

# Unions voice hypocritical alarm over Australian industrial relations bill

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The Liberal-National Coalition government unveiled an industrial relations “omnibus” bill last week, designed to further exploit the COVID-19 pandemic to deepen the decades-long assault on workers’ jobs, conditions and basic rights.

Staggering hypocrisy marked the response of the trade unions, whose leaders were locked in five months of backroom talks with the government and the employer groups to draft the legislation.

Australian Council of Trade Unions (ACTU) secretary Sally McManus claimed the bill was worse than “Work Choices,” the workplace-relations regime introduced in 2005 by the Howard Coalition government, which provoked massive opposition from workers.

The union leaders fear a far greater social explosion today, amid the worst unemployment since the 1930s Great Depression and intensifying attacks on wages and working conditions.

McManus opposed a proposal in the bill for employers who claim to be experiencing hardship because of COVID-19 to be exempted from the Better Off Overall Test (BOOT), which supposedly prevents workers being worse off under new union-negotiated enterprise agreements.

McManus insisted that this “absolutely outrageous” proposal was “never raised” during the more than 140 hours of secretive negotiations to frame the bill. In reality, the ACTU struck an agreement during the talks with the Business Council of Australia, representing the largest corporates, to scrap the BOOT in return for fast-tracked approval of union enterprise agreements by the Fair Work Commission.

In October, when the talks failed to reach complete agreement, McManus pleaded with the government to continue the negotiations. Later that month, she sought

to prove the unions’ readiness to sacrifice workers’ conditions by revealing the BOOT deal and other agreements the ACTU had arranged with employer organisations.

Exemptions from the BOOT were already embedded in Fair Work legislation, introduced by the last Labor Party government in 2009, with the support of the unions. A “hardship” provision has been used 21 times since then.

More broadly, BOOT has been a fraud, with the unions repeatedly imposing enterprise agreements on their members that undercut previously hard-fought-for conditions, and permitted the wholesale casualisation of workforces.

Labor leader Anthony Albanese was just as cynical as McManus. He told reporters: “This is a nasty act from a nasty government that is returning to form when it comes to attacking workers’ wages and conditions.”

Despite such theatrics, Labor fundamentally agrees with the bill and has provided unstinting support for this “nasty” government throughout the pandemic. In another sign of Labor’s close collaboration with the Coalition, it joined hands with the government to push through parliament, in less than one day, an amendment to the Fair Work Act to permit the “demerger” of previously amalgamated unions.

The ACTU and McManus have remained silent on this amendment, giving it their tacit support. The move ostensibly targets the Construction Forestry Maritime Mining and Energy Union (CFMMEU), which is racked by factional disputes within its bureaucracy. However, the amendment’s primary focus is construction and maritime workers, who have taken some limited industrial action in recent years, despite the anti-strike provisions of the Labor-union Fair Work Act.

In response to the ACTU-Labor alarm over the BOOT proposal, Industrial Relations Minister Christian Porter quickly signalled the government's readiness to modify the provision in consultation with the unions. Porter's reaction highlights the dependence of Prime Minister Scott Morrison's government on the union apparatuses to suppress workers' opposition to the ongoing decimation of jobs and conditions.

The unions have not opposed any other provision of the "omnibus" bill, which seeks to remove restrictions on employers in pushing workers into casual and part-time employment. Under the proposed definition of a casual employee, an employer could determine that status from the moment of employment, by declaring there is not "continuing and indefinite work."

Even if the work became ongoing and regular over 12 months, permitting the employee to apply for conversion to a permanent or full-time position, numerous exceptions in the bill allow companies to refuse conversion.

The bill would also protect businesses that falsely classify employees as casuals. Rather than paying worker thousands of dollars in back-pay for the annual and sick leave to which they were entitled, the company could offset the amount repayable by the 25 percent casual loading the employees received.

This provision was a reaction to a case in which the Federal Court ruled that a worker employed as a coalmine driver for four years via six different contracts by labour hire company WorkPac was a permanent employee.

The ruling threatened to open the door to \$39 billion in potential back-pay from employers—a measure of how commonplace is the practice of forcing workers onto insecure casual contracts. By protecting employers from this liability, the bill effectively permits them to casualise their workforce without fear of penalty.

The bill would "fast-track" the rubber stamping of all enterprise agreements by the Fair Work Commission (FWC), which oversees the anti-strike laws. The industrial tribunal would have a 21-day maximum period in which to approve an agreement, allowing employers to accelerate workplace "reforms."

The bill contains provisions for the scrapping of basic award conditions, such as penalty rates for working weekends and public holidays in sectors such as hospitality, retail, restaurants, and licensed clubs. A

"loaded rate," a supposed higher base rate of pay, could be given to workers in those industries. The FWC would determine the loaded rates, with no consultation with workers.

Despite these far-reaching provisions, big business has given the bill a muted response, saying it is a step in the right direction, but not enough. More must be stripped off workers and funnelled into the pockets of the wealthy.

The unveiling of this bill and the political machinations surrounding it are a warning to the working class. Further destruction of jobs and conditions is on the way, and the unions and Labor are working closely with the Coalition government to enforce it.



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