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Daily Media Overview



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Integrity law open to abuse, says ACTU

The Australian, Australia, General News, Ewin Hannan

26 Jul 2019

Page 5 • 553 words • ASR AUD 6,848 • Photo: Yes • Type: News Item • Size: 309.00 cm² • National • Australia • Ministers and Department - Press • ID: 1150289972

Employers in conflict with unions would potentially be able to apply to the Federal Court to get a union official disqualified or a union deregistered under proposed laws before federal parliament, the Coalition has confirmed. The ACTU has warned employers and employer groups would be able to exploit the provisions of the Ensuring Integrity Bill, currently before the lower house, to get union officials banned or unions deregistered.

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Audience

94,448 CIRCULATION

Keywords

Attorney-General(2),Christian Porter(2)

IT IS TIME WE ALL ACTED ON THE UNIONS' LAWLESSNESS

The Australian, Australia, General News, James Pearson

26 Jul 2019

Page 14 • 890 words • ASR AUD 7,801 • Photo: No • Type: News Item • Size: 352.00 cm² • National • Australia • Crime Prevention, Enforcement & ACLEI - Press • ID: 1150290929

The Ensuring Integrity legislation would do much to rein in the likes of the CFMEU In August 1985 Bob Hawke proclaimed that the Australian government had had enough of "the Building Labourers Federation's complete disdain for the law, and frequent resort to practices of thuggery and physical coercion", which "have no place in our society".

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26 Jul 2019

Australian Financial Review, Australia

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Target practice

Exclusive | The scrutiny of financial services providers will be expanded beyond the major banks to superannuation and insurance companies whose chief executives will be compelled to front public hearings in Canberra at least once a year.
Phillip Coorey p7

Super, insurance chiefs to face MPs

Phillip Coorey
Political editor

The federal government will boost the public scrutiny of financial services providers by expanding the number of chief executives who must appear at least once a year before Parliament's Standing Committee on Economics.

The committee has regularly grilled the CEOs of the big four banks since 2016 when Malcolm Turnbull and then-treasurer Scott Morrison were trying to stave off a royal commission.

The hearings continued during and after the royal commission and Treasurer Josh Frydenberg will instruct the committee next week to broaden its scope beyond the big bank bosses.

Chaired by Liberal MP Tim Wilson, the committee will question at least once a year the CEOs of super funds and insurers, which came under royal commission's remit, especially those who fared poorly such as AMP.

Industry groups including the Australian Bankers' Association will also be requested to appear although the financial regulators will be spared.

Those appearing will be required to report on their progress in implementing the recommendations of the royal commission.

"Public accountability is critical to restoring trust and confidence in our financial system," Mr Frydenberg said.

The committee is the same on that toured the country ahead of the election inquiring into the impact of Labor's plans to end cash refunds for excess franking credits.

The development came as Mr Morrison hit back at claims by Labor that his government was dragging its feet on legislating the recommendations of the Hayne royal commission.

Of the 76 recommendations, 40 require legislation and last week *The Australian Financial Review* reported

that it was highly unlikely that process would be completed this year.

Mr Morrison said implementing the recommendation were "a very, very significant priority of the government" but he wanted to get it right.

"There is currently quite a bit of legislation out there in exposure draft form for public consultation," he said.

"We have to be very careful in the precision of this legislation when it comes forward into the Parliament.

"I'm not going to rush that and see things put into legislation that could have been addressed through the consultation period that would otherwise have avoided some unintended consequence.

"I don't understand Labor's position. What are they expecting, that we should have some rushed and harried legislation? That's how you end up with pink batts fiascos and overpriced school halls."

A handful of changes were legislated before the election Labor has been criticising the government for not prioritising the royal commission response in the post-election Parliament.

The first sitting week at the start of July was devoted to passing the income tax cuts which were time-sensitive.

This latest sitting fortnight has been reserved for a battery of bills the government presented as "a test" for Labor.

These included a bill to establish a \$5 billion drought future fund and one to grant the Home Affairs Minister Peter Dutton the power to prevent for up to two years the return to Australia of citizens deemed a threat, such as foreign fighters in Syria.

The government is also prosecuting bills on border protection and industrial relations, including the Ensuring Integrity Bill, which facilitates the deregistration of unions and union officials by the Federal Court.

Labor has accused the government of being fixated on unions while ignoring

the now-documented behaviour of the banks and corporate wage theft.

"There's a number of recommendations that they could act on: conflicted remunerations, some of the changes to insurance policies, the way that insurance is sold," said shadow assistant minister for financial services Matt Thistlethwaite.

"We saw some of the revelations in the royal commission, particularly about insurance products being pushed onto people, codes of conduct, making them compulsory. All of these issues we believe could be acted on quite quickly by the government.

"I know that they're being reviewed, they're going to committees, but we think that they could have been done much more quickly and at least the legislation introduced.

"The Treasurer's response was that it's in the pipeline, we think that's not good enough when you're talking about a serious issue that really dominated politics over the course of the last year in terms of what's gone on in banking and finance."

Before the election, the government legislated to increase criminal and civil penalties for corporate and financial sector misconduct, to ban superannuation funds from inducing employers, and to introduce design and distribution obligations for all financial and credit products within the Australian Securities and Investments Commission's regulatory responsibility.

It also released draft legislation to ban grandfathering of conflicted remuneration paid to financial advisers and released consultation papers on four other recommendations.



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Key points

Parliament's economics committee will look beyond questioning bank bosses.

CEOs will be asked about their progress after the Hayne royal commission.



Josh Frydenberg says public accountability is crucial. PHOTO: ALEX ELLINGHAUSEN



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Integrity law open to abuse, says ACTU

EWIN HANNAN
WORKPLACE EDITOR

Employers in conflict with unions would potentially be able to apply to the Federal Court to get a union official disqualified or a union deregistered under proposed laws before federal parliament, the Coalition has confirmed.

The ACTU has warned employers and employer groups would be able to exploit the provisions of the Ensuring Integrity Bill, currently before the lower house, to get union officials banned or unions deregistered.

The bill allows any person with a “sufficient interest” to apply to the Federal Court for orders to disqualify an officer or deregister a union.

Asked whether employers in conflict with a union could potentially apply for such orders, Attorney-General Christian Porter told ABC television: “That’s one potentiality but it’s no different from the rules that allow shareholders of organisations to (take) certain actions against the corporation they are a shareholder of.”

Mr Porter said the test was “not unusual” and existed in other industrial relations law. Lower house debate on the bill has been pushed back to next week after other bills took up yesterday’s sitting.

The Attorney-General said

draft proposals to criminalise serious exploitation of workers would be circulated for consultation “in the next month or so”.

He said the government would need to consult with employers and employees to consider the level at which criminal penalties would apply for underpayment of workers.

“I think the things you are looking at there: Is the amount of underpayment very large? Is it sustained? Has there been clear evidence to show that the person who has underpaid the workers has done so knowingly? These are the types of instances I think that would see criminal penalties conceivably apply,” he said.

Asked if criminal penalties should apply in a case such as celebrity chef George Calombaris where \$7.8 million was underpaid over six years to 515 workers, he suggested a range of criteria needed to be met before underpayment was treated as a criminal matter.

He said his instinct was criminal penalties could apply where an employer was knowingly responsible for large amounts of underpayments to workers over a long period and the company sought to conceal the conduct.

“Some of those criteria appear to be exhibited in the Calombaris matter, but not all of them ...

they’re the types of things you’d be looking at, but it would be a case-by-case determination,” he said.

Mr Porter said he understood the underpayments were self-reported in the Calombaris case, but it was “still egregious—it was a very, very large amount of money over a long period of time”.

He said he had sought an explanation from Fair Work Ombudsman Sandra Parker about why the regulator did not take Calombaris to court and instead entered into an enforceable undertaking in which he agreed to a \$200,000 contrition payment.

Mr Porter has said Calombaris received a light penalty and the theft of wages by the celebrity chef was “deplorable”.

He said the FWO made a judgment about the circumstances of Calombaris, including the overall state of his business and his conduct, and his self-reporting of the underpayments.

He said he did not believe the FWO’s willingness to strike agreements with underpaying employers rather than take court action was one of the reasons companies believed they could get away with wage theft.



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KYM SMITH

Christian Porter yesterday



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IT IS TIME WE ALL ACTED ON THE UNIONS' LAWLESSNESS

The Ensuring Integrity legislation would do much to rein in the likes of the CFMEU

JAMES PEARSON

In August 1985 Bob Hawke proclaimed that the Australian government had had enough of “the Building Labourers Federation’s complete disdain for the law, and frequent resort to practices of thuggery and physical coercion”, which “have no place in our society”.

Like today’s government, Hawke was responding to a royal commission report into union behaviour that had found the BLF had placed itself “above the law” by invading offices, destroying property, employing standover tactics and costing the country millions through questionable industrial action.

Fast forward almost 35 years and another royal commission into union behaviour has highlighted deplorable conduct by several unions that has resulted in criminal charges ranging from blackmail and participating in a

criminal group to fraud. And a Federal Court judge, Geoffrey Flick, describes a union, now the Construction Forestry Maritime Mining and Energy Union, as an organisation that has “repeatedly sought to place itself above the law”.

The controversy surrounding CFMEU Victorian boss John Setka’s behaviour is another wake-up call. We must not forget the CFMEU’s long list of repeated and wilful contraventions of industrial laws and the 70 or so CFMEU union officials still before the courts.

Now don’t get me wrong; registered organisations, whether they be unions or employers associations, play an important role in our community. Aside from providing advice and support to their members, they can play a central role in ensuring productive communications between workers and management. But just as Australia

lians expect decent conduct from our corporations, not-for-profits and other institutions, we expect the same of our registered organisations and the people who lead them. They enjoy special rights and privileges that other people do not, including tax exemptions and the right to enter private property.

In 2017 the Federal Circuit Court made clear in handing down yet another conviction against the CFMEU that “the court can do no more with the tools available to it to ensure compliance with the industrial regime ... If the community at large are not satisfied with the actions of the court to ensure compliance with the Fair Work Act, then the next step is a matter for the parliament.”

Parliament now has a bill before it that would restore balance and rekindle public confidence in the conduct and operation of registered organisations and officials.

The Ensuring Integrity Bill seeks to lift their standards by introducing a fit-and-proper-person test. It brings in a regime to sanction those who repeatedly break the law, act in a corrupt manner

or commit serious offences. The government is proposing a significant step-up in accountability by allowing the federal courts to prohibit an official from holding office or cancelling the registration of an organisation. But there must come a point at which the government, on behalf of our community, says “enough”.

Sadly, the last time the bill was before parliament, misleading claims spread by some self-interested parties overshadowed the understanding of how important it is to call out and put a stop to unacceptable behaviour, no matter who is doing it.

When banks do the wrong thing, we expect them to be held to account, as we do when employers do the wrong thing.

The time has come for us to



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hold unions and other registered organisations to account. Our laws should not tolerate officials who seek to intimidate building inspectors when they enter construction sites, and our laws surely should not tolerate anyone holding office who resorts to physical violence and harassment.

Some no doubt will try again to mislabel the reforms in the Ensuring Integrity Bill “union bashing”.

The reforms, in fact, apply equally to employer associations and unions, and largely mirror the standards we have set for companies and directors under our corporation laws.

Very few groups are ever enthusiastic about being regulated. Both employer associations and unions are equally regulated by the Ensuring Integrity Bill.

The fact unions are opposed to it, while employer associations support it, raises the question: if employer associations are ready to be held to account, why aren't unions? Why are unions so afraid to clean up their act and remove bad apples?

Australia has come a long way as a free, tolerant and respectful society since Hawke had the tenacity and courage to deregister the

BLF “in the interests of society”. But Hawke's calls for reform to address the behaviour of those in leadership positions in industrial organisations who have shown contempt for the system and values of our society still ring true.

Australians have shown considerable patience in the face of repeated failures by registered organisations and their officials to adhere to our industrial and criminal laws.

However, if we as a society want to see more than emotive headlines and apologies then we should support action by the government to tackle this issue.

Organisations and individuals we endow with special rights and privileges must live up to the standards the community expects and deserves.

That's why the Australian Chamber of Commerce and Industry is calling on parliamentari-

ans to pass the Ensuring Integrity Bill.

After all, the standard we walk past is the standard we accept.

James Pearson is chief executive of the Australian Chamber of Commerce and Industry.

Our laws surely should not tolerate anyone holding office who resorts to physical violence and harassment

