

Australia: Employers using Labor's laws to impose lockouts

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Lockouts of Sydney casino workers in the opening days of the new year underscore the increasingly aggressive use by employers of their new powers under the Rudd government's "Fair Work" legislation to suppress industrial action.

Since Fair Work Australia came into operation on July 1, companies have gone on the offensive, confident of the Labor government's support and the commitment of the trade unions to enforce the new laws.

Tabcorp's Star City Casino locked out members of the Liquor, Hospitality and Miscellaneous Union (LHMU) on January 8 and 9 for entire shifts after they held one-hour stoppages in a long-running dispute over a new enterprise work agreement. Workers were similarly locked out on January 1.

The stoppages, involving dealers, security workers, house keepers, chefs and food and beverage employees, were part of a limited protest campaign devised by the union after workers twice overwhelmingly rejected management pay offers during eight months of negotiations.

The company's latest offer of a 9 percent increase over three years, with only 2 percent awarded in the first year, is subject to trade-offs including the removal of shift loading on sick leave, a reduction in the rate of sick leave accrual and the removal of guaranteed dealer career progression.

The union is now calling for 10.5 percent over three years, including 3 percent in the first year, with no trade-offs. On average, the workers are paid just \$22.70 an hour, plus any applicable loading, to work in the onerous conditions associated with shiftwork in a 24-hour-a-day, seven-day-a-week industry.

Despite the management's actions, the LHMU, which boasts a membership of 120,000 in many key enterprises, as

well as Tabcorp's Treasury Casino in Queensland, has no intention of challenging the industrial relations laws. Along with every other union, the LHMU has endorsed the Fair Work Australia (FWA) regime, claiming it is more "fair" and "balanced" than the previous Howard government's WorkChoices laws.

WSWS correspondents discussed Labor's laws with locked-out casino workers during a brief protest rally last Saturday. Toby, a dealer, said he had not known the extent of the legislation's measures to block strikes and allow lockouts. "This whole country is run by people like us, by workers. If everybody at our level of work stopped work for the day this whole country would collapse. I voted Labor because I felt that it would look after me as a worker and I had no idea about this."

Under Labor's laws, workers cannot take industrial action until an enterprise agreement expires. Then they must prove to the FWA tribunal they have bargained in "good faith", then conduct a secret postal ballot, give three days notice of action and specify the locations and times of stoppages, thereby giving employers time to organise lockouts and other strike-breaking measures.

By contrast, employers can impose lockouts immediately in response to industrial action, no matter how limited. No advanced notice is required—just written notification at the time of the lockout. The legislation also requires employers to deduct pay for any industrial action, and workers are prohibited from seeking payment for periods of industrial action, no matter how justified.

Since the FWA regime came into operation on July 1, employers have wasted no time in using the laws to limit and block industrial action. The use of lockouts is an increasingly common tactic against even limited bans and strikes. In every case, the response of the unions has been to insist that the industrial laws have to be obeyed, and to seek

an accommodation with employers to the detriment of workers.

In August and September, lockouts were imposed at Visy Food Packaging in Melbourne, at the Campbell's Soups food processing plant at Shepparton in central Victoria and at Bundaberg Sugar processing mills in Queensland.

Last month, mining giant Peabody Energy locked out 240 workers at its North Goonyella mine in Queensland for 13 days after they began rolling two-hour work stoppages on every 12-hour shift as part of an enterprise bargaining dispute. The company is seeking to abolish a number of conditions and make radical changes to the shift work structure that will impact adversely on pay. The Construction Forestry and Mining Union (CFMEU) quickly re-entered negotiations and underscored its willingness to make compromises and concessions.

Paperlinx-Tas Papers locked out workers in December at its paper mill in Burnie, Tasmania for four days after they held short stop-work meetings to discuss the company's plan to sell the Burnie operation and slash 170 jobs. The company plans to eliminate a further 252 jobs when it closes its Wesley Vale mill in March. The CFMEU does not oppose the job losses or closure and did nothing to oppose the lockout.

Healthcare services company Dorevitch Pathology selectively locked out 25 members of the Medical Scientists Association of Victoria (MSAV) last month following a campaign of limited work stoppages by 200 workers over a new enterprise agreement. The workers have received only a 1.5 percent pay rise since 2007. The union applied to FWA for an order to end the lockout and gave an undertaking in a December 22 hearing that "our members will cease their industrial action forthwith". MSAV secretary Rosemary Kelly welcomed the FWA's subsequent order that all industrial action cease, saying it would allow negotiations to resume.

BP locked out 39 workers at its Eagle Farm refinery in Brisbane, as part of its efforts to impose harsh new working conditions in an enterprise agreement. The union quickly returned to talks, indicating it was willing to reduce its pay claim from 6 percent to 4.5 percent. Electrical Trades Union official Garry Rogers declared: "If the rise is part of a good package, the boys would cop it, no problem at all."

A particularly vicious three-week lockout was imposed at the Heinz's Echuca food processing factory in Victoria on

December 2 after workers refused to attend a productivity meeting. Under Labor's laws, that amounted to a work ban. The lockout was lifted shortly before the Christmas holiday period after the Australian Workers Union brokered a deal giving major cost-cutting concessions to the company. Afternoon shift employees for instance will lose around \$2,000 a year.

A long-time Heinz worker told the WSWS that the lockout had been prepared well in advance. "They (management) completed long production runs in the six months prior to this dispute. The level was increased from 550 to 600 cans a minute back then." He was critical of the union's constant push for workers to ensure the company's viability. "We have continually adapted ourselves to meet the demands of the company, despite the disruptions to our lives," he said, but management pushed for ever greater concessions "to operate according to the immediate demands of the market".

There is no doubt that more lockouts are being prepared. Andrew Douglas, managing director of Douglas Workplace and Litigation Lawyers, told the SmartCompany web site last month that some employers who saw industrial action on the horizon were actively planning lockouts, putting contingency plans in place to ensure their business was not interrupted, and then launching lockouts immediately after industrial action. He said it would become more commonplace for employers to use short, abrupt lockouts.

As the economic conditions worsen, employers will increasingly use the industrial laws to the full to suppress industrial action and ram through drastic changes to pay and conditions. Any struggle by workers against these actions will require a rebellion against the unions, which function as industrial policemen for employers, and a political fight against the Rudd government and its anti-strike laws.



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