

Resource industry outlines major areas of reform in submission to Fair Work Review

RESTORING the ability for employers to engage and negotiate directly with their workforce has underpinned the key recommendations from national resource industry employer group AMMA, in its submission to the Australian Government's Fair Work Act Review Panel.

Representing all areas of the resource and related construction industry, AMMA's comprehensive submission examines how the Fair Work Act has failed on its key objectives and puts forth specific reforms that would see a return to mutually rewarding employment relationships in Australian workplaces.

Drawing on empirical evidence from RMIT University's *Workplace Relations Research Project* into AMMA members undertaken over a two year period, the submission is underpinned by the direct experiences of employers operating in one of the fastest growing and most globally competitive sectors of the Australian economy.

"The Fair Work Act intended to provide a balanced framework for cooperative and productive workplace relations that promoted national economic prosperity," says AMMA chief executive Steve Knott.

"However instead of advancing Australia's workplace culture, the Fair Work Act is facilitating a return to workplace restrictions, union disputes, wage blow-outs, lower productivity and excessive transaction costs to employers.

"Australia is not isolated from global competition and our legislative framework must reflect the industrial freedoms of an advanced economy while protecting the lower paid.

"Our workplace laws should provide for and facilitate employee engagement and productive, competitive workplaces.

"The fact that 95 per cent of union applications to commence with a strike ballot order are approved by Fair Work Australia, but employers have almost no ability to counter such strike action demonstrates how unbalanced the application of the legislation really is."

In addition to raising numerous concerns with the Fair Work Act, the submission outlines more than 50 essential reforms which AMMA believes will create a balanced legislative framework that would serve Australia's best interests both domestically and internationally.

"There are currently around \$316 billion worth of approved resource projects across Australia that are either committed or under construction, plus a further \$307.6 billion worth of projects awaiting approval," Mr Knott says.

"Many of these projects were given financial approval under the previous industrial regime. The associated labour costs of constructing these projects are escalating to the extent where the financial viability of future resource projects is being questioned.

"The Federal Government now has the opportunity to turn our hostile industrial environment around, restore industry faith in our workplace relations legislation and allow these projects to come to fruition."

MEDIA RELEASE

Steve Knott outlines some of the key recommendations in AMMA's Fair Work submission:

Productivity improvements: "When lodging enterprise agreements for approval with Fair Work Australia, parties must be required to demonstrate how they have considered productivity improvements as part of the final agreement."

Internal regulation: "High income earners, above the \$118,100 unfair dismissal limit, should have the ability to elect to enter into direct employment arrangements with their employer. Workplaces should also have the option of voting for an internal regulation model of industrial relations."

Agreement making: "Agreement content should be restricted to matters pertaining only to the employment relationship between employers and employees. Fair Work Australia should also have the power to make a greenfield determination agreement for resource projects, subject to a 'better off overall' test."

Right of entry: "Unions should only have right of entry to a worksite if they have members on that site, if the members requested the union's presence and if the union was a party to the enterprise agreement related to that site."

Adverse action: "Adverse action provisions are unjustified and if not removed entirely, the Act must ensure claims are only able to proceed if the alleged prohibited reason was the sole or dominant reason for the adverse action being taken, not one of several factors."

Individual flexibility: "Parties should be able to agree on the terms of an individual flexibility agreement that leaves the employee better off overall and protects the employer from any form of industrial action for the life of the agreement."

Protected industrial action: "Protected industrial action should not be permitted where the claims sought are not considered to be in the public interest. This should include a consideration of the comparable size of the wage claim; the willingness to include productivity improvements; whether bargaining efforts have been exhausted; and the employer's ability to meet the overall cost of the claims. The majority support of all employees that will be subject to a proposed enterprise agreement must be obtained before any employees can embark on protected industrial action."

Unprotected industrial action: "The legislative mechanism under which the courts can order work to resume following unprotected industrial action should be reviewed to ensure it is more responsive to the needs of employers who are subject to damaging and costly unlawful industrial action. There are numerous examples of illegal industrial action occurring, with both Fair Work Australia and Federal Court orders having been ignored."

The following material is available for immediate media use

Shortened media version of *the executive summary of AMMA's Fair Work submission*:

http://www.amma.org.au/home/publications/AMMA_FairWorkSubmission2012_ShortExecutiveSummary.pdf

AMMA's full submission to the Fair Work review:

http://www.amma.org.au/home/publications/AMMA_SubmissionToFairWorkActReview_Feb2012.pdf

The latest report from the AMMA/RMIT University *Workplace Relations Research Project*

http://www.amma.org.au/home/publications/AMMA_WR_ResearchProjectReport4.pdf

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