

Australia: Industry watchdog seizes construction workers' property

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In an unprecedented move, Australia's Fair Work Building and Construction (FWBC) agency late last month instructed bailiffs to seize the property, including cars and homes, of 33 building workers in Western Australia over their failure to pay industrial fines totalling \$196,000.

The amount is part of a larger fine, totalling more than \$1 million, imposed on 117 building workers last September by the Federal Court, after it declared "illegal" an eight-day strike in October 2008 (see: "Construction workers hit with large fines for striking").

The workers were employed by contractor CBI Constructions at Woodside Petroleum's liquefied natural gas expansion project on the Burrup Peninsula in northwestern Australia. They struck after CBI Constructions refused to abide by an enterprise work agreement entitling them to a redundancy payout at the end of one stage of the project, and reemployment at the beginning of a new separate stage.

The legal action was initiated by the Australia Building and Construction Commission (ABCC), a coercive industrial watchdog established by the Coalition government of John Howard. The ABCC was retained by the incoming Labor government in 2007 and then replaced in March 2012 with the FWBC, which has similar powers to prosecute and harass construction workers.

Announcing last year's penalties, the Federal Court ordered that \$680,125 be paid within 60 days, with the remaining \$387,875 suspended but liable for immediate payment if workers breached any industrial law within three years. The fines are among the largest ever imposed on individual workers in Australia.

The Australian Manufacturing Workers Union (AMWU) and the Construction Forestry, Mining and

Energy Union (CFMEU), the two unions covering the CBI Constructions workers, have fallen into line with the court, leaving workers no option but to hand over a total of \$488,000 so far, and opening the way for the FWBC to begin seizing property.

FWBC director Nigel Hadgkiss, a recent federal Coalition government appointee, said last month that bailiffs had already started confiscating workers' property to pay the outstanding fines and collection costs, in some cases over \$10,000 per worker. Where the FWBC was unable to "identify" property, he said, the workers would be compelled to attend Federal Court hearings in May and undergo a "means and examination" investigation.

"This is a warning to all workers that if they breach workplace laws, the FWBC will not hesitate to enforce penalties imposed by the courts," Hadgkiss declared. This made clear that the decision was aimed at stopping workers from taking any action to defend jobs and conditions, now under increasing attack.

The Fair Work laws, introduced by the previous Labor government, ban all industrial action, including partial stoppages, go-slows, overtime bans and work to rules, outside of brief "protected" periods during bargaining for new enterprise agreements.

The unions' consistent response to the original fines and now the confiscation of CBI workers' property has been to demonstrate their unwavering support for the employers and the draconian Fair Work laws.

Far from challenging the court's right to penalise workers for striking, an AMWU spokesman declared only that "the fines were out of proportion to the action." CFMEU Western Australian state secretary Mick Buchan told ABC radio that the FWBC was "acting with malice" but added that the union was attempting to work out payment plans with the court.

Significantly, while the individual CBI workers were hit with massive fines, the Federal Court decided to dismiss charges brought by the ABCC against the AMWU, CFMEU and their officials.

The Abbott government plans to reintroduce the ABCC and establish an even more draconian industrial relations regime across the board. In February, the government announced a royal commission into alleged union corruption, targeting the construction industry in particular.

The commission has far-reaching terms of reference and investigative powers that allow it to pry into the affairs of unions, other organisations and individuals on the flimsiest basis, such as “credible allegations” of “causing a detriment” to someone.

The unions fully endorsed Labor’s Fair Work laws under which the attacks on the CBI workers were carried out and have worked to impose every direction issued by the industrial tribunal, forcing workers to call off strike action and accept outcomes dictated by the employers.

The unions’ only concern is that they maintain their privileged position as industrial policemen and labour brokers in the new industrial relations regime being established by the Abbott government.

There is no line the unions will not cross. The *Australian Financial Review* reported earlier this month that the CFMEU has presented a draft enterprise work agreement (EBA) to construction employers in Western Australia proposing to cut an estimated 20 percent from labour costs. This includes cuts to wages, redundancy payouts, a union training levy and income protection contributions. The current agreement expires this year.

CFMEU state secretary Mick Buchan declared that “structural adjustment” was necessary because of the contraction of major construction work. “We have to see some change,” he said.

The CFMEU’s proposal not only establishes a benchmark across the construction industry but is a green light for deeper cuts to wages across the country. While welcoming the proposal, Chamber of Commerce and Industry CEO Deidre Willmott called on the CFMEU to “reduce wages further to make sure that their members remain competitive within the market.”

At the same time that the FWBC announced that it was confiscating CBI Constructions workers’ property the Victorian Supreme Court fined the Victorian branch

of the CFMEU \$1.25 million over strike action at Grocon construction sites in Melbourne during 2012. The CFMEU will no doubt pay these fines and, like their counterparts in the car and manufacturing industries, continue doing whatever they can to meet employers’ demands.



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