



13 OCT, 2023

'Same job, same pay' test fails to ease fears

The Australian, Australia

Page 1 of 2

'Same job, same pay' test fails to ease fears

EXCLUSIVE

EWIN HANNAN
WORKPLACE EDITOR

Resource sector employers have warned a test to stop service contractors being caught up in Labor's same job, same pay laws will not provide a genuine exemption, despite assurances from the Albanese government.

In its submission to the Senate inquiry into the Closing Loopholes Bill, the Australian Resources and Energy Employer Association says the industry will pay a heavy cost if the bill is passed, "with operations likely to close, jobs lost, regional communities adversely hit and state and federal tax and royalty revenues for-gone".

Workplace Relations Minister Tony Burke says service contractors are excluded from the new provisions unless the service they provide is effectively labour hire.

Ahead of the bill's release, AREEA chief executive Steve Knott, while reserving judgment until seeing the detail, praised Mr Burke's response to the needs of service contractors as encouraging. But he said on Thursday proposed labour hire provisions do not provide a true exemption for genuine service contractors.

"Rather, applications could be made against service contractors and the business would be subjected to a reverse onus of proof to convince the Fair Work Commission that they are providing a service, not labour hire, and it would not be 'fair and reasonable' to make an order capturing their service arrangements," he said.

"Under such a model, specialist contractors will have no certainty that they would avoid being unjustly pulled into a complex and costly IR administrative process, and they would be unable to tender for work with any certainty the rates they quote will be the rates incurred and passed on to clients.

"The repercussions of this ... would flow through the entire resources and energy supply chain, having significant adverse effects

on nationally significant mining and energy projects."

Claiming labour hire would be killed off by extra red tape, Mr Knott said even if the regulation were to apply strictly to labour hire and not contractors, "there are many unresolved issues with the proposed new obligations on labour hire firms that would at the very least disincentivise use of their services and at worst send many bankrupt".

"The bill would require labour

hire employers to pay out leave (including long-service leave) and redundancy entitlements at clients' rates of pay and give labour hire workers incentives, bonuses and other enterprise-specific payments provided to direct employees of the host business," he said.

"These expectations are unreasonable and will devastate competitive and flexible labour hire services that the resources sector, and many other industries, rely upon to be productive, efficient and competitive."

Mr Knott said the new laws would force employers to fund union activism in their own workplaces. "The new rights and protections proposed for union workplace delegates are not justified. The government is clearly trying to empower workplace delegates to be de facto union officials. Expecting employers to foot the bill for members of their own workforce to be industrial activists against them is entirely unreasonable."

Mr Burke's office said he would not comment on individual submissions to the inquiry.

While opposed to the bill, Mr Knott backed calls by the Senate crossbench and other business groups to split the bill and legislate less contentious elements, in-



13 OCT, 2023

'Same job, same pay' test fails to ease fears

The Australian, Australia

Page 2 of 2

cluding a proposal to simplify workers' compensation for first responders with post-traumatic stress disorder, including fire-fighters, Australian Federal Police employees and ambulance officers in the commonwealth jurisdiction, and expansion of the Asbestos Safety and Eradication Agency to eliminate silica-related disease