

21/01/15

Senator the Hon Eric Abetz
Minister for Employment
Leader of the Government in the Senate
Parliament House
CANBERRA ACT 2000

Via email: senator.abetz@aph.gov.au and minister@employment.gov.au

Dear Minister,

I am writing to ask that you withdraw a number of pieces of Government legislation relating to workplace relations that are currently before the Parliament. Those Bills are:

1. Fair Work Amendment (Bargaining Processes) Bill 2014;
2. Fair Work Amendment Bill 2014;
3. Fair Work (Registered Organisations) Amendment Bill 2014 and
4. Building and Construction Industry (Improving Productivity) Bill 2013

We make this request based on the multiple, overlapping and ongoing inquiries the Government has commissioned which go directly to the subject matter of the Bills. We refer in particular to the Heydon Royal Commission and the Productivity Commission Review of the Workplace Relations Framework. We also note the continuing review of Competition Law and the Australian Law Reform Commission "Freedoms Inquiry" which also go to workplace relations matters.

It is our strong view that proceeding with the Bills now, in advance of the inquiries being finalised is a deeply flawed public policy process, a waste of taxpayer resources and the Senate's time. It is inevitable that the Government will develop further legislation as a result of some or all of these inquiries, requiring the Parliament to consider the matters again in 2016.

It is bizarre for the Government to be pursuing an extensive legislative program in perfect parallel to multi-million dollar review processes into the exact same subject matter. To do so makes a mockery of both the parliamentary and inquiry processes.

Prior to Christmas the Government announced a 12 month comprehensive review by the Productivity Commission of the workplace relations framework, including the Fair Work Act 2009.

The ACTU is concerned that proceeding with these Bills whilst the review is underway will cause problems for the Productivity Commission in achieving the stated objectives of the review. We are also concerned that proceeding with these Bills ahead of the conclusion of the review will result in considerable uncertainty for business and for workers. There is obviously a great deal of overlap between the content of these Bills and the scope of the Productivity Commission review. Should the Bills be passed, the Productivity Commission will not be in a position to assess the impact of those changes in examining the current operation of the Fair Work Laws and identifying future options to improve the laws.

To proceed with these Bills at this stage also creates an unnecessary regulatory burden for employers and registered organisations in complying with laws which may ultimately be amended twice this year, and more in the year after the conclusion of the review.

We also note that in October, the Government decided to extend the Heydon Royal Commission by 12 months. In the Royal Commission's interim report, Commissioner Heydon declined to make any recommendations for legislative reform until he had concluded his inquiry. In doing so he reflected that "the interests of coherence and breadth will be best served by holding proposals for reform over until [the] Final Report next year." He also noted that "given the extension of the Commission's final reporting deadline, it is premature to make recommendations for reform." It is preposterous to think that the Parliament is in a better position to give due consideration to the effectiveness of these Bills than a Royal Commission established for that precise purpose.

Proceeding with these Bills prior to the Royal Commission's final report would create the same risks of business uncertainty and unnecessary regulatory burdens as proceeding with the Fair Work Amendment Bills.

We also appeal to you to consider the relative priority of these bills, as the Leader of the Government in the Senate. Proceeding with these Bills in the context of the Senate's busy legislative agenda creates an unnecessary burden on Senators, which they will only have to repeat in the coming twelve months. With due consideration to the critical role of the Senate, I will be copying this correspondence to the other Senate leaders and cross bench Senators.

Should the Government determine to proceed with their ideological agenda, aside from the reviews it has commissioned, the ACTU will continue to campaign strongly against the Bills on their merits.

Kind regards,



Dave Oliver
Secretary

- Cc Senator the Hon. Penny Wong
 Senator Christine Milne
 Senator Glenn Lazarus
 Senator Zhenya Wang
 Senator David Leyonhjelm
 Senator John Madigan
 Senator Ricky Muir
 Senator Nick Xenophon
 Senator Bob Day
 Senator Jacqui Lambie