

MON 22 JULY 2019

Daily Media Overview



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22 Jul 2019

Australian Financial Review, Australia

Author: David Marin-Guzman • Section: General News • Article type : News Item
Classification : National • Audience : 38,015 • Page: 1 • Printed Size: 252.00cm²
Region: National • Market: Australia • ASR: AUD 5,097 • Words: 668
Item ID: 1148454326

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Page 1 of 1

[back](#)

Exclusive | Dozens of construction workers are facing fines of up to \$42,000 each for walking off a job to protest the removal of CFMEU flags in legal action by the building industry watchdog. **News p8**

ABCC pursues workers on strike over union flags

David Marin-Guzman
Workplace correspondent

Dozens of construction workers are facing fines of up to \$42,000 each for allegedly walking off a job to protest the take-down of Construction, Forestry, Maritime, Mining and Energy Union flags.

The Australian Building and Construction Commission's legal action against 66 workers for unlawful industrial action in Brisbane comes as the Morrison government will this week try to push a bill through the lower house to crack down on lawless unions.

The legal action marks a ramping up of the ABCC's cases against individual workers and is the fourth in as many months under the Coalition's new penalty regime, which lifts maximum fines for individuals from \$14,000 to \$42,000.

However, the case is unusual in that it targets CFMEU members but not the union or its officials, despite the presence of CFMEU delegates on site.

The alleged industrial action took place at Rich Lister Tim Gurner's \$600 million luxury apartment project in Fortitude Valley, where builder Icon was constructing a tower with 267 apartments.

In its statement of claim, the ABCC alleges more than 100 workers from five subcontractors met with two CFMEU representatives in the smoko sheds on the morning of September 18.

At the meeting, workers allegedly discussed employers taking down "union flags", as well as workers being on site despite rostered days off and alleged personality clashes with the project safety officer.

One of the issues was the officer taking photos of safety issues on site but with the workers included in the photo.

Following the meeting, 66 workers did not return to the job for the rest of the day.

The ABCC alleges the workers "prevented each of these [subcontractors] providing building work to the project as required" but did not allege the CFMEU delegates organised the action.

CFMEU construction division secretary Dave Noonan said the case "exposes the government's claim that this is all about lawless unions".

"This is actually about the government prosecuting individual workers," he said.

"The community would wonder why government agencies would spend such huge amounts of money and legal resources to try to punish workers for taking industrial action when wage theft is rampant across the economy [and] when we've got a crisis in confidence in building standards."

The Morrison government is expected to highlight CFMEU lawlessness so as to pressure Labor on its so-called Ensuring Integrity Bill.

The bill expands the grounds for courts to deregister unions and disqualify unionists, including for repeatedly breaching industrial laws and for "obstructive" unprotected industrial action by members.

However, Mr Noonan said that "when you see the sort of attacks on ordinary working people from this government you have to wonder why the Parliament would want to give them more powers [through the Ensuring Integrity Bill]".

Master Builders Association chief executive Denita Wawn said claims the bill would disadvantage construction workers were "disingenuous and unfounded".

"Workers in the construction industry can only win from laws that mean unions and their officials that deliberately and repeatedly bully and break the law will face

real consequences," she said.

"Sections of unions that refuse their toxic culture can be targeted without disadvantaging members and officials who refuse to obey the law like everyone else will not retain their positions of privilege and power."

The bill, which also proposes a "fit and proper person" test for officials, is likely to threaten the positions of CFMEU leaders, including powerful Victorian secretary John Setka.

Mr Setka is refusing to step down over a conviction for harassing his wife, despite calls from the ACTU and a dozen major unions. He claims to have the support of his members.

Mr Noonan, who has backed Mr Setka, said "the whole approach of the bill is for the government to take away the right of workers to be represented by officials of their choice".



22 Jul 2019

The Australian, Australia

Author: Ewin Hannan • Section: General News • Article type : News Item
Classification : National • Audience : 94,448 • Page: 4 • Printed Size: 230.00cm²
Region: National • Market: Australia • ASR: AUD 5,097 • Words: 610
Item ID: 1148438283

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Page 1 of 1

[back](#)

At \$200k, celebrity chef 'got off lightly'

EXCLUSIVE

EWIN HANNAN
WORKPLACE EDITOR

Attorney-General Christian Porter has declared the \$200,000 "contrition payment" by celebrity chef George Calombaris a "light penalty", saying he had an "open mind" about legislating higher penalties for the underpayment of wages, including criminal penalties for serious repeat offending.

Mr Porter told *The Australian* he believed many Australians would agree the payment made by Calombaris through an agreement with the Fair Work Ombudsman was light given 515 workers were underpaid \$7.8 million over six years.

"My sense is it was light," he said. "The sheer quantum of the underpayment and the period of time under which it spanned seemed to me that, as a penalty under the system, that that was a light penalty."

Mr Porter said the appropriateness of the current penalties for underpayment of wages would be examined by the government as part of its review of the industrial relations system.

"As to the proposition that there could be further penalties for underpayment, including at the very, upper reaches, criminal penalties, I think that is a debate and discussion worth having, and I am open-minded to it," he said.

"But those types of penalties would have to realistically be reserved for the most serious instances of underpayment. I think, generally speaking, they would be indicated by many counts, so repetitive underpayment, or, indeed, people who have a history of doing this type of thing previously."

Calombaris, who faces union calls to be dumped from *MasterChef* over the scandal, said last week the underpayments were self-reported and wages owed had been backpaid to all but a handful of workers.

Speaking generally, Mr Porter said "self-reporting and backpaying might not necessarily be an indication of good faith or of accidental underpayment — in some instances it might be an indication that underpayments were so repetitious and so gross you had no choice but to confess".

"The measure is not whether or not it is self-reported. The measure would be: how many breaches were there? Over how many years did they occur? Has the person a history of this type of behaviour inside their organisation or inside other organisations they've been involved with?"

He said the Calombaris case was an "instance, in my observation, of a very serious pattern of underpayment of employees but we need to have a debate and a public consultation through our IR review process as to where you might draw the line of seriousness past which people would be subject to criminal penalties".

"I am sure in airing this issue and debating it through our IR review process, that that particular example will be one of several which will be considered as to whether or not the present penalties are sufficient. I must say I am open-minded to views that are put that they are presently not sufficient," he said.

Mr Porter said he would listen to employers, unions and individuals about the adequacy of current penalties and "if you were to take the step of having criminal penalties

for serious, repetitious instances of underpayment, how would you define those?"

The government will this week bring on a bill to make it easier to deregister unions and disqualify union officials for debate in the lower house. In response to proposed amendments, Labor workplace relations spokesman Tony Burke said yesterday the opposition "still had significant problems" with the Ensuring Integrity Bill.

"We will not support a bill that could leave workers without the representatives that protect them from wage theft, superannuation theft and dangerous workplaces," he said.

Mr Porter dismissed Mr Burke's response as political spin.

'I think that is a debate and discussion worth having, and I am open-minded to it'

CHRISTIAN PORTER
ATTORNEY-GENERAL



22 Jul 2019

Age, Melbourne

Author: David Crowe • Section: General News • Article type : News Item
Classification : Capital City Daily • Audience : 69,863 • Page: 1 • Printed Size: 403.00cm²
Region: VIC • Market: Australia • ASR: AUD 24,800 • Words: 838 • Item ID: 1148452099

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Page 1 of 2

[back](#)

PM draws line on drought

David Crowe

Prime Minister Scott Morrison has rejected offers to negotiate on a \$3.9 billion drought fund in a hard-line approach to the resumption of Parliament this week, piling pressure on Labor to accept his plan without change.

Mr Morrison is refusing to do deals with Labor or the crossbench on the Future Drought Fund plan, despite intense objections to the use of federal cash once promised for major infrastructure projects.

The dispute is one of five clashes in Parliament in the coming fortnight as the government tries to pass the drought fund, new checks on unions, tougher controls on the return of foreign fighters and criminal sanctions on protesters who storm farms while also repealing the refugee medical transfer laws put in place in February.

Opposition Leader Anthony Albanese insists drought relief should come from general revenue.

NEWS Page 4

PARLIAMENT PM's hardline stance

'No deals' on \$3.9b drought relief bill

David Crowe

Prime Minister Scott Morrison has spurned offers to negotiate on a \$3.9 billion drought fund in a hard-line approach to the resumption of Parliament this week, piling pressure on Labor to accept his plan without change.

Mr Morrison is refusing to do deals with Labor or the crossbench on the Future Drought Fund proposal despite intense objections to the use of federal cash once promised for major infrastructure projects.

The dispute is one of five clashes in Parliament in the coming fortnight as the government tries to pass the drought fund, new checks on unions, tougher controls on the return of foreign fighters and criminal sanctions on protesters who storm farms while also repealing the refugee medical transfer laws put in place in February.

Opposition Leader Anthony Albanese is backing the proposal to spend more on drought relief but wants the cash to come from general revenue rather than the old infrastructure fund.

At stake is a \$3.9 billion cash reserve, called the Building Australia Fund, which has been dormant for six years under the Coalition after being set up by the former Labor government to pay for road and rail projects.

The government stance may force Labor to acquiesce to the policy to avoid the risk of voting against drought relief.

Mr Morrison said Labor needed to

"answer a simple question" about whether it would support farmers.

"Labor are out of excuses on opposing our Drought Future Fund. They need to tell our farmers whose side they are on," he said. "Drought funding is not something we should be having to make deals on, it should be a no-brainer, something that should just get done."

The government bill is the second attempt to repurpose the Building Australia Fund, given a proposal last year to use it to set up a National Disability Insurance Scheme fund.

Mr Albanese said farmers needed new funding that did not take money away from infrastructure including projects in regional Australia.

"Farmers deserve more – new funding to cope with this drought in addition to support for better rail and roads to boost the productivity of their communities," he said.

The government's defence against this Labor attack will be that it is spending \$100 billion on infrastructure over a decade.

"There is not one road, there is not one dam, there is not one railway sleeper that has been taken away from our infrastructure program by going ahead with the Future Drought Fund," Mr Morrison said.

A similar row looms over a separate government attempt to repurpose the Education Investment Fund, which also holds \$3.9 billion and is a modified version of a fund set up by Peter Costello as treasurer in 2007.

The government wants to transfer the education fund into a new



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Page 2 of 2

[back](#)

Emergency Response Fund to help with natural disasters.

Agriculture Minister Bridget McKenzie, the Nationals deputy leader, would gain authority under the new bill to allocate \$100 million a year from the Future Drought Fund, starting from July next year.

While the government will use this fortnight of Parliament to demand rapid decisions by Labor, some of the bills have taken months or years to go to a vote.

Labor and the Greens have rejected the Ensuring Integrity Bill, which imposes new criminal penalties on union leaders who abuse their power, and which was introduced into Parliament in August 2017 before lapsing at the election.

Attorney-General Christian Porter is expected to put the industrial relations bill to a vote in the lower house on Thursday.

The government will also resume debate on a bill to impose criminal penalties on protesters, such as vegan activists, who organise or conduct protests on farms.

The major parties are at an impasse on the medical transfer of refugees from Manus Island and Nauru, with the government unable so far to gain the numbers it requires in Parliament to repeal the regime legislated in February.

The foreign fighters bill gives Home Affairs Minister Peter Dutton the power to issue a "temporary exclusion order" to prevent any Australian citizen aged 14 years or older from returning to Australia for up to two years.

