



# REFORM FWC FOR ACTUAL FAIRNESS

*Business should  
have a louder  
voice in workplace  
relations issues*

**STEVE KNOTT**

Judith Sloan ("Shorten compromised by unions shopping around for penalties deals", June 7) hit the nail on the head when writing that Bill Shorten would be happy to have the "independent" Fair Work Commission rule on penalty rates so long as the tribunal agreed with Labor's position.

To the outside world, it may appear remarkable for the Opposition Leader to change his tune midway through the election campaign from "respecting" the FWC's independence to being "very confident" that Labor's argument would be upheld.

Those with any knowledge of the restructuring and politicisation of the "independent" tribunal under Labor's six years in government would be far from surprised.

Despite Kevin Rudd and Julia Gillard in opposition both promising they wouldn't stack the tribunal with ex-trade unionists, from 2007 to 2013 the ALP government made 27 appointments to the FWC, of which 18 had ALP-aligned or trade union backgrounds.

In 2012, as workplace relations minister, Shorten appointed ex-ACTU official Iain Ross as president of the commission. The appointment was controversial given Ross had attended an anti-Howard rally while a sitting vice-president of the tribunal in

2005.

Later, Shorten and Ross oversaw the demotion of two longstanding vice-presidents in favour of two new VPs hand-picked from Labor's side of politics, thus entrenching ALP friendlies at the apex of the tribunal's decision-making.

Shorten then amended the Fair Work Act in 2013 to ensure future employer applications for the reduction of penalty rates would be stymied in the "independent" review process undertaken by the FWC.

Are these the reasons the Opposition Leader is so confident the FWC will find in favour of the ALP's position on penalty rates?

The next time Shorten defends the independence of the FWC, recall the hypocrisy of the Opposition Leader last year describing the trade union royal commission as politicised, and attacking judge Dyson Heydon as "right-wing".

Just as big an issue for business is how the imbalance and restructuring of the FWC have led to a rise in activist tribunal members ignoring precedent and substituting their own decisions for those of business owners and managers.

It's up to users of the workplace relations system, such as business, to advocate and lead the way for reforming and replacing the FWC with a new, modern set of employment institutions that are truly independent and support productivity and growth, and that protect vulnerable workers.

Our pre-election survey of more than 100 resource sector employers found that 87 per cent want the structure and approach of the FWC to be

reviewed as soon as possible.

Employers have similar grievances that Australia remains the only country to have a system replete with 122 "modern" awards, thousands of minimum wage rates and provisions designed to artificially bolster trade union influence.

We only hope the rest of the business community can join us in turning their private grievances on these significant shortcomings in our workplace system into a public campaign to effect meaningful and necessary change.

*Steve Knott is chief executive of the Australian Mines and Metals Association.*

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