



Dramatic fall in enterprise agreement delays

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New figures show that delays in approving enterprise agreements have reduced significantly, removing a key reason cited by employers for reforming the enterprise bargaining system.

Fair Work Commission president Iain Ross released the data in an update following his speech last week in which he questioned parts of the business case to change the test for approving enterprise agreements.

The commission's data showed that over the past six months to August, the median time for approving EAs has more than halved from its peak of 76 days to 35 days.

"Or, to put it another way, a majority of parties who lodge an agreement today will receive an outcome in not

much more than a month," Justice Ross said in his speech.

Employers have pointed to lengthy delays in agreement approvals as evidence of the complexity of the Fair Work Act's better-off-overall test (BOOT), which they say has become a "productivity killer".

Lobby groups, including the Australian Mines and Metals Association, are pushing for the Morrison government to change the BOOT so that an agreement only has to ensure groups of workers are better off than the award minimum rather than each individual worker.

But in his speech last week, Justice Ross criticised the AMMA for using "substantially out of date" figures and said its cited 76-day average delay was 12 to 18 months old.

For the 2018-19 financial year, the median time was just 30 days. For "simple" agreements, approvals took just 18 days.

The latest data also showed the queue to have an agreement approved had fallen from a peak of 2063 agreements in January to 660 in early August. "The commission expects performance will continue to improve throughout the 2019-20 financial year, after which the system will stabilise," the commission's update said.

At that point, benchmarks for approving complex agreements would be 16 weeks and become "sustainable", the commission predicted.

However, AMMA chief executive Steve Knott said even a 16-week target for agreement approvals was "an absurd timeframe for a public service administrative body with significant dedicated resources for this work".

"When you're tendering for business opportunities, four months is an eternity," he said.

He said the commission's overly technical approach to the BOOT was driving such delays, with 65 per cent of agreements requiring undertakings to pass the test's threshold last year compared with 35 per cent in 2016.

Industrial relations minister Christian Porter, who has highlighted agreement delays as a key concern for his upcoming review of the bargaining system, said the improvement was "obviously welcome".

But he stressed it was "important we see such improvement on a continuing and sustained basis".

"There is no doubt that there will always be an opportunity to make further improvements to the system which would involve not just improve-

ments in timeliness but also improvements to make the system simpler and less resource-intensive and these will be explored over coming months as part of my review of key issues in industrial relations."

Mr Knott said approval times "have been a source of extreme frustration, but there are more fundamental issues with the Rudd/Gillard-era IR system that have caused employers and employees to abandon enterprise bargaining".

Active agreement coverage has fallen from more than 2.5 million employees in 2011 to just over 2 million in early 2019.

Mr Knott cited agreement content that extended into managerial prerogative, such as limits on contractors, as well as third parties' ability to object to approvals.