

## **Three years of Fair Work and the pain only deepens for employers**

ON the three-year anniversary of the *Fair Work Act 2009*, the latest academic research into its operation and impact on the resource industry has shown an ongoing deterioration of the Australian workplace relations environment and several areas in need of urgent reform.

Led by an RMIT University researcher, the fifth report of the ongoing *AMMA Workplace Relations Research Project* serves as a timely reminder to the Federal Government that anything other than major reforms will see its Fair Work Act Review process fail to make significant industrial or productivity improvements.

"This report marks two years since the first publication of the results of this ongoing study and clearly demonstrates the industrial environment has shifted dramatically for the worse," says Minna Knight, acting chief executive of resource industry employer group AMMA.

The ability for unions to hold new resources projects to ransom as part of the Act's greenfield bargaining processes continues to be one of the biggest concerns for significant Australian resource projects in the near future.

Ms Knight says the mandatory involvement of unions in greenfield agreements has led to a culture where employers are pressured to accept exorbitant claims or face lengthy delays to project timelines and the risk of severely denting investor confidence.

"This research shows that one-third (36.2%) of resource industry employers had tried to negotiate a greenfield agreement in the past three years and of those, 19% had experienced unions refusing to make an agreement with them at all," she says.

"As more than \$500 billion worth of potential new Australian resources projects begins trickling down the pipeline, Australia cannot afford to have one in five projects stalling due to ongoing union tactics to extort unreasonable wages and conditions in already Australia's highest paid industry."

Ms Knight says AMMA has recommended Fair Work Australia (FWA) be given a 'greenfield determination' power upon request by the employer, but stressed that AMMA remains opposed to compulsory arbitration in any form.

In the wake of the recent *JJ Richards* Full Court of the Federal Court ruling, she also called for the review process to eliminate the legislative loophole that allows unions to take protected strike action without the majority consent of the workforce and before bargaining has even commenced.

"These concerns are reinforced by the results of this latest research, which indicates that almost 40% of resource industry employers are yet to renegotiate new agreements under the Fair Work Act," Ms Knight says.

"This means we potentially have hundreds of agreements all expiring within the next 12-18 months and without tightening the parameters in which unions can legally take strike action, the industry will be very exposed.

"Any serious reform of the Fair Work laws must examine major inconsistencies between the initial stated government policy and the written legislation around protected industrial action."

## MEDIA RELEASE

The Act's ineffective Individual Flexibility Arrangements (IFAs) have again been revealed to have extremely limited utility for employers in the latest AMMA research report, with 29% of the industry believing IFAs are of 'very little value' and a further 32.3% stating IFAs are of 'no value'.

"Prior to the introduction of the Fair Work Act, up to 80 per cent of resource industry workplaces were utilising Australian Workplace Agreements (AWAs) in one capacity or another, to deliver mutually beneficial flexible arrangements with individual workers," Ms Knight says.

"AMMA has made a number of recommendations that would see a return of genuine flexibility to Australian workplaces. Firstly, there is no reason why the government could not give greater security to both parties by enabling IFA's to extend for fixed terms of up to four years, and allowing for these agreements to be terminated or run for shorter terms by mutual agreement."

The latest AMMA/RMIT research, which reports the survey's findings for the period from November 2011 to April 2012, also reignites the productivity debate by demonstrating a 20% drop in employer satisfaction with workplace productivity.

"Perceived resource industry productivity during the survey period was at its highest peak in April 2010 with 70.8% of respondents rating their workplace productivity as 'high' or better. In April 2012, this figure had dipped to just 52%," Ms Knight says.

"When this survey was first conducted in April 2010, 92.6% of resource industry employers rated the workplace relations environment as 'better than acceptable', 'good' or 'excellent'. In part, this result reflected the many existing agreements that had been made under the previous regime.

"Just two years later and the number of resource employers who rated their industrial environment as unacceptable has risen almost five times."

With the rapidly deteriorating state of industrial harmony in Australia, the Federal Government's Fair Work Act Review could not have come soon enough, and the AMMA survey results reinforce some of the key areas that are in need of urgent reform.

The AMMA *Workplace Relations Research Project – Fifth Report* can be [read here](#).

AMMA's submission to the Fair Work Act Review Panel can be [read here](#).

AMMA's submission to Fair Work Australian on Individual Flexibility Arrangements can be [found here](#).

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