Cutting through the Government's spin

The Minister has produced "Fact Sheets" on their proposed IR Omnibus Bill. The problem is, there is a lot of spin to hide the fact that this Bill will leave workers worse off. We've unpacked it for you:

What the Government claims	The truth
The pandemic showed that modern awards are inflexible	Our Award system showed its ability to be flexible and also fair during the pandemic. Modern Awards were changed to facilitate working from home and reduced hours across the board in a quick and fair way that supported employers and protected workers. The Omnibus changes have the Parliament unilaterally over-riding the Fair Work Commission's role with Awards, imposing changes that benefit only employers and removing protections for workers.
Flexible work directives are necessary and fair	These are some of the JobKeeper changes the Parliament supported at the height of the pandemic, however now the Government wants them extended for two years with no payment of JobKeeper, no requirement for businesses to show a reduction in turnover, the protections for workers removed such as access to the Fair Work Commission for arbitration and the workers it applies to can be extended by Ministerial regulation.
Part-time workers will get more flexibility	Part-time workers will lose certainty over their hours and overtime payments. This gives them the uncertainty of casual workers without the casual loading. No part-time worker asked for this; this is a demand from employers to reduce their costs by increasing workers' uncertainty. There will be a lot of pressure on employees to agree to these new arrangements.

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ACTU Australian Unions **For the workers**

The Bill will give an objective definition of casual work

The Bill allows employers to label someone a casual even if they are not. The Bill over-rides important victories workers have had in courts that would stop employers casualising their workforce by simply calling them “casual” to strip away their rights. If the new definition reverses these court decisions, an employer will be able to label **ANY** job “casual”.

The Bill will allow casual workers to convert to permanent

An employer does not have to offer a permanent job, even if regular hours have been worked, if they have “reasonable business grounds” for doing so. This extremely broad definition is a loophole which could be used by employers simply to maintain a casualised workforce. Employers can veto the Fair Work Commission arbitrating if a worker wants an independent decision about their rights.

The Bill is needed to stop “double dipping”

Courts have carefully developed and currently apply rules to prevent any double payment. These have existed for decades. The Bill would override this and retrospectively strip workers who may have a fair claim to lost entitlements for being falsely labelled as casual. Australia has just seen the biggest surge in casual employment ever with 400 000 casual jobs created between May and November. There is no evidence there is widespread concern about this issue beyond the big labour hire companies who have been abusing casual employment for years.

The changes to the bargaining system are needed so productivity, wages and conditions for workers will go up

Not one single change is related to increasing productivity or wages. All of the changes shift more power to employers when bargaining. It is already extremely hard to win pay increases in line with productivity increases, as evidenced by wage increases seriously lagging productivity increases. These changes will make this worse. The changes simply reduce workers’ rights.

Businesses are turning their backs on enterprise bargaining because it is too complex and takes too long

The ACTU reached an agreement with some employers to make bargaining faster whilst ensuring workers are protected during the working groups. The more extreme employer groups rejected these proposals and came back with changes that only benefit employers, stripping them of protections for workers. This is what the Government has adopted, proposals that are a one-way street for employers.

Agreement approvals will be sped up

The Fair Work Commission will have a new timeline of 21 days which, alongside other changes, will limit their ability to ensure an agreement is fair.

Limiting intervention at the approval stage is a good thing

This will prevent unions and others making a case that an agreement is unfair or leaves workers worse off if they were not involved in the bargaining. This limits open justice and reduces protections for workers who are unrepresented. Unions sometimes appear to assist the Commission when they can see an agreement is unfair and is likely to undercut agreements made by other employers in the industry. If one employer is able to unfairly reduce wages, this drives down wages for everyone as it put pressure on competitors.

The Bill "clarifies" the interaction with the National Employment Standards

The Bill stops the Fair Work Commission from ensuring an Agreement does not undercut the National Employment Standards.

The Bill provides less proscriptive pre-approval steps

An employer will:

- Not have to tell workers they have started bargaining and they have a right to be represented for a month
- Not have to provide a copy of the whole agreement including policies contained in it
- Not have to explain the agreement in a way all employees understand (i.e., young people, people whose first language isn't English)
- Be able to cut casual employees out of having a vote

The Bill removes red tape for employees moving between companies

The Bill will allow employers to set up new companies, shut down others as a means of cutting workers' pay and conditions.

Penalties for employers engaging in wage theft are too low

The Bill overrides stronger penalties that currently exist in QLD and Victoria.

Companies may not invest in major projects if they do not get longer Greenfields agreements

There was no evidence to support this claim provided during the five months of working groups. Employers conceded it is not a major consideration for any multinational or resource company building a new resource project.

The threshold for Greenfield agreements should be $250 000

This is the extreme end of what employers proposed in the working groups. No large resource project is of that size. Instead, it would allow these agreements to spread to office building projects across the city, which is a recipe for instability. Most major projects are over $1 Billion.

Major project agreements need to be double the length of the current agreements (8 years)

No major project has gone this long. Five or six years is the maximum. This will allow developers to use and abuse these agreements more broadly.

Long Greenfield agreements will benefit employees

These projects have had serious problems, especially with FIFO workforces, where an inability to negotiate fair working conditions, such as rosters that do not cause severe stress and isolation, has lead to mental health issues. 13 workers committed suicide on one such project. No worker or union has asked for or wants these long Greenfield agreements.