

## ACTU Briefing Note – Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Bill 2020

The Government's proposed changes to Australia's industrial relations laws will leave working people worse off, with cuts to take home pay and conditions, fewer rights, and less job security.

The removal of the two-year suspension of the "Better Off Overall Test" was just one problem, the Bill **leaves workers worse off** in many other areas.

The Government has said it wanted to find a balanced approach to industrial reform – but these laws swing the pendulum too far in favour of big business. It will leave us with a completely unbalanced system that will make jobs more insecure and it will cut living standards for working people.

The Government claims these changes will create jobs as we recover from the recent crisis. But these laws will weaken job security, drive down wages and lower workers' confidence to spend and to build a secure life for themselves and their families.

Our economic recovery from COVID depends on working people having the confidence to spend. Small and local businesses need this consumer confidence. Any cuts to pay or loss of rights for working people will make recovery harder and longer.

**The Government's changes will make jobs less secure and give even more power to big business over Australian workers to cut take home pay. This is the opposite of what the country needs.**

Instead of a consensus approach to industrial relations changes, this Government has given business lobby groups exactly what they've asked for – the ability to make working people worse off.

The Bill also does not address Australia's most pressing labour market problem - the extent to which jobs are casual and insecure. Over half a million casuals lost their jobs at the outset of the pandemic and 60% of new jobs created since May 2020 have been casual. The Government's changes will not help solve this problem – it will make it easier for employers to casualise permanent jobs.

The Bill shifts more power to employers which will exacerbate inequality, permanently suppress wage growth and increase job insecurity. If agreed to, these are changes that will affect working people long into the future, they will be passed on the next generation.

The current laws have overseen record low wage growth and record high job insecurity. Instead of remedying them to rebalance the system, the Bill will make these three serious issues worse.

Below is a brief summary of the worst aspects of the Bill.

### ***Enterprise Bargaining – Shifting too much power to employers, removing protections for workers***

- The Bill will cut bargaining rights and protections for workers whose pay and conditions are covered by agreements. 35% of the workforce are covered by agreements.
- The Bill's provisions remove or cuts safeguards & protections meaning that working people can no longer have confidence they will be better off.
- The Bill will undermine the critical function of the independent umpire, the Fair Work Commission to ensure agreements are fair and leave workers better off. This will have the biggest impact for workers who are not represented who need this protection the most.
- The Bill proposes radical changes to enterprise agreement making; a fundamental change to the purpose of agreement making from a means to share productivity improvements and increase wages to become a vehicle for employers to reduce employee rights, pay, and entitlements.

The proposed amendments to agreement making fundamentally weaken the current protections for workers:

- **Workers will be notified bargaining has started and they have a right to be represented a month after bargaining starts, putting workers behind the eight ball from the start.**
- **Workers are stripped of the right to a comprehensive explanation of an agreement they are asked to vote on.**
- **Workers from culturally and linguistically diverse backgrounds, young employees or workers who are not represented in bargaining will no longer be guaranteed an appropriate explanation of a proposed agreement.**
- **The Fair Work Commission will have less time and power to ensure an agreement was genuinely agreed to and to ensure it leaves workers better off.**
- **Agreements that exclude or misrepresent the National Employment Standards can be approved.**
- **Unions will no longer be able to play a role in assisting the Fair Work Commission, ensuring an agreement is fair if they were excluded from bargaining.**

### ***More jobs will be casualised***

- The Bill will result in fewer permanent jobs with rights, increasing the casualisation of the workforce.

- The casual conversion provisions of the Bill are essentially meaningless, an employer is not bound to offer a regular casual a permanent job if they do not think it would be reasonable to do so and the same employer can veto a workers right to have the Fair Work Commission consider if their decision was fair.
- The Bill allows employers to call a worker “casual” even if the job is not casual, stripping them of entitlements such as sick leave.
- The Bill retrospectively strips misclassified “casuals” of their right to leave entitlements

***Awards – will be varied to cut the pay, conditions, and rights of working people.***

*Part time work casualised*

- The Bill will cut the rights and take-home pay of part time workers.
- The Bill effectively will turn part time workers into casuals, putting enormous pressure on them to accept extra and unpredictable hours, with little notice and no overtime.
- The Bill will disadvantage workers with family responsibilities who need predictable and secure hours.
- These cuts can be imposed on any part time worker under any award by Ministerial regulation.

*Unreasonable work directives*

- The Bill provides a two-year extension of JobKeeper-style ‘flexible work directions’ for duties and location of work without JobKeeper payments and without the key protections that came with JobKeeper which the parliament supported in 2020.
- Unlike JobKeeper, the employer will not need to satisfy any decline in turnover test but simply needs to believe it necessary to give a directive to ‘assist in the revival of an enterprise’.
- A worker’s right to stop an employer issuing unreasonable directions is removed by stripping the power of the Fair Work Commission to arbitrate disputes.

***Greenfields Agreements – Handing power to multinationals over Australian workers***

- The Bill creates a new form of agreement making that only applies to so-called “major projects” where big corporations can impose wages and conditions on their workforce, cutting Australian workers out of any say over their wages and working conditions.
- This provides fewer rights for workers on such projects than any other Australian worker.
- Major construction projects which usually involve a FIFO workforce have been beset with issues brought about by the inability of the workforce to resolve such issues as

reasonable rosters and accommodation, leading to high rates of suicide amongst the workforce.

- For example, on the Inpex project 13 workers took their own lives because of the working conditions. FIFO workers need a strong voice and deserve the same rights as other workers.
- The threshold for a “major project” is so low it could apply to a CBD office building or a hospital creating widespread, deeply unfair arrangements where the workforce has no right to negotiate their wages and working conditions. This will strip tens of thousands of workers of this fundamental right.

### ***Wage Theft and Complying with the law***

- The Bill will over-ride strong wage theft laws in Victoria and Queensland taking rights and protections off workers in these states.
- The Bill makes it harder for unions and individuals to take employers who underpay their workers to court by removing an important avenue to recover the costs involved.
- In conciliation talks the Fair Work Commission is prevented from making a recommendation that could guide people to a fast, effective outcome.