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Enterprise agreement approvals should be faster, admits Fair Work Commission

Resources and energy employers welcome today's acknowledgment by the Fair Work Commission (FWC) that the administrative tribunal's enterprise agreement approval processes need to be faster.

FWC President Justice Iain Ross today announced the tribunal's new benchmarks for enterprise agreement approvals, including that 95% of 'compliant agreements' be approved within 20 working days.

For 'complex applications', half would be completed within 20 working days and 95% within 45 working days, under the new targets.

Australian Resources and Energy Group AMMA notes the new benchmarks are closely aligned with the 21-day statutory timeframe included in the Morrison Government's Industrial Relations Omnibus Bill – a critical reform that disappointingly failed to secure support of the Senate last month.

"The new targets appear to reflect a welcome change of heart from the FWC, after it told the Government in February the 21-day benchmark was 'unnecessary'," Steve Knott AM, Chief Executive of AMMA, said.

"The requirement to approve all new enterprise agreements within 21 days was an initiative AMMA put forward in last year's industrial relations working groups, and one supported by other employer groups. Even the ACTU supported a 14-day approval benchmark, albeit only for union-backed agreements.

"Employers have been saying for years that the unpredictable and often unreasonable timeframes for getting new enterprise agreements approved by the FWC is the key reason behind the dramatic fall in the use of enterprise bargaining.

"In 2010, there were 24,400 in-term enterprise agreements in Australia; today less than 9,600. There are deeply engrained issues within Australia's enterprise bargaining system and new benchmarks announced today are a small step in the right direction."

AMMA further notes the FWC's new '20 working days' benchmark shows the proposed 21-day statutory timeframe would be well within its capabilities. However, Mr Knott says employers still have serious concerns about the categorising of agreement applications into two groups – 'compliant' and 'complex'.

"Categorising some agreements as 'complex' effectively gives FWC members an avenue to treat union agreements differently to those reached without unions or challenged by unions, irrespective of whether they were parties to bargaining," Mr Knott said.

"The current culture within the FWC appears to be one of finding technical reasons to reject agreements reached without unions instead of giving primacy to the wishes of the parties to be covered by it.

"The FWC should not be waving through union agreements whilst forensically tearing apart non-union agreements. All agreements must pass the same tests including the Better Off Overall Test (BOOT).

"So called 'complex applications' often cover thousands of employees. Protracted approval of these agreements delays those employees receiving wage increases agreed to in bargaining.

"A more sensible and effective approach would be to legislate a 20 or 21-day benchmark for all new agreements, with no 'pea and thimble' sorting applications into 'compliant' and 'complex' categories, and a requirement to provide an explanation in cases where this timeframe was not able to be met."

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