

AUSTRALIAN GREENS' DISSENTING REPORT

Overview

1.1 In considering the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 it is appropriate to note the role played by the Australian Building and Construction Commission (ABCC) during its seven years of existence.

Conduct of the ABCC

1.2 The way this body acted provides an insight into the impact these bills could have if passed. The ABCC failed to act as independent regulator committed to the best interests of the industry, the conditions of the workers and the needs of legitimate employers.

1.3 This ABCC was unwilling or unable to address industry employers engaging in illegal activities including the widespread use of misleading contracts. Construction companies signing up workers as independent contractors instead of hiring them as employees remains a serious issue that reduces industry standards. For employees it means they lose basic work and safety rights.

1.4 The construction industry is one of this country's top four most dangerous industries. The ABCC never took an employer to court over breaches of occupational health and safety laws. The number of deaths in the construction industry increased during the period that the ABCC was in operation. In 2004 the number of deaths was 3.14 per 100,000 workers. In 2007 it stood at 4.8 and in 2008 at 4.27, per 100,000 workers.

1.5 The coercive powers of the ABCC, which could subject construction industry workers to secret interrogations and force them to answer questions under oath, resulted in construction workers having fewer rights than other workers.¹

Particular issues with the bills

1.6 Legal experts who submitted to the inquiry state the ABCC's investigative powers are anomalous in a modern system of industrial relations, particularly in a nation that values political and industrial freedoms.²

1.7 Other submitters pointed out that the source used by Minister the Hon. Eric Abetz MP to allege the ABCC had enhanced industry productivity has now been so critiqued that it cannot be considered credible.³

1 See for example, Construction, Forestry, Mining and Energy Union, *Submission 7*.

2 See for example, Ms Nicole McGarrity and Professor George Williams, *Submission 1*.

1.8 The explanatory memorandum for the Building and Construction Industry (Improving Productivity) Bill 2013 states that it is compatible with human rights. However the bills have not yet been considered by the Parliamentary Joint Committee on Human Rights or the Senate Standing Committee for the Scrutiny of Bill, leaving their compatibility an unresolved question.

1.9 This is particularly problematic as the majority report notes at paragraph 1.27 that 'A number of human rights are engaged by the bill, including: the right to freedom of association, the right to just and favourable conditions of work, the right to a fair trial, the right to peaceful assembly, the right to freedom of expression, and the right to privacy and reputation.'

Conclusion

1.10 The ABCC was biased in its work as it was driven by an ideological attack on construction workers and unions. Further, in recent years Australia's construction industry laws have been condemned by the International Labour Organisation six times. For these reasons the Australian Greens reject the bills in their entirety.

Recommendation

The Australian Greens recommend that the Building and Construction Industry (Improving Productivity) Bill 2013 and the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 not be passed.



Senator Lee Rhiannon
Australian Greens

3 See for example, Professor David Peetz, *Submission 2*; Australian Council of Trade Unions, *Submission 6*.