

Australian Labor government's proposed labour hire reform will not stop rise of low-paid, insecure work

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Over recent weeks, industry lobby groups and the financial press have vociferously denounced the federal Labor government's planned "Same Job, Same Pay" industrial relations measures. But the extremely limited character of what Labor is proposing is in stark contrast with the dire pronouncements of big business.

The exact contents of the "Same Job, Same Pay" bill has not been finalised, but the government's "consultation paper" on the proposed reforms makes clear that they will do little to limit the ability of businesses to use labour-hire and contracting arrangements to eliminate permanent jobs and entitlements, such as sick and annual leave.

Under the proposed measures, labour hire providers would be required to pay workers at least the same rate as the host employer pays directly engaged workers performing the same duties. The consultation paper leaves open the question of whether the "same pay" would be calculated on the base rate or the "full rate of pay" earned by employees doing the same work.

If, as big business is demanding, the base rate is used, companies will be able to continue using labour-hire arrangements to avoid paying shift loadings, overtime, penalty rates and allowances for wet, dirty or dangerous work, along with other hard-won conditions.

Even if the "full rate of pay" is used, businesses will still be able to use labour-hire as a cost-cutting measure, trimming the permanent workforce to the bare minimum, and engaging workers through a third-party to cover absences or temporary increases in demand.

The discussion paper states this explicitly: "Business should be able to access labour hire for genuine work surges and short-term needs."

According to Australian Bureau of Statistics (ABS) figures cited in the consultation paper, around 2.3 percent of the Australian workforce—319,900 workers—is employed by labour hire providers. This is likely a vast undercount. The Victorian government's Labour Hire Authority estimates that 523,000 workers are engaged through labour hire in that state alone.

The ABS figures show that, while 81 percent of these

workers work full-time hours, 84 percent do not have paid leave entitlements, and most have no guarantee of ongoing employment. More than 60 percent have been in their current role for less than one year and more than 40 percent do not have set or minimum hours.

The Australian Council of Trade Unions (ACTU) calculates that labour-hire workers are paid an average of \$4,700 less per year than direct employees.

But the proposed measures are aimed at only a fraction of these workers. Workplace Relations Minister Tony Burke has emphasised their limited scope, stating that the reforms are only intended to affect "a subset of a subset."

The paper declares that the "measure seeks to address the limited circumstances in which host employers use labour hire to deliberately undercut the bargained wages and conditions set out in enterprise agreements made with their employees."

This indicates that, contrary to the breathless claims of corporate lobbyists, Labor has no intention of interfering with the increasingly common use by big business of third-party service contractors and "internal labour hire," in which companies engage workers through wholly-owned subsidiary organisations. These subsidiaries frequently have their own enterprise agreements, negotiated and enforced by the unions, setting down inferior pay and conditions.

Qantas, Australia's flagship airline, has, according to the ACTU "split its workforce across 21 external companies and a further 17 subsidiaries." Just among flight attendants, Qantas and Jetstar use four subsidiary labour-hire operations and three external labour-hire providers. The company has not directly hired any new flight attendants since 2008. While directly-employed Qantas long haul flight attendants earn \$56.48 per hour, those employed by Qantas Cabin Crew Australia are paid just \$30.75 per hour.

In 2018, BHP, one of the world's largest mining companies, established two subsidiaries, in order to create a cut-rate second-tier workforce. "Operations Services," as these offshoots are collectively known, have separate enterprise agreements from the rest of the BHP workforce, which set pay at just 105 percent of the award rate. They include such harsh cuts to conditions,

for instance requiring staff to work on Christmas and Boxing Day, that they have twice been rejected by the Fair Work Commission (FWC) for failing to leave workers “better off overall” than the legal minimum for the industry.

These mechanisms are used to avoid opposition from existing employees to the slashing of wages and conditions for new hires, by grandfathering in hard-won terms for longstanding workers. They also serve as a means of splitting the workforce under separate enterprise agreements, meaning that, under Australia’s draconian anti-strike laws, workers have no right to carry out company-wide industrial action.

Qantas and BHP are just two examples among many of Australia’s largest corporations that have come to rely upon labour-hire and contracting arrangements as a vital component of their business model.

The two companies are, according to the *Australian Financial Review*, major financial backers of an advertising campaign launched last week by a consortium of business lobby groups opposing the “Same Job, Same Pay” proposal.

The videos make the extraordinary claims that “by law, employers will have to pay workers with little knowledge or experience exactly the same as workers with decades of knowledge and experience,” and that “by law, you cannot earn better pay by working harder or longer.”

In fact, the proposed reforms would do nothing to prevent enterprise agreements from including multiple pay classifications according to experience and expertise.

In an attempt to sow divisions between workers, the advertisements suggest that their wages, conditions and job security are under threat, not from the profit demands of management, but from the striving of their less experienced colleagues.

The campaign expresses concern among the corporate elite that even the minimal change proposed by the government could disrupt their operations and profits. They are demanding that there be no impediment on their use of labour-hire, gig economy and sham-contracting arrangements to drive down pay and conditions.

But the real objection of big business is that Labor is not moving fast enough to drive up “productivity,” that is, to smash wages and conditions in the working class.

There is an element of theatre to the hysterical response of business to the limited measures proposed by the government. Their strong objections help Labor and the unions promote the illusion that workers’ pay and conditions will be greatly improved through these reforms. The veneer of conflict also provides cover for Labor to introduce an even more watered down version of the legislation, ostensibly after “tense” discussions with corporate interests.

This process is already underway. Burke told the *Australian* that, following a “constructive conversation” with the Australian Resources and Energy Employer Association, Labor would “consider” implementing a “multi-factor” test proposed

by the industry group as a means of excluding large sections of workers from being classified as “labour-hire.”

Any real dispute over “Same Job, Same Pay” reflects a disagreement between two sections of the ruling elite over how best to make the working class pay for escalating economic crisis, while simultaneously preventing any organised opposition of workers to the increasingly intolerable living and working conditions they confront.

With union coverage at an all time low after decades of betrayals, sections of big business argue that these organisations are no longer needed to suppress wages and the class struggle. On the other hand, Labor and the unions, which have collaborated in the destruction of jobs, wages and conditions over the past forty years, intend to continue in this role.

The profession of concern for labour-hire workers by Labor and the unions is completely fraudulent. The growth of labour-hire, along with casual and other insecure forms of work, was spearheaded by the union-backed Hawke-Keating Labor governments from 1983-1996, through the mass destruction of full-time jobs and the scrapping of centralised wage fixing.

A 2005 Productivity Commission report found that, in firms with at least 20 employees, the number of labour hire workers increased from 33,000 in 1990, before the introduction of enterprise bargaining, to 190,000 in 2002.

The proposed “Same Job, Same Pay” laws are aimed at increasing the dominion of the enterprise bargaining system—and therefore the union bureaucracy and industrial courts—over the working class.

The planned measures follow on from the “Secure Jobs, Better Pay” legislation, hurriedly passed late last year, which was aimed at further subordinating workers to the union bureaucracy and the FWC. While the FWC’s new “intractable dispute” powers have only come into effect this month, they are already being used as a threat by the unions to shut down calls for industrial action and force workers to accept sell-out deals.

The industrial relations reforms are in line with Labor’s broader agenda of real pay cuts for award wage earners and throughout the public sector, in the states, territories and federally, which is being rammed through in close collaboration with the unions.



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