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Business groups agree to deal on IR changes

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Exclusive | Most major employer groups and unions will sit down with Workplace Minister Tony Burke tomorrow for an all-day meeting to hammer out exemptions to the Albanese government's plans to regulate labour hire. The Australian Resources and Energy Employer Association will attend along with the Minerals Council despite it leading an advertising blitz against the changes. All attendees must sign confidentiality agreements.

► **Jennifer Hewett p2**

Business cuts a deal on workplace rules

Workplace Relations Minister Tony Burke's obvious delight at the willingness of a key business group in the resources industry to contemplate a deal over the same job, same pay legislation will reverberate through a confidential meeting with business and union leaders on Friday.

Rather than directly participating in the combined business advertising campaign to try to force Labor to alter its plans, the Australian Resources and Energy Employer Association believes the government will proceed with them despite the public showdown with an outraged business community.

According to chief executive Steve Knott, AREEA "firmly believes" there's no justification for the government's legislation, arguing it will be detrimental to the whole economy.

"That said, based on our consultations, AREEA's formed the view the government will legislate same job, same pay in some form sooner rather than later," he tells *The Australian Financial Review*.

"Our focus has therefore shifted towards influencing how the policy is implemented and to push the position that any new employer obligations are appropriately ringfenced around labour hire and doesn't impact the critical contracting supply chain."

This focus includes introducing a "multifactor" test to ensure its specialist contractor members would be excluded from any definition of the labour hire companies being targeted by the government.

Other business groups also support strict limits on the application of the government's claim that labour hire companies pay their employees the same terms and conditions as those workers directly employed by companies.

But broader business community concerns about the impact of the government's plans means they want simplification and across-the-board exemptions affecting all businesses, rather than arrangements particularly affecting the resources industry.

Tania Constable, the chief executive of the Minerals Council, which is

spearheading the ad campaign, says there's no need for a "convoluted" approach to exemptions.

"The business community is very aligned on the view we want to see all service contractors and related entities out altogether and a clear definition of labour hire in its most simple form and of what same job, same pay looks like," she says.

It still means the government will try to leverage AREEA's stance into a similar protective role to that of the Council of Small Business Organisations last year.

The council's initial temporary support for the concept of multi-employer bargaining gave Burke political cover to claim Labor's sudden embrace of multi-employer bargaining had some support in the business community.

While the AREEA remains strongly opposed to the government's latest round of reforms, it is taking a very different approach from its uncompromising stance last year against multi-employer bargaining.



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This included funding its own ad campaign against the legislation. At the time, most business groups remained more muted in their hostility despite being blindsided by Burke.

Burke is repeating his airy dismissal of business concerns when it comes to the second tranche of industrial relations changes. His constant references to closing loopholes that rip off workers reflect confidence he will again get support from Greens and crossbenchers in the Senate.

AREEA has decided to take that now familiar political play as a given. That led to it taking several CEOs from its specialist contractor members to meet with Burke and departmental officials in Canberra on June 9.

These companies include specialist maintenance, facilities, engineering and production operators in the mining and oil and gas sectors. The multi-factor test the association proposes includes checks such as whether the specialist contractors use their own equipment,

operate under their own supervisory arrangements and work rosters, and bear commercial risk.

According to Knott, specialist contractors in the mining and gas sectors are commonly used to deliver

defined projects on a fee or contract basis. He says if the government were to capture non-labour hire in the same job, same pay legislation, the administrative burden alone would render commercial contracts unviable and leave a gaping hole in the mining and resources workforce.

Burke praised the meeting as “constructive” and indicated he would have officials work on options based on AREEA’s proposals.

Friday’s scheduled meeting of the National Workplace Relations Consultative Council will involve a range of business groups and union representatives for confidential discussions with the minister and officials over details of the bill.

All attendees must sign non-disclosure agreements. Some of the council’s official business representatives, including the Master Builders Association – an often

trenchant critic of government policy – have not been invited.

“The business community as a whole doesn’t think the government has adequately defined the problem it is trying to solve,” Constable says. “This is going to hit every worker and every business and sap productivity just when we need it most.”

“If you start to put these policies in place without associated productivity, the only thing that will happen is that inflation will stay high and interest rates will go higher.”

BHP and Qantas are both big funders of the ad campaign and are particular targets for union ire. Unions object to different pay rates offered to airline contractors or to production and maintenance workers employed by BHP’s internal contracting group, Operation Services.

The union movement argues changes are needed to end exploitation and insecure work.

Yet according to research compiled by the Australian Industry Group, there were only 145,000 labour hire workers in 2022. This equates to just over 1 per cent of the total workforce – a stable percentage over many years – and includes many skilled professional workers. The public sector employed 18,400 labour hire workers, equivalent to 0.9 per cent of its workforce – similar to the private sector at 1.09 per cent.

Friday’s protracted confidential meeting should be a doozy.

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Tania Constable, chief executive of the Minerals Council. PHOTO: TREVOR COLLENS