



McMANUS SAYS WORKERS MISLED ON THEIR RIGHT TO JOIN PROTEST

Union threat to sue Ombudsman

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ACTU secretary Sally McManus has accused the Fair Work Ombudsman and employers of breaching workplace laws by misrepresenting the rights of workers to join national anti-Coalition protests starting tomorrow.

Ms McManus wrote to Ombudsman Sandra Parker and three employer groups asking them to retract warnings to workers about attending the rallies that will be held in capital cities and regional centres over a month.

Deputy Fair Work Ombudsman Michael Campbell told business groups last week that workers

joining the rallies could be breaking the law by withdrawing their labour or failing to attend work.

The agency will investigate potential non-compliance with the Fair Work Act and told employers they could assist by keeping records of directions to employees that they do not have permission to leave or not attend work.

Employers have circulated the agency's advice to members' companies, irritating union officials who are concerned it could deter some workers from joining rallies designed to show public support for the ACTU campaign to change the workplace laws.

Union officials suggested yesterday the Ombudsman and the employers could be exposed to legal action if they did not retract the warnings.

In a second letter to Ms Parker, Ms McManus said she was concerned the Ombudsman was trying to intimidate workers by misrepresenting their right to join the rallies.

She said the agency had acted contrary to section 345 of the Fair Work Act, which says a person must not knowingly or recklessly make a false or misleading rep-

resentation about the workplace rights of another person.

Ms McManus said only a small group of employees — those covered by in-term enterprise agreements and those not entitled to leave — might be required to work on the day of one of the rallies.

"As you are aware, a large part of the Australian workforce is casual, most are not covered by an in-term enterprise agreement, and many of those will be entitled to seek leave that would allow them to attend the rallies," she said.

The Ombudsman's advice failed to make any reference to the right of employees to participate in lawful activities organised and promoted by their unions.

"The rallies organised by the ACTU are lawful activities," Ms McManus said. "They are political protests. The right to attend such an event is also a benefit under the act and is a workplace right."

She said the agency's letter ignored High Court authority that the laws of the parliament should not operate to infringe the requirement of freedom of political communication imposed by the Constitution.

A spokeswoman for Ms Parker said only that the agency was considering the letter.

Australian Mines and Metals Association chief executive Steve

Knott said the organisation stood by its advice to members.

Australian Industry Group chief Innes Willox said employees did not have the right to stop work to attend a union rally unless they had the agreement of their employer to take leave.

"The ACTU needs to stop misleading employees into believing that they can lawfully stop work to attend their rallies," he said. "The rallies could have easily been organised on the weekends."

The protests will start in Perth tomorrow but the biggest disruption is likely to be on Tuesday next week when workers hold rallies in Melbourne, Sydney, Wollongong, Gladstone, Cairns, Rockhampton and Townsville.



McManus