mechanisms are essential, overly complex systems can disproportionately disadvantage workers with limited access to:

- Legal advice
- Digital resources
- Literacy support
- Culturally safe assistance

Aboriginal and Torres Strait Islander women in regional and remote areas may face particular challenges navigating formal complaint processes, documentation requirements or evidentiary standards. Where systems assume high levels of legal literacy and digital access, inequalities may be inadvertently reinforced.

Administrative complexity may also discourage early resolution of disputes. Workers may delay raising concerns due to uncertainty about processes or fear of procedural escalation.

The review should consider whether simplification of processes, clearer plain-language guidance and strengthened early intervention mechanisms could improve practical accessibility without weakening substantive protections.

Interaction of Complexity and Insecurity

Importantly, regulatory complexity interacts with economic insecurity. Where employment is already precarious, and income volatility is common, the perceived risk of engaging with complex enforcement systems increases.

For Aboriginal and Torres Strait Islander women, the cumulative effect of insecure work, subtle retaliation risk and procedural complexity may result in underutilisation of rights. This gap

between legislative entitlement and practical uptake is a critical measure of reform effectiveness.

Monitoring mechanisms should therefore assess not only compliance rates, but whether behavioural shifts — such as increased casualisation or reduced willingness to assert rights, are occurring in response to reform.

5. Criminalisation of Wage Theft

The criminalisation of intentional wage theft is welcomed as an important structural reform and a strong signal that exploitative conduct will not be tolerated. For Aboriginal and Torres Strait Islander women, who are disproportionately represented in low-paid, feminised and insecure sectors, the deterrent effect of criminal penalties is significant.³ [2]

However, while criminalisation strengthens deterrence at a systemic level, safe and culturally trusted reporting pathways are essential to ensure accessibility in practice. Legislative reform alone does not guarantee that vulnerable workers will feel safe engaging with enforcement mechanisms.

Barriers to reporting wage theft for Aboriginal and Torres Strait Islander women may include:

- Fear of job loss or non-renewal of short-term contracts
- Economic insecurity that makes income disruption untenable
- Limited access to culturally safe legal advice
- Digital exclusion or limited literacy support
- Institutional mistrust shaped by historical and contemporary experiences of discrimination
- Community dynamics in small labour markets where employers may be socially connected

In tightly connected regional or remote communities, reporting wage theft may carry reputational consequences that extend beyond a single workplace. Women may fear informal exclusion from future employment opportunities if they are perceived as “troublemakers” or disloyal.

Additionally, underpayment may be normalised within certain sectors, particularly where funding instability or labour shortages are common. Workers may not immediately recognise wage discrepancies or may internalise exploitation as an unavoidable condition of employment.

Community-based reporting partnerships should therefore be considered as part of implementation. Aboriginal Community Controlled Organisations (ACCOs) and other trusted First Nations institutions are often better positioned to:

- Provide early advice in culturally safe settings
- Support workers to understand entitlements
- Facilitate referrals to enforcement agencies
- Reduce fear associated with formal complaint processes

Proactive compliance activity in high-risk sectors is also critical. A purely complaint-driven enforcement model places disproportionate burden on individuals who may be least able to initiate action. The review should consider strengthening:

- Targeted audits in sectors with high representation of Aboriginal and Torres Strait Islander women
- Regional enforcement visibility
- Clear communication about successful enforcement actions to reinforce deterrence

Culturally safe outreach is essential to ensure that criminalisation provisions benefit vulnerable workers rather than remaining underutilised. Education materials should be plain-language, trauma-informed, and delivered through trusted community channels.

For Aboriginal and Torres Strait Islander women, the effectiveness of wage theft criminalisation will not be measured solely by prosecutions, but by whether workers feel safe, supported and protected when raising concerns, and whether exploitative practices are actively prevented rather than retrospectively punished.

6. Casual Employment and Cultural Responsibilities

Casual employment occupies a complex position for Aboriginal and Torres Strait Islander women. While casualisation is often associated with insecurity and reduced entitlements, it can also provide a degree of flexibility that enables women to meet cultural, kinship and community responsibilities.

Cultural obligations such as kinship care, Sorry Business, ceremonial responsibilities, community leadership and travel between communities are not discretionary commitments. They are integral responsibilities grounded in cultural authority, relational accountability and community wellbeing. For many Aboriginal and Torres Strait Islander women, these responsibilities are ongoing and cannot be confined to standard leave categories or predictable timeframes.

Workplace systems that fail to recognise these realities may create indirect disadvantage. Policies designed around nuclear family assumptions, standardised leave structures, or rigid attendance expectations can inadvertently penalise Aboriginal and Torres Strait Islander women for fulfilling cultural obligations. Where cultural responsibilities are misunderstood or minimised, workers may be perceived as less committed or less reliable, reinforcing stereotypes and limiting career progression.

Casual employment often enables Aboriginal and Torres Strait Islander women to manage these intersecting responsibilities. The ability to adjust shifts, decline work during periods of

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Sorry Business, or travel to support extended family members can be critical. However, this flexibility frequently comes at the cost of income stability, leave entitlements, career progression and long-term security.

The policy challenge is therefore not simply reducing casual employment, but ensuring that pathways to permanency do not eliminate culturally necessary flexibility. Secure work and cultural flexibility should not be treated as mutually exclusive objectives. A reformed system must accommodate both.

Casual conversion protections are an important safeguard for those seeking permanency and income stability. However, implementation must ensure that:

- Workers are not pressured into remaining casual where permanency is appropriate.
- Employers do not discourage conversion requests through subtle retaliation.
- Flexible arrangements remain available to permanent employees, including through culturally informed leave policies and flexible work rights.
- Conversion processes are accessible, clearly explained and supported in plain language.

For Aboriginal and Torres Strait Islander women, the objective is not simply permanency or flexibility in isolation, but a system that provides security without erasing cultural identity and responsibility.

The review should consider whether current flexible work provisions, leave categories and casual conversion frameworks adequately accommodate cultural obligations. Where gaps exist, clearer guidance or legislative refinement may be necessary to prevent indirect discrimination and ensure that cultural participation does not result in economic penalty.

Meaningful reform in this area requires recognition that employment systems built on standardised norms may not reflect the lived realities of Aboriginal and Torres Strait Islander women. Ensuring both security and cultural continuity is essential to equitable workplace reform.

7. Family and Domestic Violence Protections

The 10-day paid Family and Domestic Violence Leave entitlement is a significant reform and is strongly supported by NATSIWA. For many Aboriginal and Torres Strait Islander women, secure income during periods of crisis is essential to maintaining housing stability, supporting children, and enabling safe transitions away from violence.

Aboriginal and Torres Strait Islander women experience disproportionately high rates of family and domestic violence. These experiences are shaped by the ongoing impacts of colonisation, intergenerational trauma, systemic disadvantage, housing insecurity, and over-policing. Employment can represent both a protective factor and a pathway to safety. However,

workplace systems must operate in a way that genuinely enables access to this protection.⁴ [3]

Confidentiality concerns in small and regional communities may inhibit the utilisation of leave entitlements. In tightly connected communities, employers may be socially or culturally connected to extended family networks. Women may fear that disclosure — even through administrative processes — could result in community awareness, social repercussions, or escalation of harm. The perception of risk alone can deter use of entitlements.

Evidence requirements must remain trauma-informed and flexible. Prescriptive documentation requirements risk re-traumatisation and may not reflect the lived realities of Aboriginal and Torres Strait Islander women, particularly in remote areas where access to police reports, medical certificates or formal support services may be limited. The system must recognise that safety planning is often informal and community based.

Workplace responses must be culturally safe and grounded in an understanding that leaving violence may require:

- Relocation across communities or regions
- Temporary withdrawal from community settings
- Managing kinship dynamics and community pressure
- Navigating child protection systems
- Addressing housing instability

Employers should receive culturally informed guidance to ensure that leave processes do not inadvertently expose women to further risk. Confidential handling of information, flexible leave arrangements, and sensitivity to cultural obligations are essential components of practical accessibility.

The review should consider whether monitoring mechanisms adequately capture:

- Uptake of Family and Domestic Violence leave by Aboriginal and Torres Strait Islander women
- Barriers to access in regional and remote areas
- Whether confidentiality protections are sufficient in practice

For Aboriginal and Torres Strait Islander women, the success of this entitlement will not be measured solely by its existence in legislation, but by whether it can be accessed safely, discreetly, and without employment consequence.

8. Cultural Safety, Racism and Cultural Load

Aboriginal and Torres Strait Islander women frequently experience racism, microaggressions and unpaid cultural advisory responsibilities ('cultural load') within workplaces. These

experiences are not isolated interpersonal incidents but often reflect structural and systemic dynamics embedded within organisational cultures.

Racism may manifest in overt forms, such as discriminatory treatment or exclusion, but more commonly occurs through cumulative microaggressions, stereotyping, questioning of competence, tokenism, and differential standards of behaviour or performance. These behaviours, while individually subtle, can create sustained psychological harm, workplace isolation and reduced career progression.

Cultural load refers to the unrecognised and uncompensated labour undertaken by Aboriginal and Torres Strait Islander employees to:

- Provide cultural advice or guidance to colleagues
- Contribute to reconciliation strategies or RAP processes
- Support culturally sensitive service delivery
- Mentor non-Indigenous staff on cultural matters
- Represent “the Indigenous perspective” in meetings or policy processes

This labour is frequently expected, rarely formally acknowledged, and almost never reflected in workload allocation, remuneration or performance frameworks. The emotional and cognitive burden associated with constantly navigating racism while simultaneously being expected to educate others compounds workplace stress.

For Aboriginal and Torres Strait Islander women in particular, this burden is gendered. Expectations to provide emotional support, cultural mediation and community engagement often sit alongside formal job responsibilities, resulting in a double workload that remains invisible in compliance and regulatory frameworks.

Current workplace protections focus heavily on discrete adverse actions or clearly identifiable discriminatory acts. However, racialised workplace harm often operates cumulatively. The review should consider whether adverse action and anti-discrimination provisions adequately capture:

- Patterns of subtle or systemic racialised behaviour
- Indirect discrimination arising from organisational norms
- Cultural exploitation through unpaid advisory expectations
- Retaliation linked to raising concerns about racism

Workplace compliance frameworks should move beyond reactive complaint models and consider preventative approaches, including clearer guidance to employers on recognising and mitigating cultural load.

A culturally safe workplace is not merely one without overt discrimination; it is one in which Aboriginal and Torres Strait Islander women can participate fully without being required to absorb additional unpaid labour or emotional harm as a condition of employment.

The success of the Closing Loopholes reforms, particularly in relation to secure work and fair treatment, must be assessed against whether Aboriginal and Torres Strait Islander women experience reduced racialised harm and improved cultural safety in practice.

9. Access to Justice and Enforcement

Rights are only effective when they are accessible in practice. For Aboriginal and Torres Strait Islander women, formal legal entitlements do not automatically translate into practical protection. Structural, geographic and cultural barriers can significantly limit the ability to assert workplace rights.

Geographic isolation remains a significant barrier, particularly in regional and remote communities where employment law services, unions, and community legal centres may be limited or non-existent. Access to advice may require long-distance travel, reliable internet connectivity, or engagement with metropolitan-based services that lack local context.

Economic insecurity further restricts access to justice. Aboriginal and Torres Strait Islander women are disproportionately represented in insecure, low-paid roles. Initiating a complaint may risk loss of income, reduced hours, or non-renewal of short-term contracts. The financial risk associated with asserting rights can deter action, particularly where alternative employment opportunities are limited.

Limited access to culturally safe legal assistance compounds this issue. Mainstream legal and regulatory systems may not be experienced as culturally safe or accessible. Historical and ongoing experiences of institutional discrimination contribute to mistrust of formal systems, including complaint bodies. Where trust is low, engagement is unlikely.

Digital exclusion also presents a practical barrier. Many complaint processes assume reliable internet access, digital literacy, and familiarity with formal documentation requirements. These assumptions may not reflect the lived realities of women in remote or economically marginalised settings.

Complaint-driven systems place the burden of enforcement on individuals. This model presumes a level of institutional trust, employment security and legal literacy that may not align with lived experience. In tightly connected labour markets, raising concerns may have consequences beyond the immediate employer, including reputational impact across sectors or communities.

Complaint systems must therefore be culturally competent and responsive to context. This includes:

- Clear, plain-language guidance
- Trauma-informed processes
- Flexible evidence requirements
- Protection from retaliation during and after complaints
- Confidential engagement mechanisms

Partnerships with Aboriginal Community Controlled Organisations (ACCOs) are critical. ACCOs are trusted institutions within communities and are often better positioned to provide culturally safe advice, early intervention support and referral pathways. Strengthening collaboration between enforcement agencies and ACCOs may improve awareness, trust and timely resolution of workplace issues.

The review should consider whether enforcement models remain overly reactive and whether greater proactive compliance activity is required in high-risk sectors. Without strengthened access mechanisms and culturally competent enforcement, legal rights risk remaining theoretical rather than transformative.

For Aboriginal and Torres Strait Islander women, access to justice must be measured not by the existence of a complaint mechanism, but by whether it can be navigated safely, confidently and without disproportionate risk.

10. Recommendations

To ensure the Closing Loopholes reforms deliver equitable and measurable outcomes for Aboriginal and Torres Strait Islander women, NATSIWA recommends the following:

10.1. Embed an Aboriginal and Torres Strait Islander equity lens in monitoring and evaluation

Monitoring frameworks should explicitly assess how the reforms are operating for Aboriginal and Torres Strait Islander women. This requires:

- Regular evaluation of outcomes across key reform areas (labour hire, wage theft, casual conversion, FDV leave, adverse action)
- Consideration of intersectional impacts (race, gender, geography, disability)
- Public reporting on whether reforms are reducing structural inequality

An equity lens must move beyond symbolic acknowledgment and be embedded within performance indicators and compliance strategies.

10.2. Mandate disaggregated data collection by Indigenous status, gender, region and industry

Effective evaluation requires robust data. The review should consider whether enforcement agencies and relevant institutions are required to collect and publish disaggregated data, including:

- Complaints lodged
- Outcomes and resolution timeframes
- Enforcement actions
- Sectoral and regional trends

Without disaggregated data, disparities remain invisible and unaddressed.

10.3. Fund culturally safe education campaigns and outreach

Awareness of workplace rights cannot be assumed. Targeted education campaigns should be developed in partnership with Aboriginal and Torres Strait Islander organisations to ensure materials are:

- Plain language and accessible
- Delivered through trusted community channels
- Culturally relevant and trauma-informed
- Adapted for regional and remote contexts

Outreach should prioritise sectors where Aboriginal and Torres Strait Islander women are overrepresented.

10.4. Strengthen partnerships with Aboriginal Community Controlled Organisations (ACCOs)

ACCOs are trusted institutions and play a critical role in supporting community access to services. The review should consider:

- Formalised referral pathways between enforcement agencies and ACCOs
- Funding for culturally safe advisory services
- Community-based early intervention mechanisms

Partnership models can improve trust, reporting rates and timely resolution.

10.5. Monitor regional and remote labour market impacts

In regional and remote communities, labour markets are often concentrated among a small number of employers. The review should assess:

- Whether asserting rights results in exclusion from future employment
- Whether confidentiality protections operate effectively in small communities
- Whether enforcement resources are equitably distributed geographically

Regional dynamics must be factored into policy evaluation.

10.6. Develop culturally informed employer guidance on violence leave, cultural responsibilities and flexible work

Employers require practical guidance to implement reforms appropriately. Government guidance should:

- Clarify culturally safe handling of Family and Domestic Violence leave
- Recognise cultural obligations such as Sorry Business and kinship responsibilities
- Provide examples of flexible work arrangements that respect cultural needs
- Address management of cultural load and racialised workplace harm

Proactive employer education reduces risk and improves compliance.

10.7. Strengthen anti-retaliation protections and evidentiary presumptions

Fear of retaliation remains a major barrier to asserting rights. The review should consider:

- Clearer evidentiary presumptions where adverse action closely follows the exercise of a workplace right
- Enhanced penalties for retaliation
- Stronger interim protections during complaint processes
- Monitoring of indirect retaliation such as roster changes or non-renewal of contracts

Robust anti-retaliation safeguards are essential for real access to justice.

10.8. Assess whether adverse action provisions adequately address racialised workplace harm

Current adverse action frameworks often focus on discrete, identifiable acts. The review should assess whether protections adequately capture:

- Cumulative and systemic racialised behaviour
- Indirect discrimination embedded in workplace norms
- Cultural exploitation through unpaid advisory labour
- Retaliation linked to raising concerns about racism

If gaps are identified, targeted legislative clarification or regulatory guidance may be required.

These recommendations are designed to ensure that the Closing Loopholes reforms operate not only as legislative reform, but as practical mechanisms for advancing economic justice and workplace equity for Aboriginal and Torres Strait Islander women.

11. Conclusion

The Closing Loopholes reforms represent an important structural step in strengthening Australia's workplace relations framework. The intent to address insecure work, labour hire inequity, wage exploitation and gaps in worker protections is both necessary and timely.

For Aboriginal and Torres Strait Islander women, however, meaningful success will not be measured solely by legislative reform or compliance statistics. Success will be measured by lived outcomes — secure and stable employment, fair and equitable pay, culturally safe workplaces, protection from racialised harm, and rights that are enforceable in practice without disproportionate personal risk.

Aboriginal and Torres Strait Islander women continue to experience intersecting forms of structural disadvantage shaped by colonisation, labour market segregation, geographic isolation and systemic racism. These realities influence how reforms operate on the ground. Where employment is insecure, complaint mechanisms are complex, or workplaces are culturally unsafe, the practical benefit of legislative change may be limited.

The reforms must therefore be assessed not only against their policy intent, but against their capacity to materially reduce:

- Casual and insecure employment in feminised sectors
- Wage inequity and labour hire disparities
- Exposure to retaliation after asserting rights
- Racialised workplace harm and unpaid cultural labour
- Barriers to accessing enforcement mechanisms

Without stronger enforcement, clearer anti-avoidance and anti-retaliation protections, proactive compliance activity and culturally safe implementation strategies, Aboriginal and Torres Strait Islander women will not fully benefit from these reforms.

Targeted refinement and ongoing monitoring are necessary to ensure the Act operates effectively and equitably. This includes embedding an Aboriginal and Torres Strait Islander equity lens into evaluation frameworks, collecting disaggregated data to track impact, and strengthening partnerships with Aboriginal Community Controlled Organisations to support access to justice.

The Closing Loopholes reforms have the potential to contribute to economic justice and workplace equity. Realising that potential requires sustained commitment to implementation that recognises the lived experience of Aboriginal and Torres Strait Islander women.

NATSIWA welcomes continued engagement with the Reviewer to ensure these reforms deliver meaningful, measurable and enduring improvements in employment security, safety and dignity.

Contact:

Wendy Anders CEO
E: ceo@natsiwa.org.au
Ph: 0481458339

References **Strait Islander Australians, latest release.**

[2] Fair Work Ombudsman, Annual Report and compliance data relating to vulnerable workers and underpayment trends.

[3] Australian Institute of Health and Welfare (AIHW), Family, Domestic and Sexual Violence statistics relating to Aboriginal and Torres Strait Islander women.