

MEDIA RELEASE

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Fair Work independence undermined as 'technical' changes mask Tribunal stacking

Media statement by AMMA Chief Executive, Mr. Steve Knott

The Fair Work Amendment Bill 2012 is being rushed through Parliament at the speed of light.

While currently subject to a desktop Senate Inquiry, unfortunately for employers and indeed the standing of FWA, what is primarily a blatant attempt of Tribunal stacking will most likely get waved through the Senate.

This is due to both the paucity of the current IR debate with the amendments being spun as 'technical' and the Coalition acting like scared little rabbits when debating any substantive IR policy issue; fearful of the inevitable ALP/Union "back to WorkChoices" campaign.

What is in train here is the Labor Government, in a very short period of time, seeks to have appointed the top three roles within FWA.

By dint of this action and other legislative measures, this will give the President an unprecedented apex of Tribunal influence, either of his own motion or on application by the Minister. Left as is, the President and his two deputies will be the most legislatively powerful Tribunal heads since Federation.

The old adage that justice must not only be done but be seen to be done comes to the fore in ensuring the independent standing of FWA is not further eroded by the Minister's planned actions.

The new Tribunal power provisions are contained in Schedule 8 Parts 3, 6 and 7 and need close scrutiny by the Senate.

As identified by AMMA, ACCI and the BCA in their Senate Inquiry submissions, none of these issues in this schedule were raised in the FWA review process or via subsequent social partner consultations.

In short, the President and new Vice Presidents will shape future Full Bench decisions for a decade or more, the President will be able to impose himself on matters already before another Tribunal member and the President would gain the power to sin bin a Tribunal member who doesn't determine matters in a manner the President sees fit.

The government's tactics are clear, with Workplace Relations Minister Bill Shorten seeking to ensure the top three Fair Work Australia (FWA) officials are long-term ALP appointments that will outlast any incoming Coalition government.

In AFL parlance it will be like Collingwood President Eddie McGuire picking the controlling umpire and the other two umpires in a Pies grand final.

AMMA's Submission to the Senate Inquiry into the Fair Work Amendment Bill 2012 can be found [here](#).

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