

Miners seek more workplace flexibility

Steven Scott and Mark Skulley

The mining industry is leading a push for changes to Labor's new workplace laws after a union fightback against individual flexible arrangements that has embroiled the construction and manufacturing industries.

Employers yesterday welcomed a full-bench ruling by Fair Work Australia that overturned a previous decision on individual flexibility arrangements that would have narrowed the scope for their use.

However, employers are still worried the flexibility arrangements can be cancelled with 28 days' notice, undermining business certainty and prompting some workplace lawyers to advise that they be backed up by specific common law contract clauses.

Unions have sought to replace the Rudd government's model flexibility clause, which allows broad changes to working hours and leave to be agreed between employers and employees. They have struck some deals that limit flexibility on protective clothing and the time of morning tea breaks.

The Australian Mines and Metals Association has called for an urgent review of the arrangements before a raft of new resources sector enterprise agreements come up for renegotiation.

The government introduced flexibility arrangements to appease business over the abolition of Australian workplace agreements, which were

Inflexible

The Rudd government flexibility clause in workplace laws

Allows employers and employees to agree on individual agreements that vary the terms of an enterprise agreement if it meets their "genuine needs".

These flexible arrangements can include working hours, overtime rates, penalty rates, allowances and leave loading.

But examples of individual flexibility arrangements (IFA) in union-negotiated deals are narrower

Consistent with current practice, protective clothing and boots will be issued to each employee on a fair wear-and-tear basis. Employees are required to wear and maintain the company-provided clothing and to present in a tidy manner, so as to display a professional company image.

CFMEU Victoria and Bam & Associates

The terms that may be subject to an individual flexibility arrangement are a 15-minute tea break, paid at the rate prevailing at the time, which will be granted two hours after the start of an employee's ordinary hours.

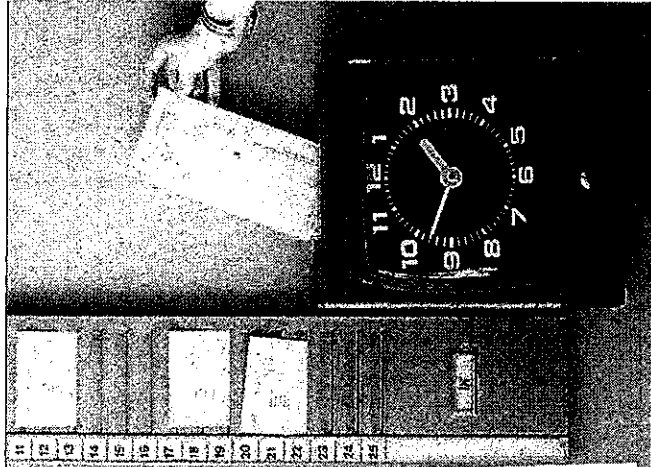
Coates Hire Operations national agreement 2009 with AMWU and CEPU

The employer will on an annual basis allow each employee to take up to 10 days' annual leave in single day absences.

Parmalat Rowville AMWU-ETU enterprise agreement

The IFA may only vary terms of the agreement relating to flexible working arrangements to assist with an employee's family responsibilities.

Emerald Reo Greenfields enterprise agreement 2009-12



SOURCE: AFR

far short of the commitments we were given about the system in the lead-up to the last federal election," he said.

"Under the new laws, it's nearly impossible for an employer and employee to sit down and negotiate basic things such as consultation on major workplace changes, dispute resolution, ordinary hours of work, maximum weekly hours, and annual leave."

A spokesman for Workplace Relations Minister Julia Gillard said the review of the arrangements had been set for July 2012 to provide a "meaningful level of data" and there was "no valid reason" to bring it forward.

The workplace struggle over flexibility arrangements began last year with a four-day strike and lockout at a Campbell's Soups factory in Victoria, where management wanted to use the government's model flexibility agreement in a new enterprise agreement.

After strong opposition from the Australian Manufacturing Workers' Union, the company agreed to offer flexible working arrangements only if there was majority support for them.

AMWU national secretary Dave Oliver said yesterday the union would negotiate on flexibility but would oppose employers seeking to "contract out" agreements or awards through reducing penalty rates and shift rates.

Fair Work Australia yesterday overturned a decision by Commissioner John Ryan that a flexibility arrangement could not vary a term in an underlying enterprise agreement.

cover a wider range of matters. They also want flexibility arrangements to have terms up to three years and the right removed to terminate the arrangements with 28 days' notice.

Mr Knott also called for employees covered by such deals to lose the right to strike. "This current system falls

strongly supported by AMMA and big miners such as Rio Tinto and BHP Billiton.

But AMMA chief executive Steve Knott will argue in a speech today at the association's annual conference in Perth that flexibility arrangements are not improving productivity or

making work practices more flexible. Mr Knott will urge the government to fast track a review of flexibility arrangements scheduled for 2012.

Resources companies want to be able to make offers of employment contingent on staff signing flexibility arrangements and for the deals to