Australia: Labor's new anti-strike industrial relations bill approved by parliament

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1 December 2022

The Labor government's "Secure Jobs, Better Pay" bill will become law, after receiving the approval of the House of Representatives this morning. The legislation was passed by the Senate Thursday night, after Minister for Workplace Relations Tony Burke won the support of independent Australian Capital Territory Senator David Pocock in negotiations over the weekend.

The new laws will grant the pro-business Fair Work Commission (FWC) increased powers to shut down industrial disputes, ban strikes and impose the wage- and condition-slashing demands of big business on workers through arbitration.

The bill is also aimed at expanding the reach of the trade unions, upon which Labor is depending to suppress opposition to its agenda of cuts to wages and social spending. The laws are intended to help the unions reverse a profound decline in membership, which plummeted from 45.6 percent of workers in 1986 to just 14.3 percent in 2020. Just 5 percent of workers aged 15?19 and 6 percent of those aged 20?24 are union members.

Pocock called for minor changes to the legislation, exempting small businesses with 15?20 employees from multi-employer bargaining, as well as the establishment of a committee to review welfare payments prior to annual budget announcements.

These concessions, along with hundreds of other amendments made to the initial 250-page bill since it was introduced on October 27, are an indication of the determination of Burke and the Labor government to put this legislation in place before the end of the year. This is also reflected in the fact that three additional sitting days were added to the parliamentary calendar to ensure there would be time to pass the bill.

This urgency stems from Labor's recognition that class tensions are already mounting, as workers confront skyrocketing prices and interest rates. More than 128,000 working days were lost to strikes in the June quarter, more than four times the average over the past ten years.

These strikes involved almost 74,000 workers, the most since December 2005. The majority of these workers are nurses, teachers and public sector workers. They have been forced onto the frontline of the COVID-19 pandemic and languish under the lowest wages in the country. It is of considerable significance that these workers are also the most highly unionised workers. Union coverage, in other words, decreases wages, it does not increase them.

Under these conditions, the government is concerned that the measures previously relied upon to suppress workers' struggles are no longer sufficient and must be strengthened.

The Fair Work Act (FWA), introduced by the previous Labor government in 2009, already grants the FWC sweeping powers to deny workers the right to take industrial action.

Two weeks ago, the FWC ordered a six-month suspension of all industrial action over an almost four-year enterprise bargaining dispute at tugboat operator Svitzer. The company, which has an effective monopoly over towage at Australia's ports, threatened to indefinitely lock out its workforce in response to limited stoppages and work bans by workers. They were protesting a company offer of a provocatively tiny 1.5 percent wage rise, following a 4-year wage freeze.

Openly acknowledging that this was a premeditated and conscious manoeuvre engineered to prevent workers from striking, the FWC delivered the company what it sought—a free hand to proceed with business as usual, while workers were stripped of any right to oppose Svitzer's vicious attacks on their pay and conditions.

Under the existing laws, the industrial court and the federal government are empowered to shut down industrial action on the basis that it might possibly cause harm to the economy. Whether this action was initiated by workers or the employer, and whether there was any intention of it going ahead, the outcome will always be that workers are stripped of their basic rights, while no restrictions are placed on the operations of the company.

Labor's new legislation will allow the FWC to intervene in this manner in any dispute it declares "intractable," even if there is no possibility of broader economic damage. With no legal right to strike, workers will then have their wages and conditions decided in backroom negotiations between management and union bureaucrats, or directly imposed by the FWC.

But the bill contains additional provisions designed to prevent disputes even reaching that stage. Under the new legislation, union-management conciliation conferences will be required *before* a strike vote is held, creating the conditions for sell-out deals to be struck before workers are able to disrupt profits for even a minute.

The union bureaucracies not only support and enforce these anti-strike laws—the maritime unions hailed the Svitzer ruling as a "victory"—they were instrumental in drafting both the 2009 legislation and the new amendments. The Australian Council of Trade Unions (ACTU) is a vocal supporter of the bill, and enlisted its members into a campaign on social media and in public meetings to lobby Pocock for his vote.

The legislation will also introduce substantial changes to the Better Off Overall Test (BOOT) for enterprise agreements, which already does nothing to prevent employers from slashing wages and conditions. The test merely requires that workers will not be worse off than if they were employed under an industrial award setting out the bare minimum wages and conditions permissible in a sector.

Under the new legislation, the FWC will be able to approve

agreements that could leave workers earning less than the award if their circumstances change after the agreement is approved. While workers will be able to ask the FWC to reapply the BOOT, this will require that they monitor every roster change and calculate the implications. The revised BOOT could also be used to employ new workers under substantially reduced conditions than existing staff.

The most discussed feature of the new industrial relations legislation is the expansion of multi-employer bargaining. While limited provisions for enterprise agreements covering workers at multiple companies already exist, they have almost never been used. The proposed legislation provides for three types of multi-employer bargaining, all of which will require workers to be union members.

The "supported bargaining" stream is an overhaul of existing, but never used, "low-paid bargaining" provisions. This is intended to bring highly exploited layers of workers, such as those in aged-care, early childhood education and cleaning, under the controlling hand of the trade union bureaucracy.

This will also draw these workers, who are presently covered by minimum-wage industrial awards, into the enterprise bargaining system. For three decades this has served as the primary mechanism through which corporations, with the full cooperation of the unions, have forced workers to trade away conditions including penalty rates and overtime pay for minor increases in base wages.

The most controversial component of the bill is the "single-interest employer bargaining" stream, which could cover any business, as long as the operations of employers covered under a single agreement are ruled "reasonably comparable" by the FWC.

Major corporations and business lobbyists, under the phoney guise of protecting small business, have objected to this section of the bill. At the heart of this is a disagreement among sections of the corporate elite over whether the unions and enterprise bargaining are still the most effective means of driving down wages and increasing "productivity."

A submission to the Senate committee by the Australian Resources and Energy Employer Association noted: "Less than half of resource sector workplaces are covered by an in- term enterprise agreement… Unions have attempted to organise those workplaces for many years."

While industrial action will be possible under these two streams, workers will have to give employers five days' notice, rather than the three required under single-employer enterprise agreements.

The third form of multi-employer bargaining is "cooperative workplace bargaining," for which employers and unions must apply jointly. Workers in this stream will have no legal right to take industrial action.

The rationale behind multi-employer bargaining as a means of wage and class suppression is clearly expressed in a submission to a Senate committee report on the bill by Chris F Wright, a University of Sydney academic. Wright notes that in Denmark, where multi-employer bargaining is common, strikes are far less frequent. He writes: "Considering the relative sizes of their workforces, Australia lost about 10 times as many days to industrial action as Denmark in 2021."

This is in line with statements made by ACTU secretary Sally McManus, who said in October that unions "don't want to see more strikes," and remarked approvingly that the bill "adds more red tape" to prevent workers taking industrial action.

Wages are also rising more slowly in Denmark than in Australia, according to Wright: "Over the past year average Denmark wages climbed 2.5% compared to a similarly- calculated 3% in Australia."

Far from Labor's cynical claim of "getting wages moving," the new legislation is aimed at suppressing wage growth and further eviscerating workers' already limited rights. It is the latest chapter in escalating anti-strike laws implemented by successive Labor governments over the past four decades.

This began with the Accords implemented by the Hawke and Keating Labor governments between 1983 and 1996, with the full support of the unions. These brought harsh cuts to real wages and working conditions as well as the introduction of enterprise bargaining and the limitation of strikes to bargaining periods. The Accords also enshrined the relationship of the union bureaucracies with finance capital through the introduction of compulsory superannuation.

This was a critical turning point in the transformation of the unions and Labor from organisations that had previously sought limited gains for workers into agents of endless corporate cost-cutting and restructuring aimed at driving up profits of "Australian" businesses to make them "internationally competitive."

The eager support of the union bureaucracies for the latest anti-strike bill should serve as a warning for the working class. It makes clear that these fetid organisations, just as they have been since the 1980s, are determined to continue and deepen their role as the enforcers of the government and the corporate elite, and the primary organs of class suppression.

The bulldozing of the industrial relations legislation through parliament, with the wholehearted support of the union apparatuses, will benefit only the profits of the major corporations. It highlights just what forces workers are pitted against. This is a conspiracy of the entire political establishment, the state apparatus in the form of the courts, the highly paid union apparatuses and the massive corporate conglomerates against workers in every section of industry and employment.

To oppose the deepening attack on their jobs, wages and basic rights, workers need to form their own organisations of struggle, rank-and-file committees independent of the corporatised union organisations, in every workplace. These committees, democratically controlled by workers themselves, and linked up across industrial and national borders, are the only mechanism through which the working class can take up the necessary political struggle against Labor, the unions and the industrial courts, which all exist to defend capitalism and serve the interests of the wealthy elite.

Labor's harsh new industrial relations laws are part of a global drive to suppress mounting working-class opposition to increasingly intolerable conditions. This means the counter-offensive must be built on the basis of a turn to workers around the world and a fight for an international socialist perspective to defeat capitalism, which has nothing to offer the working class but relentless exploitation, disease and endless war.