

## Fair Work Legislation Amendment (Secure Jobs Better Pay) Bill 2022 Committee Report

### Overview of the Report

The Senate Education and Employment Legislation Committee handed down its report into the *Fair Work Legislation Amendment (Secure Jobs Better Pay) Bill 2022* on 22 November 2022. To download a copy of the Committee's report, [click here](#).

The committee received 96 submissions, including a comprehensive submission from the Civil Contractors Federation submission, which was provided on 11 November 2022 and is available [here](#).

The Committee, which is dominated by Labor / Greens Senators, has recommended that the bill be passed with eight relatively minor amendments, including:

- the definition of 'small business employer', for the purpose of Part 21 of the bill be increased from fewer than 15 employees, to fewer than 20 employees, including regular and systematic casuals, based on headcount (recommendation 5).
- the 'minimum bargaining period' in s235(5)(i) for the purpose of an intractable bargaining declaration, to provide for a nine month minimum bargaining period commencing after either the nominal expiry date of the agreement or nine months from the commencement of bargaining, whichever is later.

The Committee report also includes a dissenting Coalition report, which recommends:

- The Fair Work Legislation Amendment (Secure Jobs, Better Pay) Bill 2022 is not passed by the Senate.

Importantly, the report also includes additional comments by Senator David Pocock who acknowledges that a small number of provisions *"have caused deep concern across a wide variety of stakeholders"* and as such ***"those provisions of deepest concern should be split out and considered separately with adequate time to work through any unintended consequences, while also ensuring a mechanism to lift wages for all workers."***

### Acknowledgement of CCF Concerns in the Report

It is important to note that the Committee report draws heavily on the points raised by CCF in our submission on the Bill, including the following extracts:

#### On intractable bargaining declaration....

1.87 **The Civil Contractors Federation** expressed concern 'the proposed expanded capacity of the Fair Work Commission to arbitrate the content of workplace agreements will only encourage unions to make unreasonable demands and risk taking us back to a system of centralised setting of wage and conditions'.

Additionally, **CCF** also envisages that there could be:

... a significant increase in the FWC involving itself in protracted bargaining disputes and could potentially be abused by more militant bargaining parties. While it could be desirable to have an arbitration in this regard, there is no definition as to how serious a bargaining dispute must be for such declaration to be made.

#### On abolition of ABCC....

**1.78 The Civil Contractors Federation (CCF)**, as the peak registered employer organisation representing nearly 2000 members who are responsible for the construction and maintenance of Australia's civil infrastructure, are highly alarmed at some of the provisions included in the bill, particularly around the removal of the ABCC.

#### **1.79 According to the CCF:**

... the retention of the ABCC is paramount until the Government can demonstrate an alternative and effective regulatory framework will deliver an equal if not more robust compliance and enforcement regime. The abolition of the ABCC without a 'like replacement' runs the risk of increased industrial disputation, conflict, coercion, unlawful behaviour, and sites being brought to a halt due to industrial action as per the findings of previous Royal Commissions.

1.80 Coalition Senators note what perils the **CCF** believes this bill presents for the civil construction sector.

#### **According to the CCF:**

An infrastructure sector embroiled in industrial disputation has the possibility of threatening the quantum of private sector investment whose collective sum total represents approximately 50% of Australia's total annual investment pipeline, or around \$40 billion per annum. **CCF** contends this unintended consequence is live and a likely probability that will have catastrophic ramifications for displacing workers.

#### On consultation....

**1.19 The Civil Contractors Federation** were frank in their assessment of the consultation period, noting:

... the time frame for response to such an important bill – a bill that risks significant unintended consequences for our industry if not all industries in Australia – is simply too short. Feedback from our Members is that the more they grasp the consequences of what is inside this significant piece of legislation, the more unanswered questions they have

## **Conclusion**

As the Senate Education and Employment Legislation Committee has now handed down its report on the *Fair Work Legislation Amendment (Secure Jobs Better Pay) Bill 2022 Committee Report*, the Bill can be voted upon in the Senate, which is expected in the coming weeks.

Senator Pocock, who has called for the Bill to be split, is widely seen to have the deciding vote on the legislation. CCF has written directly to Senator Pocock outlining our concerns on the Bill and we continue to engage with his office in the lead up to the vote on the Bill.

Chris Melham

24<sup>th</sup> November 2022