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The AMMA Workplace Relations Research Project – A Survey Based Analysis

A research report prepared by

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Executive Summary

The findings in this summary are based on a survey of member companies of the Australian Mines & Metals Association (AMMA), the peak employer body representing the workplace relations interests of the resources, construction and associated industries. The survey was conducted in April and May 2010 and was supplemented by a focus group of AMMA members held on 19 May 2010. This summary is an excerpt from an in-depth report containing a detailed analysis of survey questions and answers.

Sixty-nine AMMA member companies completed the comprehensive survey questionnaire upon which the results were based. Forty-one respondent companies employed 200 or more people, while 28 employed between 20 and 199 people. No respondents employed less than 20 people. The respondents were resource and construction-based companies with members in every part of the industry and across the whole of Australia. A range of industries within the resources sector was captured, including general mining, offshore maritime, hydrocarbons, construction, coal mining, gold mining and catering. It is a representative sample of the industry.

The survey questionnaire asked participants to rate their experience of the first eight months of the Fair Work Act (from 1 July 2009 to 28 February 2010) compared with the industrial relations system that had gone before it, namely the Workplace Relations Act. Supplementary questions were also asked about the expected impact of the Government's proposed changes to the Building & Construction Industry Improvement Act which are currently before parliament.

General findings

The general view amongst the survey respondents was that workplace relations conditions during the survey period were generally positive, with 42.6% stating their workplace relations environment was 'good' and a further 11.8% stating it was 'excellent'.

But when asked to compare the current workplace relations environment with the environment during the eight-month period leading up to the introduction of the Fair Work Act, 36.8% of respondents found the workplace relations environment had deteriorated while only 1.5% indicated it had improved.

This perspective was repeated throughout the survey in each of the areas for which the experience of workplace relations managers at AMMA's member companies were sought.

Key findings

The single biggest issue with the Fair Work Act that respondents were facing was enterprise bargaining under the new system, with employers trying to come to grips with their rights and obligations under 'good faith bargaining' which meant many of them were having to negotiate with unions for the first time.

Other key findings of the survey were:

- union involvement in the workplace is increasing and becoming more obstructive of managerial action;

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- labour productivity in the workplace is being eroded;
 - it is becoming more difficult for managers to directly engage with their own workforces without union involvement;
 - the unfair dismissal legislation is leading to an increased number of claims and more frivolous claims;
 - the right of entry rules are increasing the presence of unions in the workplace even where unions have no members at a worksite;
 - workplace flexibility is being diminished both through the actions of unions and through employers' involvement in tribunal processes;
 - industrial disputation is on the rise;
 - claims for higher wages are increasing;
 - the time involved in reaching enterprise agreements is lengthening with the union approach to bargaining in some workplaces is becoming more intractable; and
 - the changes proposed to the Building & Construction Industry Improvement Act (BCII Act) have created large and deep concerns within businesses in the resources and construction sectors.

Specific findings

Some of the specific findings of the research project are outlined below:

Union involvement in the workplace

- unions were actively involved in the workplaces of 58.8% of survey respondents during the survey period;
- of the workplaces where unions were actively involved, 55.0% said union influence was growing during the survey period, while 45% said it was about the same. No respondents said union influence was declining;
- 35.0% of respondents with active unions said union involvement was 'unhelpful' while 10.0% said it was 'extremely unhelpful';
- 42.5% of those with active unions said problems with managing their workforces had increased since the Fair Work Act was introduced; and
- 17.2% of total survey respondents said direct engagement with their workforces had deteriorated since the Fair Work Act came into effect.

Union right of entry

- 58.7% of survey respondents said a greater number of unions was entitled to enter their workplace under the Fair Work Act than under the previous system;
- 55.6% said unions were entitled to enter their workplaces for the first time under the Fair Work Act;
- 66.8% of respondents were actually subject to union visits during the survey period;
- Of those, 37.2% said a greater number of unions entered the site during the survey period than under the previous workplace relations system; and
- 30.2% of those visited said the number of union visits was 'significantly higher' under the Fair Work Act, while 25.6% said the number was 'slightly higher' and 39.5% said it was about the same. No respondents that were visited by unions said the number of visits had reduced under the Fair Work Act.

Individual Flexibility Arrangements (IFAs)

- 31.7% of survey respondents said Individual Flexibility Arrangements (IFAs) were far less flexible than Australian Workplace Agreements (AWAs) or Individual Transitional Employment Agreements (ITEAs), with just 1.7% saying IFAs were more flexible;
- 53.3% said IFAs should be able to be a condition of employment, which was not possible under the current legislation; and
- 90% of respondents said industrial action should not be able to be taken during the life of an IFA, even after the enterprise agreement to which it was attached had expired.

Modern awards

- 36.2% of respondents reported being covered by more awards now than they were prior to 1 January 2010 when modern awards took effect.

Industrial action

- Protected or unprotected industrial action was taken at 17.5% of respondent workplaces during the survey period; and
- Of those, 30.0% said levels of industrial action had ‘significantly increased’ compared to the corresponding period of the Workplace Relations Act, while 60.0% said levels had ‘slightly increased’ and 10% said levels were ‘about the same’.

Wages

- 26.3% of respondents were expecting wage increases to go up a lot in the following six months, while 38.6% were expecting wage increases to go up a little.

Enterprise bargaining and agreement making

- Of the 38.6% of survey respondents who were involved in enterprise bargaining during the survey period, 27.3% said bargaining under the Fair Work Act was ‘more difficult’ than under the Workplace Relations Act, while another 27.3% said bargaining was ‘significantly more difficult’ under the Fair Work Act; and
- 77.3% of the respondents that were involved in bargaining during the survey period reported unions pursuing union-specific clauses in agreements. These included clauses relating to trade union training leave, right of entry, shop stewards’ rights, payroll deductions of union fees, union picnic days, the use of contractors and union offices on-site.

Proposed changes to the Building & Construction Industry Improvement Act

Of the 19% of survey respondents covered by the Building & Construction Industry Improvement Act (BCII Act) during the survey period:

- 46.2% expected the proposed abolition of the Australian Building & Construction Commission (ABCC) and its replacement with the Fair Work Building Industry Inspectorate to have an ‘extremely negative’ impact on union behaviour on-site;
- 46.2% expected the proposal to reduce maximum penalties under the BCII Act to levels commensurate with the Fair Work Act to have an ‘extremely negative’ impact on union behaviour;
- 46.2% expected the proposed ability for the new inspectorate’s director to ‘switch off’ the compulsory examination powers as part of its investigations to have an ‘extremely negative impact’ on union behaviour; and
- 38.5% expected the proposal for the new directorate to be required to obtain a court authority before exercising compulsory examination powers to have an ‘extremely negative’ impact on union behaviour.