

Australian government moves to tighten anti-strike laws

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Australia's Labor government last week released a six-month-long review of its workplace relations legislation. The report—*Towards more productive and equitable workplaces: An evaluation of the Fair Work Act*—was designed to satisfy the demands of business for a renewed offensive against workers' conditions, while shoring up the role that the trade unions have played over the past three decades in imposing every requirement of employers.

For the past year, employer and media groups have insisted that the review must deliver greater productivity and labour market "flexibility." Their demands included individual contracts, the scrapping of weekend and after-hours penalty rates, and the removal of any restrictions on so-called management prerogatives, particularly to eliminate jobs and restructure operations.

The review became a vehicle for ramping up pressure on Prime Minister Julia Gillard's government to impose a new wave of "economic reform" to deepen the free-market deregulation that began with the Hawke and Keating governments from 1983 to 1996 (see: "Australian government under mounting pressure to deliver workplace 'reform'").

Business leaders immediately dismissed the outcome, saying it did not go nearly far enough to meet their requirements for "global competitiveness"—that is, to match the cuts to wages, conditions and basic rights being inflicted on workers across Europe and America. This means that Gillard's government will only intensify its efforts to meet their needs.

The review panel headed by economist John Edwards, a former adviser to the Hawke and Keating Labor governments, did its best to accommodate the corporate campaign, making 53 recommendations for tightening the industrial laws. However, it warned that

any greater change could risk the immense benefits that employers had received from the union movement's policing of Labor's Fair Work Act.

Introduced in 2009, Labor's legislation went beyond the "Work Choices" laws of the previous Howard conservative government in outlawing all industrial action, except during limited enterprise bargaining periods, while allowing employers to lock out workers without notice. The unions have used the laws to repeatedly suppress resistance by workers to the assault on jobs and conditions since the 2008-09 global financial crisis.

Workplace Relations Minister Bill Shorten, a former union leader himself, welcomed the report's conclusion that the Fair Work laws were "working well and as intended." He declared he would work with the relevant "stakeholders"—i.e., business and the unions—to make "further improvements" to "support the Australian economy and improve productivity whilst delivering fairness."

The report proposes "significant changes" to "encourage productivity growth." They include compulsory arbitration to ensure that the trade unions cannot stall new mining projects and other "greenfields sites" (new workplaces). The panel declared that existing provisions could "threaten future investment in major projects in Australia."

Amid signs that the mining boom is coming to an end because of the downturns in China, Europe and the US, the major companies are moving to lower labour costs, including via the hiring of overseas workers. "Greenfields sites" also allow employers in all industries to shut down operations and open fresh facilities, as a means of destroying jobs and conditions.

Other "improvements" would prevent a strike ballot being conducted until workers satisfied onerous "good

faith bargaining” requirements, and reduce the number of public holidays on which penalty rates are paid to a nationally uniform 11, down from 13 in some states. Further provisions make “individual flexibility arrangements” easier to impose on workers.

In order to bolster “management prerogatives,” the report rejected calls to permit “job security” and other clauses in enterprise agreements that could restrict casualisation and retrenchments.

Several proposals to “enhance equity in the workplace” were mostly designed to entrench the position of the unions. They include requiring greater consultation on unpaid leave arrangements, and giving the Fair Work Australia tribunal a stronger role in disputes over the right of union officials to visit workplaces.

Welcoming the report, the unions made clear they would continue to collaborate closely with the government and business. Australian Council of Trade Unions president Ged Kearney emphasised that the number of days lost to industrial action under the Fair Work Act remained at historically low levels.

Employer organisations castigated the review. Australian Chamber of Commerce and Industry chief executive Peter Anderson said it was largely a failure. An *Australian* editorial hailed the “greenfields sites” and “good faith bargaining” proposals, but said the review had missed the opportunity to “recommend improved workplace flexibility through individual contracts, moderation of unfair dismissal laws and rebuilding the nexus between productivity and wage rises.” An *Australian Financial Review* editorial called for business to be “freed from the constraints” of workplace regulation.

The hand-picked review panel adhered to the government’s claim that it was already delivering such outcomes, by exploiting the de-centralised enterprise bargaining industrial relations system put in place by Hawke and Keating, with the cooperation of the unions.

One of the most revealing parts of the report highlighted three statistics covering the period since enterprise bargaining began in 1993. First, the level of industrial disputes had been lowered to six-fold less than the 1980s. Second, the workforce had been substantially casualised, with 30 percent now working

part-time, up from 24 percent in 1992, and 24 percent employed as casuals, up from 21 percent. Third, the corporate profit share of national income had risen from 25 percent in 1993 to around 29 percent in recent years.

“Over those two decades the pertinent economic outcomes have been congenial to continued prosperity,” the report concluded. It emphasised that “industrial disputes are uncommon” and “the profit share of incomes has increased” to historically high levels. “These are considerable achievements, not to be put at risk lightly.”

In effect, the panel hinted that any erosion of the unions’ role in the industrial relations system would endanger these “achievements” by potentially allowing workers’ struggles to break out of the unions’ grip. This reflects concerns that the intensifying assault by Australian employers, spearheaded by last year’s mass sackings in the steel industry, the grounding of the Qantas fleet to block industrial action, and a continuing wave of closures, is being met with growing resistance by workers.

The Gillard government, backed by the Greens and the unions, is seeking to run a scare campaign against the return of Work Choices-style laws under a Liberal government led by opposition leader Tony Abbott. The record shows that Labor’s measures have already gone further than the Liberals’ in suppressing workers’ struggles, and that new repressive measures are being prepared in the wake of the Fair Work Act review.



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