Outwork – Reaching an Invisible Workforce

A Training Development Guide

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Dale Street Women’s Health Centre
1997
A Training Development Guide for Educators and Trainers in areas such as:

- Textile Clothing and Footwear
- Occupational Health and Safety
- Community Studies
- English as a Second Language
- Labour Studies
- Women's Studies
- Business Studies
- Unions
- Secondary Schools
  - Australian Society
  - Social Studies
  - Work Education
  - Legal Studies
- Community Health
- Youth Work
- Religious Education
- Social Work


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Outwork: Reaching an Invisible Workforce
A Training Development Guide
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Reaching an Invisible Workforce:
Occupational Health and Safety and Outwork in South Australia

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At the time of publishing, practicalities and consequences of the Workplace Relations Act 1996 were still being discussed, including the impact on outworkers.
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Introduction

Buying clothes is a regular activity for many people. Giving a child a soft toy, reading promotional material and furnishing our homes with lamps, cushions and curtains are familiar experiences.

Have you thought of how these products are often made?

Increasingly, people are paid to work from home and many are outworkers. Outwork is paid work, generally done in or around a home, under the control of an outside employer/contractor. Outwork is also known as home based work, homework, piece work, and sweated labour.

People are paid to work from home to produce a wide range of goods and services. Some of the activities of home based workers include word processing and phone answering, sewing and soft toy production, assembling all sorts of products, from security alarms, mouse traps and small electrical goods, to earings and gun sights.

An understanding and knowledge of outwork is important because it involves many thousands of workers. As consumers we can support those retailers and manufacturers who ensure outworkers receive fair and reasonable working conditions. As students we can gain valuable insights into changes occurring in Australian and global work patterns. As researchers we can investigate outwork and make recommendations. As trainers we can take a lead in promoting good work practices and informing workers of their rights and entitlements.

You are encouraged to adapt, photocopy and extract information to meet your specific requirements.
How to Use this Training Development Guide

This Guide presents issues associated with outwork, particularly focusing on working conditions and occupational health and safety. The aim is to provide facilitators with a variety of information, and includes participant outcomes and exercises to integrate into current curricula and programs.

The issues associated with outwork cross many sectors. Outwork is more than an industrial concern. It is about health and welfare, social justice, employment, rights, entitlements and responsibilities, changing economic structures, government policies and directions, ethics and the role of women and people from language backgrounds other than English in our community. It is about the kind of society in which we want to live and work.

Outwork issues can be incorporated into a wide range of study areas, and can be promoted in primary, secondary and tertiary settings.

This Guide can be utilised in a variety of ways. The case studies alone offer insight into people's experience of outwork. Sections can be used independently, and facilitators are encouraged to modify, photocopy and extract useful exercises and information to suit their requirements.

Exercises involve discussions, role plays, promotion campaigns, case studies, illustrations, comparative analysis, research and essay topics. They can be simplified or developed into in-depth research and diverse discussions, depending on the audience and available time.

In summary the Outwork Training Development Guide may be useful in:

- informing your group about outwork
- highlighting occupational health and safety issues of outwork
- understanding worker rights and responsibilities
- discussing, debating and researching the various legislation and industrial awards protecting outworkers
- exploring outwork in terms of women's role in the paid workforce
- discussing and debating case studies
- developing community awareness campaigns
- discussing and researching issues associated with paid work from home
- exploring changing employment patterns and work practices.
Outwork

What is Outwork

Learning Outcomes

Participants will be able to:

▲ explain what outwork is
▲ list some of the advantages and disadvantages of outwork.

Outwork is paid work, generally done in or around a home, under the control of an outside employer/contractor. Outwork is also known as home based work, homework, piece work, and sweated labour.

It can involve many kinds of work including clerical work, sewing, computer processing, knitting, assembling of badges and security alarms, child care, food preparation, lamp shade and curtain making. A South Australian study conducted by the Working Women's Centre called 'Out of Sight, Out of Mind' (Tassie 1989) found 30 different types of outwork (Appendix 1), and more recent research shows that more and more work is being performed at home. (ABS 1995)

Outworkers often work for an employer or contractor. Many receive little money for their time and skills, and work under conditions that can create risks to health and safety.

Outworkers are often women, and frequently from a language background other than English. They are isolated in the community and usually have little or no understanding of their rights as workers.

Exercise 1

a Using the information provided discuss your definition of outwork. Compare this with the definition of homework, also known as outwork, from the International Labour Organisation, Homework Convention 1996 (Appendix 2).

b Brainstorm a list of all the paid work that is or could be done from home (Appendix 1).

c Discuss the advantages and disadvantages of being a home based paid worker.

d Many outworkers do not think of themselves as workers. Discuss why they may see themselves in this way.

e Using Barbary O'Brien's illustration about outwork, on the following page, discuss the following:

▲ What does this illustration tell you about outwork?
▲ What would you like about doing paid work from home?
▲ What wouldn't you like about working from home?

This illustration could be photocopied or put on an overhead transparency.
Barbary O'Brien's illustration about outwork highlights some of the problems associated with this form of work. Photocopy or make an overhead transparency.

"Stress and exhaustion are common for all groups of (outworkers) respondents. The stress of working in isolation, of carrying the double burden of paid work and domestic work and having little control over any part of their working conditions was evident from their comments."

Out of Sight Out of Mind Working Women's Centre SA 1989.
Outwork as a Form of Employment

Learning Outcomes

Participants will be able to:

1. explain how workforce changes can contribute to an increase in outwork as a form of employment
2. explain why employers are becoming more interested in contract arrangements with workers.

Outwork as an employment practice is part of a larger process where the workforce has become more 'flexible' and deregulated. A deregulated system is one of less centralised industrial relations and wage fixing, less award coverage, and reduced union organisation and protection. It is characterised by individual and workplace contracting and subcontracting. In this situation there are often inequalities in bargaining power between the worker and the party who is contracting for the goods and services. The Workplace Relations Act 1996 supports further deregulation of the labour market.

Outwork creates a 'flexible' workforce for the employer and contractor. This is part of a larger trend in changing employment patterns, often described as the 'casualisation' of the workforce.

Outwork offers significant cost reductions for employer and contractor. This is part of the trend to convert the employer-employee relationship into a contractor-subcontractor relationship. This results in significant labour cost savings, by minimising employer responsibility in regard to particular working conditions such as superannuation and worker's compensation.

Advances in technology have created flexible worksites. Australian Bureau of Statistics data shows an increase in home based clerical work (Appendix 11).

Exercise 2

a Discuss what the casualisation and deregulation of the workforce means. How has this impacted on outwork as a form of employment?

b List some reasons why employers may favour a contract arrangement.

c Describe some problems which may occur for both employers and employees in a contract arrangement.
Why Women do Outwork

Learning Outcomes

Participants will be able to:

△ explain why most outworkers are women
△ give reasons why women may do outwork
△ explain why outworkers are often women from a language background other than English
△ list some of the aspects that disadvantage outworkers in the labour market.

The common link between most of the different groups who perform outwork is their relative powerlessness and disadvantage in the labour market.

This is because:

outworkers are most often women who have limited work opportunities;
many outworkers have English as their second language;
family responsibilities, including care of children or elderly relatives, prevent some women from seeking work outside of the home;
significant numbers of women simply do not have the knowledge, confidence and skills to gain employment in mainstream workplaces;
new arrivals who have limited English and almost no understanding of Australian working conditions are particularly vulnerable to exploitation.

Further practical reasons for women taking up outwork include:

the need for money to pay for basic necessities ie food, bill paying;
the lack of access to affordable child care;
family disapproval of outside work;
fear of racism;
support for families in their country of origin;
economic independence.

Profile of a Typical Sewing Outworker

"Outworkers (in the garment industry) are typically recent migrants (and refugees) who, largely because of poor English language skills and family-care responsibilities, have limited employment opportunities and are thus unable to join the regular labour force. They are most often women, although there are some men who perform outwork full time. Other family members, such as older relatives or children may also be involved.

Outworkers are generally aged between 25 and 35, and most have young children for whom they have primary responsibility in addition to housework."
Many outworkers have no educational qualifications, although some have qualifications gained in their country of origin which are not recognised in Australia. Outworkers usually experience significant barriers to obtaining alternative employment. They feel trapped in a working situation that offers little relief, inadequate support and few opportunities for change." (p13 Senate Economics References Committee 1996)

The following case studies come from outwork projects in Adelaide at the Working Women's Centre, 1989 and at Dale Street Women's Health Centre, 1996.

**TAFE lecturer:** 'My friend's wife is Vietnamese. She stopped English classes to do sewing. She works 8 am to 8 pm, six days a week and earns about $300.'

**Maria, lampshade maker:** 'I felt too scared to go out to work. I couldn't speak the language and it was all so strange. So I started working from home.'

**Vietnamese Community Worker:** 'I know of a Vietnamese woman who peels onions at home, for a contractor. She gets paid very little. This is her only job. She cannot complain or someone else will take the work.'

**Vietnamese machinist** has been sewing at home for eight years for a contractor. She sews a well known brand of sports T-shirt and jacket. Her husband works in a factory on a low wage. She works at home because she can look after the house, and earn some money. She works seven days a week.

**Child Carer:** Jo is currently doing child care for an agency. She is looking after three children, including a baby for $6.00 per hour. This is the flat rate regardless of how many children she cares for. Jo is an older woman, unable to get any other kind of work. This gets her down as she feels she is being 'ripped off'.

**A Vietnamese woman** sewing garments for a contractor to a major SA retailer. She sews till 2 am then begins again at 6 am. She does this seven days a week. She works very hard to save money to help her family in Vietnam. She cannot speak English and very rarely leaves the home. Her husband does the shopping and the cooking. He brings her meals to the sewing machine and she eats while working. She gives most of her money to her children and family in Vietnam. She believes this goodness will ensure good luck for her children and her next life.

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**Exercise 3**

a. Ask the group to brainstorm why women do outwork and then compare the group's response with the list presented in this section.

b. Discuss why many women outworkers are from language backgrounds other than English.

c. Using the case studies and your own experiences discuss why many outworkers are vulnerable and powerless in the labour market.

d. In reading the Profile of a Typical Sewing Outworker suggest how the situation could be improved.

e. Describe some of the reasons why the majority of outworkers are women.
The Outwork Chain

Learning Outcomes

Participants will be able to:

- describe a production chain which includes outwork
- explain some changes that may improve working conditions for outworkers
- explain why a multiple, and preferably coordinated approach, is needed in improving working conditions for outworkers.

Some forms of outwork can involve a chain of organisations and individuals in the production of goods or delivery of services.

The best known chains are in the clothing industry. The production of a garment involves a number of stages — designing, cutting, sewing, finishing, pressing, packaging and distribution. Many years ago garments made in Australia were made within company owned factories. Today, most companies contract out different stages of the production and some companies contract all stages of the production and do not own any factory premises at all. "They are simply a fashion label which coordinates the various stages. Thus there may be as many as ten parties involved in the manufacture and retailing of one single garment." (p21 Senate Economics References Committee 1996)

Exercise 4

Consider the production chain 'Outworker to Consumer' on page 10. This could be photocopied or used as an overhead transparency.

a Changes could be made at different stages in the production chain, to assist in ensuring outworkers receive fair and reasonable working conditions. What changes do you suggest?

b Discuss the advantages and disadvantages of the manufacturer dealing direct with outworkers.

c What role can consumers play in improving outwork conditions? Find out about the national Fair Wear Campaign which began in 1996.

d What would be a reasonable weekly income for a sewing outworker? How many shirts would an outworker need to make to earn this weekly amount? If each shirt takes 40 minutes to make up, how many hours per week would this be?
Exercise 5

Outwork Community Awareness Campaign

The national Fair Wear Campaign is a coalition of churches, community organisations and unions. It was launched in 1996 and aims to assist outworkers in the clothing, textile and footwear industries to achieve their rights to a living wage, to organise, and to work in a safe and healthy environment.

Plan, and if time, implement a community action campaign in your community to highlight the plight of outworkers. This may include developing a workshop, display, newsletter article, play script, promote the issue in schools who have uniforms, organise a shopping centre promotion, community centre activity, local library display, etc.

You may choose to do this in consultation with the Fair Wear Campaign.

For more information on the Fair Wear Campaign:
Fair Wear in South Australia
56 Dale Street Port Adelaide 5015
ph: (08) 8447 7033 fax (08) 8447 7043
email: fairwear@vic.uca.org.au
Outworker to Consumer

An example of the production of a shirt

The following is an example of the production chain and purchase of a shirt.

Consumer pays $70 for the shirt

Retailer Receives $40 for shirt

Manufacturer (Supplier) receives contract from retailer and receives $12 for shirt

Contractor Receives $10 for shirt

Middleperson Receives $6 for shirt

Outworker Receives $2 for making the shirt

(SBS "Insight" November 1995)
The Exploitation of Outworkers

Learning Outcomes

Participants will be able to:

- explain how outworkers can be exploited and some factors which contribute to their exploitation
- outline some key strategies to prevent the exploitation of outworkers.

Outworkers can often be exploited. This means their labour is used in an unfair, unreasonable and unethical way for the profit of others.

The Australian Catholic Social Justice Council described the situation of sewing outworkers as follows:

"The outworker chain can be viewed as a structure of injustice. It provides the means for exploitation to occur. No one group is solely to blame, rather a convergence of factors (including)
labour practices;
economic policy;
educational disadvantage;
manufacturing practice; and
the retail market

have brought about a structural injustice whereby the most disadvantaged suffer" (p21 Senate Economics Reference Committee 1996)

The following areas could have a role in the improvement of working conditions for outworkers:

- Contractor responsibilities
- Retailer responsibilities
- Union role
- Taxation department role
- Government funded labour market programs
- Education and training
- Labelling of goods and services
- Industrial legislation
- Employment status
- Awards
- Law enforcement
- Data collection
- Consumer awareness
- Community awareness campaign
- Government industrial departments.

Appendix 4 outlines detailed recommendations for the improvement of working conditions for outworkers. Most of the key areas, above, are included.
Mr and Mrs Nguyen

The Reality of Outwork

The following story illustrates the problems experienced by Mr and Mrs Nguyen and are frequently told by many other outworkers. This story comes from the Textile Clothing and Footwear Union report, 'The High Cost of Fashion' 1995.

Nguyen and his wife are employed by a contractor who supplies to several retailers. Nguyen contacted the union after receiving no payment for work they had done sewing women's trousers. They had done the work to the employer's instructions, only to find that there was a mistake in the cutting. After completing the work Nguyen and his wife were told to fix the mistake. They refused, stating that the employer and themselves had acknowledged the mistake earlier. The employer refused to pay them for the work.

This employer also instructed Nguyen and his wife on how to apply falsely for Social Security payments, and how much earnings to declare each week. The employer told them how much he/she would pay them on the books and how much in cash. They commented that the employer used 30-40 outworkers and expected them to be on Social Security payments to continue receiving work.

Nguyen and his wife received $7 per pair of pants. The two of them worked 16 hour days and could make 15 pairs a day. They were also sewing shorts for $7 a pair. They had rented a two-needle machine to complete this work.

For their 16 hour days, Nguyen and his wife would earn $3.28 an hour each. However, this rate is significantly reduced when allowance is made for the two days they work 24 hours and the costs of cotton and machine hire.

They told the union that to complete the order it was necessary to work straight through (24 hours) over two consecutive nights. They were worried about whether they would even receive any money for this work since the quality required was much higher than other work they had been doing. They often relied on their two children to assist them to complete orders. But due to high quality standards, their children could not help out with the garments.

The next batch of work they were about to commence was skirts for a high volume fashion label. They would be paid $2 per skirt. They estimated that Nguyen, his wife and two children could complete this work in 8 days, working an average of 14 hours per day. While working, the family ate at the machines, virtually living in the garage while the work was being done.

They estimated they could make 125 skirts a day, giving them each $2.20 an hour without allowing for costs.
Exercise 6

a Discuss how the five factors mentioned in the quote from the Senate Economics Reference Committee may contribute to the exploitation of sewing outworkers.

b Research the labour practices, economic policy, manufacturing practices, education and training programs and retail market practices in regard to outwork. Present your findings.

You may consider:

- how the changing employment trends in Australia encourage the growth and exploitation of outworkers
- how the current State and Federal economic policies and their underlying principals promote or undermine fair working conditions for outworkers
- what are the current manufacturing practices in areas like fashion clothes or soft furnishing, or specifically consider the manufacturing practices involved in the production of school uniforms
- the education and training opportunities in educational organisations, for women from a language background other than English and the barriers they face in accessing training
- contacting retailers regarding their policies in selling goods made by outworkers who are frequently working under poor conditions. You may contact the Fair Wear campaign to gain their views regarding retailers (Appendix 5).

c Read Appendix 8 '1890's Outwork in Australia' describing sewing outwork in Australia in the 1890's. Compare and contrast the employment practices of the 1890's and the 1990's.

d Discuss and present realistic ideas/strategies/actions which could assist in improving the working conditions for outworkers. (Appendix 4 outlines examples of recommendations)

e Consider the key areas and recommendations in Appendix 4 and discuss the consequences of implementing these recommendations. Also consider some potential responses from organisations like major retailers, unions, Taxation Department, Department of Industrial Affairs and contractors.
Exercise 7

Mr and Mrs Nguyen
The Reality of Outwork

Read the case study of Mr and Mrs Nguyen.

a  Suggest how the Nguyen family is being exploited.

b  Why would contractors want outworkers on Social Security benefits?

c  What are the Nguyen family earnings for the 7 day week sewing pants?

Imagine a friend is told only the family's weekly earning and comments that the family is on a pretty good wage. What would your response be?

d  Most outworkers do not seek union assistance. What can unions do to encourage outworkers to contact or join the union?

e  Contact the Textile Clothing and Footwear Union for a list of retailers/labels reportedly using outworkers to produce their garments in non award conditions. Write to a retailer expressing your concerns.

Case Studies A

Learning Outcomes

Participants will be able to:

A  describe some outwork issues based on case studies of real experiences of outwork

A  discuss some differing views relating to outwork.

The following case studies were recorded in Adelaide during outwork projects at the Working Women's Centre, 1989 and at Dale Street Women's Health Centre, 1996.

Vietnamese Community Worker: A Vietnamese woman sews uniforms and fashion garments for a business woman. The outworker was treated badly. The business woman (contractor) complains that all her outworkers are too slow, and also cheats the workers by complaining about faults in the garments so pays less money. Sometimes the business woman has arguments with contractors who then do not pay her so she does not pay the outworkers.

Friend of outworker: A woman explained how her friend had knitted jumpers for a company. There were a few mistakes in a jumper so the company refused to pay her yet still sold the jumper. She refused further work.

Machinist Outworker: Sue did sewing outwork for four years. This was the only paid work she had done since she married some 14 years previously. She bought an overlock machine on hire purchase, after pressure from her husband who wanted her to work from home.

Every Friday 3-4 pm Sue collected and dropped off orders. She never met other outworkers.
Workload varied from week to week, and payment was always cash, with no receipts. There was always the threat of withholding payment if any item was faulty.

She worked an average of 40 hours per week, which varied from 20 to 80 hours in any week. She often worked in the evening till early hours of the morning because there were no interruptions, and during some week days she spent time at school assisting her son who experienced learning and behavioural problems.

**Kathy, Lampshade maker:** "I pushed myself to exhaustion sometimes, especially at Christmas. My hands get sore from stretching the material on the frames. The glue gets everywhere, all over your hands and clothes. It gave me headaches and made me feel sick so I worked with the windows open."

**Community Worker:** "A community worker told me of a family she visited. The family living in Mansfield Park have three children, aged 13, 10 and 7. The community worker saw the three children sewing towels for a well-known company. They each work at a sewing machine. One sews on the label, the other sews the washing instructions, and another the hem. They were working before and after school. This same family were also cutting onions the previous year. The children were sitting in the shed on the concrete floor, chopping onions. The chopping boards were also on the floor. The children's eyes were constantly watering, due to the onions."

**Community Worker:** "I know of an older woman, on her own at home, knitting jumpers for a shop in the Adelaide Hills. She gets $15 and the jumper sells for $240 in the shop."

**Jill, leafletter:** "The first lot took 7 hours. They said the second lot was less and so I got paid less, but it seemed to weigh as much. The third lot they said was even less than the second lot. It didn't seem to be getting any smaller to me so I counted them and there were more there than even the first lot so they were underpaying me all along. I told them this and they denied it all. What could I do?"

**Home Tutor:** Home Tutor has a student who sews intricate gowns for a contractor. They worked out that the outworker made 97 cents an hour. They took into account the hours worked, travelling costs to collect and deliver orders, supplying own equipment and cost of electricity.

**Machinist:** Lee responded to an advertisement to sew school uniforms for a manufacturer in Adelaide. The uniforms were chequered and had to be matched. She was paid $6 per dress and it took nearly three hours to sew. She calculated that she made less than $2 per hour, and thought if she could increase her speed she could make $2.50 an hour.
Exercise 8

a. From the case studies above discuss the unfair and unreasonable working conditions these outworkers experience.

b. Choose one of the above case studies and write a newspaper article. Be clear about the main theme or 'angle' you wish the article to highlight.

c. In pairs discuss and present a role play.

Imagine the outworker is expressing her concerns about working conditions with the contractor and trying to negotiate a better deal. The contractor role could vary to reflect a range of responses. Some pairs could including an advocate role to assist in negotiation. Large group discussion could follow the role plays.

d. Many people believe that contractual arrangements between the contractor and the outworker are best determined by market forces. Consider the case studies above and present an argument either to support or disagree with this statement.

Exercise 9

Consider Mr and Mrs Nguyen's story from page 12. Working in pairs or groups of three allocate each group a viewpoint from the list below. After some discussion time each group presents a clearly argued viewpoint which supports the role they have discussed.

a. As an outworker what are the barriers and strategies to improve your situation so you receive fair and reasonable working conditions?

b. As a community worker what are your concerns and role in this case, and what advice would you give the outworker if they sought your assistance?

c. As a union organiser what is the union view? Is the worker covered by an award, what rights does the worker have and how can the union assist? What difficulties do you have in making contact with outworkers? How could these be overcome?

d. As an employer/contractor what are your views and attitude regarding this situation? What would you consider to be a fair and reasonable outcome?

e. As a newspaper reporter what issues would you highlight in your newspaper article?

f. As a retailer of the goods being produced by outworkers what is your position? How may adverse publicity highlighting the exploitation of outworkers producing your goods affect your company's operations? How would you minimise negative publicity?

g. As a contractor giving work out to outworkers, what problems do you experience. What are your views on outwork conditions.

Appendix 5 Organisations who can assist Outworkers, may be useful for participants.
Occupational Health And Safety and Outwork

Learning Outcomes

Participants will be able to:

△ describe why occupational health and safety is an important issue in an outwork environment
△ explain the main roles and responsibilities of employers and employees for occupational health and safety
△ outline some of the main hazards that can be associated with outwork and suggest some methods of preventing injury or illness to outworkers.

Introduction

Outworkers in a range of industries are at a higher risk of suffering an injury or illness than workers in many other industries. This is due to the nature of the tasks performed and the working conditions, in particular the long hours and short deadlines. It is important to acknowledge that outworkers have the right to work in a healthy and safe environment and that employers/contractors have a responsibility to ensure this.

Outwork and the Occupational Health, Safety and Welfare Act 1986 (South Australia)

Outworkers are employees, as per the South Australian Occupational Health, Safety and Welfare Act 1986, where they are performing work for an employer/contractor to make a certain number of items for a specified wage. This is the case even when the contract is verbal only. Therefore it is important for students to be aware of the roles and responsibilities of both employees and employers/contractors with regard to occupational health and safety and outworkers.

Note: The definition of an 'employee' as per the Occupational Health, Safety and Welfare Act 1986 states, "employee means a person who is employed under a contract of service or who works under a contract of service."

Roles and Responsibilities

There is little evidence to suggest that employers/contractors who utilise outworkers are actually aware of their legislative obligations in relation to occupational health and safety. Evidence indicates that they rarely manage the occupational health and safety requirements of the outworkers they employ.
Both the employer/contractor and the outworker have roles and responsibilities to ensure a safe working environment. Employers have a general duty of care to provide as far as is reasonably practicable, a safe working environment for workers, and must maintain plant and hazardous substances in a safe condition and ensure their use.

Employees in turn must take reasonable care to protect their safety whilst at work, use equipment provided to protect their health and safety, obey occupational health and safety polices and make sure that their use is not affected by drugs or alcohol whilst at work.

Employers must ensure that the required output does not put the health and safety of outworkers at risk and breach their general duty of care. For outworkers the workplace and community are important issues. Both the employer and employee have responsibilities to ensure a healthy and safe environment.

Hazards in the Workplace and Prevention

A South Australian study (Tassie, 1989) surveyed 149 outworkers across a range of outwork activities. A total of 71% of respondents claimed that the work had caused health and safety problems. These problems included exhaustion from working long hours, stress of meeting deadlines and working alone, pain in muscles and joints from repetitive movements, strains from heavy lifting and exposure to hazardous substances about which they had no information. Outworkers are vulnerable to sexual harassment, where unwanted sexual attention can cause fear and intimidation.

Outworkers, employers and community workers need to understand the potential health and safety problems associated with outwork in order to assist home based workers to minimise or prevent work related injuries and illnesses. Organisations like WorkCover and unions have information in different community languages to assist outworkers, contractors and employers. Preventive action is important.
The following ideas may help outworkers to minimise or avoid health and safety problems as a result of the work they do:

△ regular 5-10 minute break every hour
△ hourly stretch exercises for neck, upper and lower back, shoulders and fingers to prevent eventual muscle strain
△ correct sitting posture in a comfortable chair can minimise stress on the body. An adjustable, swivelling chair, or typists chair is invaluable for both sewing and using a word processor. This saves endless twisting for the machinist, and can be finely adjusted to the correct height for the typist
△ avoid or minimise excessive work load and continual speed work
△ make sure the work table is at the appropriate height and surfaces are large enough for working aids
△ make sure there is sufficient light. This may include a desk lamp with strong light, as well as adequate overhead lighting
△ maintain room temperature at a comfortable level and ensure adequate circulation of fresh air
△ look after and maintain machinery. Clean sewing machines with a fairly neutral substance every day, to minimise dust pollution
△ use machine guards where appropriate
△ check if substances used are dangerous
△ for dangerous substances carefully follow instructions and lock away when not in use
△ minimise unwanted noise
△ keep children, especially babies, out of the workroom
△ drink plenty of fluids during summer heat
△ never use multiple extension cords, double adaptors etc. to run heavy machinery. Plug machines directly into wall outlets. If it is absolutely unavoidable that extensions are used, the connection should be protected and held immobile
△ vacuum clean the workroom every day
△ if using pins collect pins with a magnet every day
△ for piecework, a vegetable basket or babies bassinet on a wheeled frame, placed beside the machine, can save a lot of bending or twisting
△ a simple exercise to prevent eye strain: about every 15 minutes, lift your eyes from your work, look outside (or at a blank wall) and focus your eyes as far away as possible. Try to see birds flying high in the sky or imagine you are looking for a plane in the air. Do this for 10-15 seconds, look down, then repeat.

Remember that prevention is not only about personal protection, but also involves consultation, provision of information, supervision and recording. These aspects of prevention most often do not relate favourably to current outwork situations.
Case Studies B

The following are outworker experiences from outwork projects in South Australia 1989 and 1996/97:

Sue, sewing outworker: "I sewed lingerie at home for 4 years. I now wear glasses because of the eye strain of working on intricate patterns, often in poor light. I developed ongoing back pain and regularly had a skin rash on my hands as a reaction to some of the laces I work with. It would last up to three weeks. I would put the cream on my hands then put gloves on and continue working. Also one particular satin dye had a noxious smell."

Kathy, lampshade maker: "I pushed myself to exhaustion sometimes, especially at Christmas. My hands get sore from stretching the material on the frames. The glue gets everywhere, all over your hands and clothes. It gave me headaches and made me feel sick so I worked with the windows open."

Jane, knitter: "I have RSI (overuse injury) in my shoulder and back - from looking at a graph continually. You have to keep your head in the same place. The mohair causes coughing and it comes up in your saliva. I've also had eye strain."

Sonja, Family Day Care: "You're always getting coughs, colds, flu and tummy wogs from kids. I also slipped a disc lifting a Day Care baby."

Judith, machinist: "They expected me to work for 12 days straight, nights and weekends leading up to Christmas. I said no and the boss threw my pay at me and said she could get plenty more to do the work."

Lan, machinist: phoned a Vietnamese Community worker after hearing the worker speak about outwork on SBS Vietnamese radio. "I work 14 hours a day 7 days a week. I sew jackets for a clothing company. I have injury from the work I do. Lan works very long hours and now finds that her arm is very sore. She has eye strain, and a nose problem which results in bleeding. She must work because she has just bought a house and is scared to lodge a worker's compensation claim form as she believes she will lose her work."
Ruth, machinist: Ruth, a Greek woman, sewed leather jackets at home for an employer, for eight years. The machine belonged to the factory. She worked under award conditions receiving award wages, annual leave and the WorkCover levy was paid by her employer. Ruth developed severe back problems as a result of her work and applied for workers compensation. Her employer supported her claim. Ruth was successful with her worker's compensation claim.

Sister of outworker: “My sister did knitting for an interstate company. She worked until her fingers and shoulders ached so bad that she had to stop work for 12 months.”

Exercise 10

a List the occupational health and safety issues from these case studies. Compare this with the table ‘Health Problems Experienced by Homeworkers (Outworkers)’ on page 22.

b From the information and the knowledge you have gained about outwork develop a number of practical strategies for outworkers which aim to minimise or prevent injuries and illness such as those in the case studies. Compare and discuss the strategies with those on page 19.

c Design and develop a Check List, to be translated into various community languages, to assist outworkers to prevent occupational health and safety problems. It may be useful to target a specific type of outwork ie sewing outwork, when doing this exercise (Appendix 7 is an example of a Check List)

d Consider Ruth’s experience. What factors may have assisted Ruth, in not only applying for Workers Compensation, but being successful with her claim?

e Discuss the role and responsibilities of contractors and employers of outworkers with regard to occupational health and safety? (You may wish to research into the legal responsibilities of contractors and employers under current OH&S and industrial legislation.) What strategies could contractors/employers consider to minimise the work related health problems experienced by outworkers in the above case studies?

f Consider the legislation covering the occupational health, safety and welfare of workers on page 26. How does this apply to the case studies above? Debate who is covered by the legislation and who is not.

g Consider the list of ideas that may help minimise or avoid health and safety problems for outworkers. What are the barriers to implementing these prevention strategies?
Health Problems Experienced by Homeworkers

Note: Some homeworkers experienced more than one problem.

Source: "Hometruths" National Survey of Homeworkers UK.
Exercise 11

An Outwork Campaign

Consider a campaign to assist outworkers in preventing occupational health and safety problems. This exercise may involve discussion groups or be developed into a detailed campaign proposal with a budget of $10,000.

a. Clarify the purpose of the campaign. Discuss what you want the campaign to achieve, given the budget.

b. Who is your target audience?

c. Discuss different styles of campaigning which could be used.

d. What outcomes will the campaign achieve?

e. What strategies (actions) will produce those outcomes?

f. What is the time frame?

g. How will you evaluate/measure whether the campaign is successful?

h. Develop a proposed budget outline for the campaign.

i. List the key organisations you would invite to form an advisory committee. Why and how would you involve them in the campaign?

j. List the key organisations you would want contact/discussions/consultation with in addition to members of an advisory committee.

k. What role will the campaign have in ensuring changes are made to improve health and safety for outworkers?

An extension of this exercise could involve three groups, Group 1 developing the campaign with no funds and therefore having to consider accessing some money, Group 2 having $10,000 and Group 3 having an $80,000 grant. Compare the campaign ideas.
Working Conditions and Pay

Learning Outcomes

Participants will be able to:

- explain how aspects of working conditions and pay impact upon outworkers
- describe how and why employment status is often unclear for outworkers
- explain key industrial legislation covering workers, including outworkers
- describe what award coverage means and how award coverage affects outworkers.

Outwork has existed in Australia since last century. JA Levey was instructed by the Government to inquire into the 'sweating system' in 1890 (Appendix 8). The findings bear a striking resemblance to outwork practices today. Little has changed, and some would argue that conditions have, in fact, deteriorated.

Legislation

Industrial legislation sets out the legal rights and responsibilities of employers and employees. The various laws can also apply to contractors. The legislation aims to create a fair and just system, and offer protection for those whose rights are violated.

For South Australian workers, including outworkers, the following four Acts offer various forms of protection.

**Industrial and Employee Relations Act 1994 (South Australia)**

This Act defines outworkers. A range of outworkers are recognised as employees under this Act even though a contractor may call outworkers independent contractors. Middle people who distribute work or negotiate arrangements with outworkers may also be defined as employees.

The functions of the Employee Ombudsman are outlined within this Act. They include advising and investigating the working conditions of all outworkers, including outworkers not covered by awards or enterprise agreements.

**Workplace Relations Act 1996 (Commonwealth)**

The Workplace Relations Act 1996 includes The Australian Workplace Agreements and Freedom of Association provisions not in the previous Industrial Relations Act 1988. Under the 1996 Act employers and employees can make new individual agreements tailoring pay and employment conditions to the needs of their workplaces.
The Workplace Relations Act 1996 can affect the employment conditions of outworkers in two main ways. Firstly, provisions relating to Australian Workplace Agreements may allow employers to negotiate individual contracts with outworkers, and second, provisions relating to union right of entry and access to employer records may reduce the ability of the union to police award entitlements.

Under this Act outworkers who have unfair or unreasonable contracts with contractors can have the contracts reviewed in a court of law.

Under both South Australian and Commonwealth industrial legislation, outworkers have the legal right to join a trade union.

**Occupational Health, Safety and Welfare Act 1986 (South Australia)**

This Act aims, in part, to 'secure the health, safety and welfare of persons at work'.

It covers those outworkers who are employees. The Act defines employee as a person who works under a service of contract, even if their contract of service is verbal, where they are performing work for an employer/contractor to make a certain number of items for a specified wage.

The Act also has coverage for outworkers who are contractors 'engaged to perform work for another person (the Principal)'.

**Occupational Health and Safety (Commonwealth Employment) Act 1991**

This Act, in part, aims to secure the health, safety and welfare at work, of all employees of the Commonwealth and Commonwealth Authorities. Comcare Australia has a role to ensure that the legislation is effective, regulations developed and codes of practice adopted to assist in ensuring health and safety at the workplace.

**The Worker's Rehabilitation and Compensation Act 1986 (South Australia)**

WorkCover is the organisation which is responsible for overseeing worker's compensation and rehabilitation. WorkCover provide an integrated approach to rehabilitation and compensation for those workers who suffer work related injuries or disease.

All workers are covered (except for commonwealth workers). Worker means 'a person by whom work is done under a contract of service (whether as an employee or not). This includes outworkers who work in industries where the work of outworkers is specifically covered by an award or industrial agreement'. (An Employer's Guide to WorkCover : What if a Worker is Injured at Work, pamphlet produced by WorkCover.)
Award Coverage

Awards have the force of law. Awards set out the minimum wages and working conditions which must be provided to workers. Outworkers in the clothing and telemarketing industries are covered by awards.

Awards covering outworkers include:

- **Federal Awards (Commonwealth)**
  - Clothing Trades Award 1982
  - Felt Hatting (Consolidated) Award 1988
  - Footwear – Manufacturing and Component Award
  - Textile Industry Award 1989
  - Australian Public Service Home Based Work Interim Award 1994

- **State Awards (South Australia)**
  - Clothing Trades Award
  - Boot and Shoe Conciliation Committee Award
  - The Clerks SA Award (includes homebased telemarketing)

These awards set out legally enforceable rights and obligations. For example, under the Clothing Trades Award 1982, outworkers are entitled to be paid wages equivalent to factory workers doing the equivalent work.

There are a number of issues to be addressed in ensuring outworkers whose work is covered by awards, actually receive the award conditions.

The Senate Inquiry into Outworkers in the Garment Industry highlighted the following issues:

- The often complex chain of production for goods like garments, where work is passed from retailer to manufacturer to contractor to sub contractor to outworker, means it is difficult to define who is the employer. This chain allows everyone to avoid taking responsibility for the working conditions of outworkers.

- Outworkers are generally unable to access collective representation so as to have a stronger bargaining position.

- There is widespread lack of enforcement due to the expense involved, reluctance of outworkers to litigate for fear of reprisals, and the prohibitive costs of court action.

- When outworkers become contractors the employer no longer has to provide award wages and conditions, unless the particular form of outwork is covered by industrial legislation.

Unions, Office of the Employee Ombudsman, Working Women’s Centre and the Office of the Employment Advocate, have a significant role to play in assisting outworkers, including those who are covered by award rates, to receive their legal entitlements.
Employment Status

Outworkers are often unsure of their employment status. They are sometimes required to sign a paper saying they are independent contractors. Often outworkers are told by their employers that they are independent contractors. However, many of these outworkers are recognised by law as being employees and are entitled to award conditions.

The question of whether outworkers are employees or contractors is significant. The answer can determine whether an outworker is protected by an industrial award or legislation in areas of occupational health and safety and worker's compensation.

**Contractor**

When a person is self employed or an independent contractor they are often considered to be running their own business. As a consequence they can be responsible for provision of equipment, overheads, insurance, worker's compensation insurance, superannuation and other costs.

Contractors are said to be engaged by another person or business on a contract FOR service: that is they contract out their services.

Contractors:
- may not be covered by awards
- can have limited access to industrial relations system
- rates and working conditions are set by the market place.

Many outworkers are labelled as contractors yet the work they do could not be described as the work of an independent contractor (Appendix 9 & 10). In addition, the South Australian Industrial and Employee Relations Act deems certain outworkers to be employees, including some middle people, for the purpose of seeking award coverage.

**Employee**

A person is considered to be an employee when they are engaged by another person or business under a contract OF service. There are control tests that consider the relationship between the worker and the employer (Appendix 9). "If the employer has a measure of control over the work done, and has the right to direct the work even if they choose not to exercise that right, then the relationship is one of employer and employee." (p56 Tassie 1989)

As an employee, workers have greater access to the formal industrial system, and are more likely to be covered by industrial awards and other industrial legislation.

In addition, under the South Australian Industrial and Employee Relations Act, many outworkers who would not be classified as employees according to the definition above, are deemed to be employees so that they can apply for award coverage.
The following issues highlight the day to day concerns impacting on the working conditions of outworkers in Australia.

Supply of Work

The size of weekly workloads can fluctuate dramatically, depending on the time of year, consumer and retail demand and the decisions by the employer/contractor. Outworkers, in production related work, often have large orders to make up with tight deadlines, followed by days or weeks with little or no work.

The following graph results are from the National Group on Homeworking in United Kingdom 1994. Only 28% of the 175 outworkers (homeworkers) in the survey found that work was always available. "The great majority experienced scarcity of work of varying degrees, with three out of ten experiencing occasional shortages of work and even more experiencing such shortages often or very often." (p16 Huws 1994)

How Often is there No Work Available?

<table>
<thead>
<tr>
<th></th>
<th>% of respondents</th>
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<tbody>
<tr>
<td>Occasionally</td>
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<tr>
<td>Quite Often</td>
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<tr>
<td>Very Often</td>
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<tr>
<td>Rarely</td>
<td></td>
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<tr>
<td>Never</td>
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</tbody>
</table>

n=175

Source: "Hometruths" National Survey of Homeworkers UK 1994
Working Hours

Estimating the average weekly working hours of outworkers can be difficult due to the following:

- unevenness of work flow from week to week
- pressures of short deadlines
- work rarely is continuous or allocated to set times in the home.

The following table details average working hours per week from questionnaire respondents in a South Australian outwork study in 1989.

### Average Hours Worked Per Week

<table>
<thead>
<tr>
<th>Hours worked per week</th>
<th>Percentage of outworkers</th>
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</thead>
<tbody>
<tr>
<td>&lt;10</td>
<td>2%</td>
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<tr>
<td>10–20</td>
<td>12%</td>
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<tr>
<td>20–30</td>
<td>27%</td>
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<tr>
<td>30–40</td>
<td>31%</td>
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<tr>
<td>&gt;40</td>
<td>28%</td>
</tr>
</tbody>
</table>

In evidence to the Senate Inquiry into Outwork in the Garment Industry, the Textile Clothing and Footwear Union Outwork Coordinator, Ms Annie Delaney described how extreme pressure may be applied to sewing outworkers by contractors in order for orders to be completed.

"...(outworkers) state it is not uncommon to be given work to be completed in five days but that next day they begin receiving calls from the (intermediaries) to finish the work earlier. They have often been pressured to complete an order in three or four days and have to go without sleep for at least one day to complete the order.*" (p37 Senate Economics Reference Committee 1996)

Pay

Rates of Pay

Most outwork payment is by the piece or finished article. Even allowing for different speeds and rates of completion of work, the rates are extremely low and often do not constitute a living wage.

Even when work is covered by an award, as with sewing outworkers, the vast majority of workers receive as little as a quarter of the award rates and sometimes even less. Most often payment is in cash and there is no payment for superannuation, worker’s compensation or other benefits such as sick leave or holidays.

Rates of pay can be further reduced by the fact that piece rates often do not take into account the performances of other tasks such as travelling to collect and deliver orders, unpacking and sorting bundles, maintaining work records, checking amounts and packing finished products.

Payment to outworkers may vary between different nationalities, literacy abilities and residency status. An example of this was presented to the Senate Inquiry on Outworkers in the Garment Industry in 1996, by Ms Debbie Carstens representing Asian Women at Work.
"In one particular [informal factory] there were different rates of pay for different people. The people who did not have permanent residency were getting $6 an hour, the people with permanent residency and therefore eligible for social security benefits were allowed to get $5 an hour and those who were just cutting the threads off garments were getting $3.50 an hour." (p37 Senate Economics Reference Committee 1996)

**Associated Costs & Overheads**

Working from home involves ongoing costs such as electricity for lighting, power and heating, gas and water. Most outworkers have to meet these costs without assistance from their suppliers.

Often outworkers are required to pick up, and deliver the finished product to the employer/contractor. The outworker is required to meet the costs involved.

Where equipment and machinery is required, outworkers generally purchase and maintain these.

**Hidden Labour**

When orders need to be filled urgently or the outworker is ill, others help with the work. This unpaid work and 'invisible' help is usually performed by family members.

**Late Payment or Non Payment**

Late payment or non payment is a common problem experienced by outworkers. Outworkers should be paid on completion of work. However many wait weeks and months for payment and some do not get paid at all.

Numerous examples of late or non payment were recorded during the Dale Street Women's Health Centre Outwork Project in 1996 and 1997. Outworkers would repeatedly phone the contractor which had the potential to get their contractor 'off side' and thus jeopardise further work. Others would not complain and hope the contractor would eventually pay, therefore risking no payment at all.

**Flexibility and Control**

It is often said that working from home allows for flexibility in hours of work and is conducted under minimal supervision. The dual role of working from home and looking after children is promoted.

The reality for many outworkers is as follows:

- they have little or no say in how the work is done
- they have little or no say in the amount of work to be done and the time frame to complete orders
- to make money many items need to be completed
- employers/contractors can intensify the work process by altering the piece rate or setting unreasonable completion times
isolation means outworkers are often pushed for more work to be completed without being able to compare their work output with other outworkers

non payment if employers/contractors are unhappy with quality of goods

work is always present as it is in the home

there is limited quality and quantity of time in caring for children because of work demands.

Job Security and Negotiating Power

Outworkers do not have the industrial power to negotiate fair and reasonable working conditions on their own. Job security is tied to the availability of work and the good will of the contractor to place orders with the outworker.

In theory, under state and federal industrial legislation outworkers may be employed through the relevant existing awards.

In practice this does not happen. Even where the work is covered by an award outworkers rarely receive award conditions. Under the new Workplace Relations Act 1996, employers will now be able to by-pass collective awards and agreements, by negotiating individual contracts (Australian Workplace Agreements) with outworkers. If a work problem such as non-payment of wages arise, workers, including outworkers, on Australian Workplace Agreements will not have the right to union representation.

The United Trades and Labor Council argued strongly to the Senate Inquiry into Outworkers in the Garment Industry in 1996, for outworkers in the garment industry to have access to collective representation and the legal right to collectively negotiate pay and conditions.

The ACTU further stated:

"The fact that outworkers are forced to compete in an unregulated labour market and are systematically and illegally denied access to such benefits as minimum wages, worker's compensation, superannuation and a healthy and safe workplace, does not bode well for an industrial system on the brink of deregulation." (p33 Senate Economics Reference Committee 1996)

Case Studies C

The following case studies were recorded in Adelaide during outwork projects at the Working Women's Centre, 1989 and at Dale Street Women's Health Centre, 1996.

They reflect a broad range of issues covering working conditions and pay of outworkers.

Judith, machinist: "Sometimes there's so much work you can't cope. And at other times she says there's nothing for you this week."
Sue, machinist: "I was an experienced sewer in lingerie. I had my own machine. Every Friday between 3-4 pm I would deliver the completed orders and collect the new order. I never saw any other sewers as they had different times for their deliveries. I was always paid in cash. To sew a garment they would give me one made up and expect me to sew the pieces without instructions. Any mistakes and there was no payment for the item. My workload varied from week to week. Some weeks I’d work 20 hours then another week would be 80 hours. Often I would work till 2 am, sometimes to complete urgent orders or because I wouldn’t be interrupted."

A community worker told of a family she visited where she saw three children aged 13, 10 and 7 sewing towels for a well-known company. They each worked at a sewing machine. One sews on the label, the other sews the washing instructions, and the other sews the hem. They were working before and after school.

A Vietnamese sewing outworker worked for a Chinese Vietnamese contractor. The female contractor failed to pay the worker for a number of consecutive orders until the amount owed reached about $3,000. The contractor said she couldn’t pay because her supplier hadn’t paid her. The supplier had complained about the quality of the garments so had not paid the contractor.

The outworker kept ringing the contractor but was always given an excuse. Although this outworker had a legitimate complaint she didn’t take action because she couldn’t speak English, didn’t know any organisations that could help, was fearful of government organisations and didn’t believe anyone could help her. Also the contractor was part of the outworker’s community and could make trouble for her.

Former telephone operator: "I was approached to do telephone work from home. From previous experience I knew it was really poor pay and sometimes not at all."

Jo, Child Carer: "I am currently doing child care for an agency. I am looking after three children including a baby for $6.00 per hour. This is the flat rate regardless of how many children. I am an older woman, unable to get any other kind of work. This gets me down as I feel I am being ripped off."

Vietnamese woman sews uniforms and fashion items for a business woman. The outworker was treated badly. The business woman complains that all her outworkers are too slow, and also cheats the workers by complaining about faults in the garments so pays less money. The business woman sometimes has arguments with contractors who then don’t pay her, and so outworkers don’t get paid for their work.

Maria, lampshade maker: "From what she said about what the other ladies got done, I thought I was going too slow."

Lee, Filipino machinist: Lee worked at home for 2 days, doing the bead work on two bridal gowns. She worked from 8 am to 8 pm on both days and was paid $25 per gown. Lee did say the money was too low and asked for $100 for the two dresses. They wouldn’t pay any more, and said they have Vietnamese sewers who do the work for $25 per dress. The company said they would post the money to Lee but didn’t. When she phoned again to ask about the money they asked her to come to the company to pick up the cheque.

Lee’s second outwork job involved sewing school uniforms. In her second week Lee had 50 winter school uniform skirts to make up. Each was chequered, pleated, and included pockets and a zipper. For each skirt she received $5. It took nearly 3 hours to make up the skirt. She would work from 9 am until midnight over the week to complete the order. The owner said the skirt can be made up in half an hour. The skirt sells for $80.
At the end of the second week Lee complained about the poor payment and asked for a few cents more because of the chequered material which takes time to match up. The owner said "I am paying you the same as a factory worker," (based on each skirt taking half an hour to complete so the worker receives $10 per hour). They said they would phone when they had cut pieces ready to be made up, but no more work was given to Lee.

**Exercise 12**

a Match the case studies with specific issues of pay and working conditions covered in this section.

b Role Play. Each participant takes on the role of one of the people in the case studies. Think about the main issue(s) highlighted in your case study in regard to working conditions. Introduce yourself to the group, explaining your concern(s) and ideas to improve the situation.

c Compare the working conditions of sewing outworkers with the working conditions of another specific group of workers. eg clerical workers, sales assistants, teachers, politicians.

d How do you think the Workplace Relations Act 1996 will impact on outworkers?

e Explain why the employment status of outworkers is an important issue.

f Consider the 'Test of Contract of Service – versus – Contract for Service' (Appendix 9). A person is considered an employee when they have a Contract of Service. Under what conditions would an outworker be an employee according to this test.

g Consider the case study of Sue, the machinist. Is Sue in a Contract OF Service or Contract FOR Service? Support your view.

h Consider the points presented by Honourable J. M. Riordan when presiding over a 1987 Conciliation and Arbitration Commission case into variations of the Clothing Textile and Footwear Industry award (Appendix 10). On the basis of Hon Riordan’s points, present the argument for Sue being classified as an employee.

i Consider Lee’s work sewing school uniforms. This work is covered by the Clothing Trades Award. How can schools assist in ensuring sewers who make up their school uniforms receive award conditions? Why don’t schools take action?

j In considering the working hours and supply of work how may these issues impact on the outworker and their family?

k How could contractors and retailers, who can also experience fluctuation in work orders and demands, minimise the impact of fluctuating work for outworkers?

l Working from home is often promoted as a wonderful opportunity to have flexible working conditions and all the advantages of being at home. How is this a myth for many outworkers?

m Discuss why outworkers have so little power to negotiate their working conditions.

n What hinders union coverage of outworkers? How could this coverage and the capacity of unions to assist outworkers be improved?
Appendix 1

Outwork in South Australia

The following list details types of work which this survey found occurring in South Australia:

- typing
- word processing
- proof reading
- journalism
- legal research work
- phone answering work
- selling and promotional work from home
- leaflet distribution
- childcare
- machining whole or parts of garments
- hand sewing cloth baubles on lingerie
- smocking
- tapestry
- hand knitting
- machine knitting
- soft toy manufacture eg teddy bears
- sewing canvas backs for 'steamer' chairs
- making lamp shades
- assembling badges
- assembling gun sights
- assembling security alarm systems
- assembling brass light fittings
- decorating small pottery scent jars
- hand painting small ceramic ornaments
- making flour based jewellery and assembling earrings
- vegetable processing eg chopping onions
- baking
- packaging medical supplies
- correcting manufacturing errors in bags
- checking printing on bags used by retail outlets

(Tassie 1989)
Appendix 2

Definition of Outwork

The following definition of Homework, also known as Outwork, is from the International Labour Organisation Homework Convention held in Geneva in 1996.

The Australian Government did not support the recommendations of this Convention which set down minimum labour standards.

I. Definitions and Scope of Application

1. For the purposes of this Recommendation:
   (a) the term 'home work' means work carried out by a person, to be referred to as a homeworker,
      (i) in his or her home or in other premises of his or her choice, other than the workplace of
          the employer;
      (ii) for remuneration;
      (iii) which results in a product or service as specified by the employer,
           irrespective of who provides the equipment, materials or other inputs used,

      unless this person has the degree of autonomy and of economic independence necessary to be
      considered an independent worker under national laws, regulations or court decision:

   (b) persons with employee status do not become homeworkers within the meaning of this
       Recommendation simply by occasionally performing their work as employees at home, rather
       than at their usual workplaces;

   (c) the term 'employer' means a person, natural or legal, who, either directly or through an
       intermediary, whether or not intermediaries are provided for in national legislation, gives out
       home work in pursuance of his or her business activity.

International Labour Organisation Homework Convention Geneva 1996
Appendix 3

How Outworkers can be Exploited

Outworkers can be exploited in the following ways:

- Their rates of pay are lower than other workers.
- They do not have paid sick leave, holiday or other leave entitlements.
- They do not have regular working hours and have no guaranteed work.
- They have to work excessive hours when work is available.
- They have poor working conditions in homes. This often means working in extremely cramped, poorly lit, noisy and unsafe conditions.
- They have no job security.
- They have to supply their own equipment and machinery often through leasing or hiring schemes arranged by the contractor.
- They have to pay the costs of maintenance of machinery and overheads such as lighting, electricity and heating.
- They often pay travelling costs to pick up and deliver their completed work.
- They are unaware of their legal rights and entitlements as workers.

Many outworkers do not understand English.

There is no information given to them regarding occupational hazards associated with their work (e.g., dangerous substances, poorly designed equipment).
Appendix 4

Recommendations

The following are recommendations for change to improve the working conditions of outworkers. Similar recommendations were presented to the Senate Economics Committee for the Inquiry into Garment Industry Outworking 1996 and the Industry Commission Inquiry into Textile Clothing and Footwear Industry 1996, by Dale Street Women’s Health Centre.

1 Legislation

There are a number of federal and state laws which offer varying degrees of protection for outworkers.

In South Australia the key legislation covering workers are the Occupational Health Safety and Welfare Act 1986 (State), Occupational Health and Safety Act 1991 (Commonwealth Employment), Worker’s Rehabilitation and Compensation Act 1986 (State), Industrial and Employee Relations Act 1994 (State), and Workplace Relations Act 1996 (Commonwealth). Currently there are inconsistencies as to whether outworkers are employees or contractors.

Loopholes that allow companies and contractors to avoid paying outworkers award wages and conditions need to be closed. The criteria for defining an employee needs to be clarified especially in terms of the growing numbers of home based workers. Often they are clearly employees and need that status recognised in legal terms.

There needs to be clarification of the rights and responsibilities of employers/contractors/subcontractors and outworkers, and an advocacy system in place to enable workers to act on those rights.

The Workplace Relations Act 1996, where the emphasis is on individual Australian Workplace Agreements, may detrimentally impact on outworkers. Most outworkers are not offered, nor can they negotiate, written agreements. They therefore accept verbal agreements which can be easily broken and offer no worker protection. The powers of inspection previously available to unions will be curtailed and will potentially adversely affect outworkers who need more, not less employment protection. (pxii Senate Economics References Committee 1996)

2 Employment Status

Outworkers need to gain the legal status of employees and not be labelled by the employers as contractors when clearly the relationship is one of employer – employee. The criteria for such legal status must be clarified.

The 1996 Senate Inquiry into garment outwork recommended that the Government examine ways to clarify the employment status of outworkers in the garment industry. (pxiii Senate Economics References Committee 1996)
At the final Senate hearing into outwork in June 1996, the Textile Fashion Industry of Australia proposed an outwork industry code of practice. Negotiations between Textile Fashion Industry of Australia, Textile Clothing and Footwear Union of Australia, Australian Retailers Association and other key parties, reached agreement in September 1996 regarding the 'Homeworkers Code of Practice'. Plans to launch the Code, agreed to by all parties including major retailers and manufacturers, were cancelled when the Australian Retailers Association withdrew support.

Retailers such as Coles Myer, Daimaru and Fletcher Jones stated that they would sign the Code but later pulled out, not wanting to break ranks with the Australian Retailers Association.

As of January 1997, Country Road, Australia Post, Just Jeans, Done Art and Design, Target and Witchery had signed either Deeds of Cooperation or Homeworkers Codes of Practice with the Textile, Clothing and Footwear Union.

In 1997 several large companies including Nike and Reebok, in United States of America, agreed to a Code of Conduct to ensure the end of sweatshop conditions in their overseas operations.

5 Labelling
Labelling on a range of consumer products and services provides information. Increasingly consumers are demanding clear labelling so they can make informed choices.

The establishment of a labelling system for garments, which guarantees that the garment was manufactured with non exploitative labour, would be useful for consumers. It would also provide an opportunity for retailers to promote concepts of best practice.

Nike and Reebok in USA have signed Codes of Conduct which will enable the companies to use a 'No Sweat' label to assure buyers that the products were not made by exploited labour.

6 Taxation and Social Security
If outworkers were a part of the mainstream workforce and acknowledged as employees, this would clarify their work status and enable employers to be more accountable. The taxation and social security systems could more effectively assess the needs of outworkers on benefits. The numbers of outworkers receiving social security benefits would decrease as more were paid appropriate wages.

The Australian Taxation Office has implemented the Reportable Payments System, encouraging sewing outworkers to register with them. This may assist in identifying all parties in the garment manufacturing chain.

The Social Security amnesty for clothing outworkers from December 1st 1995 to May 31st 1996, attempted to address the issue of outworkers receiving both work income and Social Security benefits. Social Security promotional material was available in April 1996 and received limited publicity and success. The amnesty needed more time, wide spread promotion, especially amongst community groups, and to be connected to a range of organisations involved in improving work conditions for outworkers.
7 Coordinated Approach

A coordinated approach to ensure effective improvements to the working conditions of outworkers and addressing the range of complex issues associated with this form of work is needed. Representation from industry, unions, community and appropriate departments and authorities need to be responsible for the initiation and funding of projects related to outwork.

8 Employment and Training

Institutes of Further Education need to continue to offer courses for women entering or re-entering employment.

Institutes of Further Education should increase those courses specifically targeting women of particular ethnic backgrounds. To ensure that courses are accessible to women the Institutes need to provide free quality child care or charge minimal fees.

Community based organisations teaching literacy skills should include information about employment in Australian society, worker rights and responsibilities, issues with regard to employees and contractors, and information on occupational health and safety.

Department of Employment, Education and Training funded courses targeting women who work from home need to increase and include comprehensive information regarding worker rights, entitlements and responsibilities as an employee and contractor, and knowledge of how to recognise and address unfair work practices.

Labour Market programs need to target those people in exploitative work practices and assist with providing work experience and pathways into other paid work.

9 Community Awareness

Ongoing targeted campaigns are needed to inform outworkers of their rights as workers.

Ongoing campaigns, to educate and encourage consumers to question retailers regarding their use of outworkers and the conditions those outworkers work under, can be an effective strategy for improving working conditions for outworkers.

In 1996 a national Fair Wear campaign, a coalition of churches, community organisations and unions formed to assist outworkers in the clothing, textile and footwear industries. This is an excellent example of community awareness and action. (Webpage http://vic.uca.org.au/fairwear)

10 Research and Data Collection

Research needs to be continued into the extent of homebased work, the forms of work being undertaken, the wages and working conditions, including occupational health and safety issues and the forecast of this work in the future.

The Australian Bureau of Statistics could undertake a national survey of home based workers in all work areas so a comprehensive, accurate and detailed report could clearly assist in the development of appropriate policies.
11 International

The International Labour Organisation endorsed a convention for Home Workers in Geneva in 1996. This convention outlined basic principals by which outworkers receive fair and reasonable working conditions. The Australian Government opposed the convention.

Lobbying by women’s groups, community organisations, churches and trade unions continue to ask the Government to review this decision.
Appendix 5

Organisations who can assist Outworkers

The following organisations are based in Adelaide. For interstate and overseas you would need to locate organisations with similar organisational aims.

**Working Women's Centre**
Norwich Centre
55 King William Road
NORTH ADELAIDE. 5006
Ph: 8267 4000
FREECALL. 1800 652 697

**Working Women's Centre** provides free and confidential services on work related matters to women of any age, ethnicity or work status. A detailed study into outwork in South Australia was conducted by the Centre in 1989. Staff regularly assist outworkers by phone, explaining worker rights, and advocacy.

**Office of the Employee Ombudsman**
6th Floor, 63 Pirie Street
ADELAIDE. 5000
Ph: 8207 1970

**The Employee Ombudsman**, under the Industrial Relations Act 1994 (State), has a clear role to assist and advise home based employees and outworkers. The Employee Ombudsman ensures that the rights of all workers are upheld and that workers are treated with dignity, irrespective of their sex, race or religion or the type of work they undertake.

**Office of Employment Advocate**
General Enquiries
Ph: 1300 363 471

The Workplace Relations Act 1996 provides for the statutory position of Employment Advocate. Employers and employees can make new individual agreements under this Act. Australian Workplace Agreements allow employers and employees to tailor pay and employment conditions to the needs of their workplace. For an information kit ph: 1300 363 471.

**WorkCover Health & Safety Resource Centre**
100 Waymouth Street
ADELAIDE. 5000
Ph: 8233 2222
FREECALL. 1800 188 000

**WorkCover Health & Safety Resource Centre** offer information in a range of community languages regarding health and safety issues. They may be able to assist outworkers who develop a work related injury. Those outworkers whose work is covered by an award (even if they are not receiving award conditions) are entitled to apply for worker's compensation.

**Fair Wear campaign**
Adelaide ph: 08 8447 7033
Melbourne ph: 03 9654 2488
Sydney ph: 02 9331 4230
Perth ph: 09 472 4227
Brisbane ph: 07 3365 4811

**The Fair Wear campaign** is a coalition of churches, community organisations and unions. Fair Wear aims to assist homeworkers in the clothing, textile and footwear industries to achieve their rights to a living wage, to organise and to work in a safe and healthy environment.
Dale Street Women's Health Centre is committed to the health and well-being of all women. Recent outwork projects at this centre have promoted the rights of outworkers and increased awareness of occupational health and safety concerns.

United Trades and Labor Council is actively seeking to improve the working conditions of outworkers. There are some awards which cover outworkers and the United Trades and Labor Council and individual unions are committed to outworkers receiving these conditions. They are also negotiating for all home-based workers to receive basic minimum conditions. The Council can assist you to contact the union most helpful for you.

Textile Clothing and Footwear Union have considerable experience with outwork. The Clothes Trades Award covers outworkers in the sewing industry even though many employers/contractors do not pay award rates. Staff can explain worker rights and may be able to assist outworkers who wish to take action. They have experience in negotiating with contractors for fairer working conditions for outworkers.

Equal Opportunity Commission investigates complaints from employees, including contract and casual employees, who feel they have been treated differently or unfairly because of their race, sex, disability, pregnancy, marital status or age. Equal Opportunity laws give rights to employees who are sexually harassed. The Equal Opportunity Commission has Spanish, Vietnamese and Khmer workers who can provide advice by the phone or in person.

Department of Industrial Relations (Federal) offer information to outworkers about award rates and working conditions. Awards Officers can investigate complaints. Under the Workplace Relations Act 1996 they can assist outworkers who are subjected to unfair or unreasonable contracts. The department uses the Telephone Interpreter Services for outworkers with difficulties in speaking or understanding English.

Department of Industrial Affairs (State) offers an advisory service for all workers. The department ensures workplaces meet requirements set out in legislation. Inspectors can visit work sites and investigate complaints. The department follows up contractors giving work to outworkers and ensures that contracts and working conditions comply with legislation.
Health Problems Experienced by Homeworkers

- Other Ill Health
- Other Breathing Problems
- Dust to Lungs
- Skin Problems
- Nausea
- Dizziness
- Hearing Loss
- Fatigue
- Headaches
- Eye Strain
- Other Aches and Pains

Note: Some homeworkers experienced more than one problem

Source: "Hometruths" National Survey of Homeworkers UK

n=175
Appendix 7

Causes of Common Injuries and Illnesses

A Check List for Outworkers

Do you experience the following in your work?

<table>
<thead>
<tr>
<th>Poor Job Design</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>the work is repetitive</td>
<td></td>
<td></td>
</tr>
<tr>
<td>workers have to maintain fixed working postures</td>
<td></td>
<td></td>
</tr>
<tr>
<td>work is closely monitored</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the work is stressful</td>
<td></td>
<td></td>
</tr>
<tr>
<td>work is done in isolation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Poor Work Practices</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>workloads are excessive</td>
<td></td>
<td></td>
</tr>
<tr>
<td>little or no provision for job rotation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>rest breaks are inadequate or non existent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>workers have little or no control over their work loads and/or how they do their work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>workers have little or no say in the way decisions or changes are made</td>
<td></td>
<td></td>
</tr>
<tr>
<td>there is insufficient or no training in overuse injuries and other health issues or the safe use of equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>there is no system to encourage the early reporting and treatment of health symptoms</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Poor Equipment and Workplace Design</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>the equipment is poorly designed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the equipment is not well maintained</td>
<td></td>
<td></td>
</tr>
<tr>
<td>work areas are cramped and/or poorly laid out</td>
<td></td>
<td></td>
</tr>
<tr>
<td>there are problems with : lighting, ventilation, noise</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Appendix 8

1890's Outwork in Australia

The following article describes garment outwork in Australia in the late nineteenth century. The uncanny resemblance to outwork issues and concerns today raises serious questions regarding our society's acceptance or disregard of the exploitation of outworkers.

About the middle of the present year I was instructed by the Government to make an inquiry as to what extent the 'Sweating System' existed in this colony, more especially in connection with the clothing trade. Just at the time several articles had appeared in one of the Melbourne newspapers on this subject. I remember very well the first one. It was headed — 'Sweaters in Melbourne. Horrors of the Clothing Trade', and sweating was referred to as mean, depraved, and pitiful, and it was stated that it was carried on in Melbourne to a degree hardly less horrible than the incidents of its prevalence in London. The articles created a great amount of sensation at the time, and we all felt that the clothes we were wearing were very possibly made in some dirty loathsome den, reeking with filth and disease, and that we were spreading contagion wherever we went. I could not understand it. My official duties had taken me into all kinds of work-rooms, and although not wishing to say that all these rooms were, or are, everything that they should be, still I had not seen any rooms to which such terms could with truth be applied. Then, again, the articles referred to, spoke of the long hours that sweaters employed their work-people. The Factories Act in this colony does not allow females to be employed more than 48 hours a week, but here we read of 78 and 80 hours as being an ordinary week's work. This, again, was astonishing. Employers of labour continually said that they could not obtain the female workers they required, and that when any extra pressure of work came they were compelled to make use of the privileges of the Act and obtain permission to work over-time. It therefore seemed unreasonable to say that women would work inordinately long hours in wretched rooms when they could get work in decent factories and work only 48 hours a week. As regards men, they have their unions, and it was felt that they were not likely to be imposed upon to any extent. With these feelings, I naturally commenced my labours in a very sceptical spirit, and what was found? That the whole question had been so muddled up and complicated by mixing together the various classes of work into which the clothing trade divided that the articles were — to say the least — very misleading. The result of my inquiries was embodied in an official report, and laid before Parliament, and a copy can be obtained by any one who feels inclined to go into the subject more closely.

Before going further it will be well to state what is meant by sweaters and sweating. It is really necessary to do this, for the definitions are as numerous as they are contradictory. For instance, the members of the Tailors' Union look upon all men who do not work under their rules as sweaters. Some people urge that sweating is an abuse of the sub-contract system, and consequently there can be no sweating where there is no sub-contracting; others, on the contrary, maintain that sub-contracting is by no means a necessary element of sweating. Some people contend that a man who works a few hands, and does not work under what the trade looks upon as long prices, is a sweater; whilst, on the other hand, I have been told that the worst kind of sweating is carried on in some of the largest factories.

The committee of the House of Lords which inquired into 'sweating' came to the conclusion that they could not assign an exact meaning to the term, but for all that they thought the evils known by that name to be a rate of wages inadequate to the necessities of the workers, or disproportionate to the work done, excessive hours of labour, and the insanitary state of the houses in which the work was carried on. I was compelled to give some meaning to the work, and after careful consideration defined it as taking advantage of the necessities of a worker to enforce a rate of wages which is below the current price, disproportionate to the work done, and which compels inordinate hours of labour. It was necessary in that report to mention every class of work in the clothing trade, but that need not be done here. It was soon found that the better class of tailors paid good wages; and whether they employed their work-people in their own factories, or allowed the work to be done away, it was done in clean and decent rooms.

Many cases which came under my definition of sweating were found, and they, without doubt, showed that the condition of this class of workers entitles them to assistance in some way. There are a great number of women who, through not having been brought up to any trade, and yet having from various circumstances to support
same hard work, long hours, and wretched pay exists. Even if all could go to work in factories, and there are many
outwork - Reaching an Invisible Workforce: A Training Development Guide

work is done more cheaply in this way.

who cannot, whose domestic duties of one kind or another keep them home, still the factories are not big enough
out of this amount.

I could go on giving numberless cases, but they are all practically alike. The details are of course different, but the

A women with a sick husband and six children, the youngest about three years old, was found making, or rather
finishing, boys' coats. For this work she was paid 5s. a dozen, and she said that by working 70 hours a week she
could manage to do 5 1/2 dozen. That is earn about 27s. 6d. a week by working twelve hours a day. The husband
was not in any lodge, and none of the children old enough to earn anything.

Another case visited was that of a vestmaker. The payment for this work was 12s. a dozen for men's waistcoats,
10s. for youths, and 8s. for boys. She told me that she often worked 84 hours in a week, and to earn 30s. was
compelled to do so. She was a widow with three children to support, one a baby eight months old, and had to pay
7s. 6d. a week rent.

Another visited was a trouser finisher. This means sewing on buttons and making button-holes, turning up the
bottoms of the trousers, putting in a band, and one or two other little things, and for this twopence halfpenny to
threepence per pair was paid. She was a widow without children. Her house, a little wooden place in a right-of-way
off a street in Carlton, was almost destitute of furniture. She paid 8s. a week rent, and told me that she could not
earn more than 10s. a week, being too old to sit very long at a time. Two or three people lodged with her and paid
her what they could. Judging from the appearance of the rooms and beds (indeed there was not a blanket in the
whole house) the amount she would receive must have been very small.

Another case was a woman who is a slipper binder. There is a good deal of work about slipper binding. All the
machine work has to be done and the slippers lined and got ready for putting on the soles, or for the putters-up, as
they are called in the trade. For this she got 1s. 3d. a dozen, a penny farthing each, and out of this had to pay for her
own cotton and buy needles for the machine, the latter item being very heavy with certain classes of work. She was
a widow with one daughter, a cripple, who was able to do very little to help her. Still, if work was plentiful, she
could, by working long hours, earn one pound a week.

In another place a woman was found making canvas bags. The canvas was not new stuff that could be easily cut
and fixed for working, but old canvas which is pulled off packing cases, and is often covered with tar or sewn up in
such a way as to mean a lot of work getting it in order before the bag-making commenced. She did not buy the
canvas, oh no, there was someone else, her employer who did this. The canvas was sent to her, and she made it
into bags at the magnificent remuneration of 3 1/2d. a dozen. She said it was a very hard day's work when she
managed to make four dozen, that is earn 1s. 2d. Her husband was out of work, there were four children to provide
for, and 7s. 6d. a week rent to be paid. The bags were sold to the bone-dust mills. The poverty here was dreadful. As
already stated, the husband was out of work. He was a hatter by trade, but there was no work to be done, so had got
a bottle-boy's licence, and having hired a pony and cart, was going about collecting bottles to sell to the marine
stores. These bottles had to be bought, but he could not afford to pay for them in the ordinary way, so invested 6d.
or a 1s. in some toffee, which he broke up into very small pieces, and gave a piece to a child for a bottle. When it is
remembered that 7 1/2 or 8d. per dozen is a good price for bottles, and that the toffee and pony and cart had to be
paid for before any profit was made, it will not be hard to see that the turnover would have to be considerable
before very much could be brought home at the end of the day to increase the 1s. 2d. the wife had perhaps been
able to earn.

A shirt finisher was visited. To finish a shirt you have to sew on eight buttons and make six button-holes, to fasten
off four parts that have been left by the machinist, to cut off the ends of cotton, and put on a ticket. For this work she
told me she was paid 9d. per dozen. This class of work is so wretchedly paid, that no one who is entirely dependent
on it can attempt to do it, as it is impossible to make a living at it. It must be remembered, that the work this woman
did, was of the roughest, and for the commonest kind of shirt made. Shirt makers as a rule received from 3s. to 4s.
6d. per dozen for their work, and in my report, an average of sixteen shirt and under-clothing makers was taken,
and it was found that by working 55 1/2 hours, they were able to earn 11s. 3d. per week. It must, however, be
remembered, that they have to pay for their cotton and needles, and very often the rent of a sewing machine as well
out of this amount.

I could go on giving numberless cases, but they are all practically alike. The details are of course different, but the
same hard work, long hours, and wretched pay exists. Even if all could go to work in factories, and there are many
who cannot, whose domestic duties of one kind or another keep them home, still the factories are not big enough
to hold them, and it is feared that many employers are not anxious to have them, seeing that without doubt the
work is done more cheaply in this way.
It may be wondered what has this to do with a conference on charity. It has this to do with it. All the cases mentioned, and, indeed, a very large percentage of outside workers, are to be found on the books of one or the other of the various charitable institutions about Melbourne. The pay these women receive is so wretched that they find it impossible to live entirely on what they earn. The work is intermittent, and in the instances given the amount of the earnings is always to be qualified by the remark 'if the work is constant'. It would, therefore, appear as if this subject could be discussed in connection with Class D. in the appendix to our President's letter of 30th June last, viz:-

Outdoor Relief.—In the official report already referred to various suggestions were made in the direction of legislation, but it was felt, and indeed said, that unless prices could in some way be increased, they would assuredly fail to achieve the desired object, and that they after all were simply tentative. If the condition of these workers could be so improved as to enable them to support themselves, it would be a great point gained. And now, is there any way of doing this, and if there is, what is it? It would appear as if the only way in which these people could help themselves would be by forming a union amongst themselves. If this were done, they could, backed up as they would be by public opinion, secure better pay and not have to work such long hours. It is feared, however, that this is impossible. There are so many dependant on this kind of work the necessities of whom are so great that they will work for anything rather than not work at all. There is also another class, who are not compelled to work — those who have husbands earning good wages, or in some way have a certain income coming in every week — who will also work at any price, simply because, as they say, it does not matter. They only work in their spare time, and at the end of the week have a few shillings which belong to themselves, and which they can do as they like with. These two classes (and the number of people who would come under them is very great) would, it is feared, effectually prevent any such a thing as a union of outside workers being formed. Then, if they cannot help themselves, who is it that should help them? Surely the employers and the public — the employers by paying a little more for the work done, and the public by paying a little more for the article purchased. It is only a little. Sixpence more paid for a pair of trousers, or threepence for a shirt, would, if this additional money were allowed to go to the workers, make all the difference to them. People in this colony earn good wages, and surely, if they realised what this cheap clothing means, they would not always try and buy it. It is the keen competition of the age, the desire to make business no matter who may suffer thereby, that is very much the cause of this sweating. If the owner of some large clothing factory would start and put up the prices paid to these outside workers, pay them the same as the inside workers get (for at present there is a difference in favour of the inside worker of at least 40 per cent), and then in some way let it be known that the maker of the article in question has been fairly paid for her labour, surely the public could be induced to buy it, at a little higher price truly, but not at a higher price than is absolutely necessary to enable the maker of it to live.

The sweating system is, without doubt, gradually obtaining a footing in this colony, and, if it could be grappled with at once, it might possibly be eradicated before it has got too strong a hold amongst us. In what way this can be done is the problem to be solved.

DANIELS, Kay MURNAME, Mary Uphill All the Way : A Documentary History of Women in Australia, University of Queensland 1980 pp170-173
Appendix 9

Contract of Service versus Contract for Service

The following is an example of a test of Contract of Services - v - Contract for Service.

TEST OF
CONTRACT OF SERVICE - v - CONTRACT FOR SERVICE

1. Is the worker paid a wage or salary?
2. Is the work performed at the employer's place of business and not away from it?
3. Does the worker work regular and/or defined hours?
4. Is the worker engaged to produce a certain result, the completion of which will terminate his/her relationship with the employer?
5. Does the worker provide his/her own plant or equipment as a means of accomplishing his/her work?
6. Does the worker have the right to sub-contract or delegate his/her work?
7. Is the worker subject to, or does the employer reserve the right to subject the worker to, detailed and direct control?

ANSWER

A. Positive answers to questions 1, 2, 3 and 7 and negative answers to questions 4, 5 and 6 indicate a Contract of Service.

B. All other things being equal, a positive answer to question 7 (the control test) indicates a Contract of Service.

ref Department of Industrial Affairs : Education and Training Section

Please note that regardless of these test definitions, under the Industrial and Employee Relations Act 1994 (South Australia) outworkers in certain circumstances may be defined as employees and given the right to obtain award coverage. 'Middle people' may also be deemed as employees.
Appendix 10

Employment Status of Outworkers in Textile, Clothing and Footwear Industries

The following points were presented by the Hon J M Riordan when he presided over the 1987 Conciliation and Arbitration Commission case into variations of the Textile Clothing and Footwear Industry award:

- Outdoor (home based) workers working as machinists are not permitted to use personal initiative
- Their work is performed to rigid specifications as to quality, quantity and style as well as the time by which it must be completed
- They have no say in the design
- The garments are received already cut out for sewing or the garments may already be partly sewn and require further specialised machining
- Their work is inspected and may be then passed on to some other person for the performance of an additional function such as further machining or pressing, until the manufacture of the garment is complete
- They are certainly subject to control and direction, their work is an integral part of the business of those for whom they work and the advertisements which many answered to obtain their jobs were in many cases for employees.

This work could not be described as the work of an independent contractor within the ordinary and usually accepted meaning of that term.

ref p87 Official Hansard Report, Senate Economics References Committee, Outworking in the Garment Industry, Sydney April 1996
 Appendix 11

How Many Outworkers?

Estimates of the numbers of outworkers vary. The Taxation Office suggests about 50,000 outworkers are involved in the textile, footwear and clothing industries. The Textile Clothing and Footwear Union, on the other hand, estimates 300,000 outworkers nationally in the garment industry alone. The September 1995 Australian Bureau of Statistics estimate some 343,300 persons employed at home of which 230,700 were women. Of all persons employed at home 39% work in the clerical area. This includes 127,400 females and 4,900 males.

ref AUSTRALIAN BUREAU OF STATISTICS Statistics Catalogue No 6275 September 1995
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Outwork : Reaching an Invisible Workforce
A Training Development Guide

Please let us know if this Guide has been useful. Your feedback enables us to assess the use of the Guide, the way it is being used and what organisations and study areas are utilising the information. Your response also supports the case for further funding to improve the working conditions for all outworkers.

Name ____________________________________________
Organisation ____________________________________________
Address ____________________________________________

Phone __________________ Fax __________________

1 I found this Guide useful

   Yes     □
   No      □
   Bit of both □

2 I used information from

   Section 1: Outwork □
   Section 2: Occupational Health and Safety and Outwork □
   Section 3: Working Conditions and Pay □

3 I incorporated the Guide material into the course (topic, program, module, elective, workshop) called

____________________________________________________________________________

____________________________________________________________________________

4 The outcomes achieved by using this Guide were

____________________________________________________________________________

____________________________________________________________________________

5 Other comments

____________________________________________________________________________

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