

FAIR WORK DUMPS AGREEMENT

Business alarm at power of IR body

A ruling by Fair Work Australia has sent shivers down the spines of employers

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EMPLOYERS are alarmed that businesses and workers could be subject to compulsory arbitration of workplace disputes, after federal Labor's industrial tribunal threw out a proposed deal agreed between one of the nation's biggest employers and a prominent union.

Business groups said they were concerned the newly empowered Fair Work Australia was becoming more interventionist after striking out the deal between Woolworths and the shop assistants union.

In what lawyers said was a "significant departure" from previous rulings, the tribunal last week rejected the proposed deal because it did not require nor allow third-party arbitration in relation to a dispute unless both sides agreed.

Workplace Relations Minister Julia Gillard last night acknowledged the ruling was important, and signalled the government could intervene.

"The commonwealth understands this is a significant decision and we are getting advice on the matter," a spokeswoman for Ms Gillard said.

"We understand Woolworths will be appealing the decision and the commonwealth will then make a decision on whether or not to participate in the proceedings."

Opposition workplace relations spokesman Eric Abetz said the decision by commissioner Greg Smith contradicted Ms Gillard's previous position on the workplace laws.

"Julia Gillard said compulsory arbitration would not be a feature of the Fair Work legislation, and it was only going to have a very limited scope," Senator Abetz said.

"Commissioner Smith's decision doesn't fit in line with what Julia Gillard told the Australian people."

Senator Abetz said he believed an appeal against the ruling should be lodged.

Business groups said yesterday they were increasingly concerned that Fair Work Australia was prepared to strike out workplace deals reached in good faith between companies and unions representing employees.

The Australian Chamber of Commerce and Industry said the

tribunal had recently rejected another proposed deal, despite a company and a union agreeing to it.

The chamber's director of



economics and industry policy, Greg Evans, said: "While two hot days don't make a summer, and it is early days for the new Fair Work laws, it would nonetheless be a major concern to business if the newly empowered Fair Work Australia was going to regularly throw out agreements made in good faith between employers and employees.

"ACCI will be closely monitoring the tribunal's decisions over coming months and will be taking our concerns directly to government if necessary."

The Australian Mines and Metals Association said, "other than when an important part of the economy was being disrupted by a dispute", employers and em-

ployees should be able to choose how issues were resolved.

"It is important for parties to be able to access Fair Work Australia where required but it's also important that employers and employees are free to choose other dispute-resolution mechanisms," an association spokeswoman said.

"Taken further, if the employer and employees and, where appropriate, union representing those employees, can all agree on a set of terms and conditions in their workplace, there should be very limited capacity for third parties to prevent those arrangements."

The proposed agreement rejected last Thursday by Mr Smith was to cover workers employed at Woolworths' produce and recycling distribution centre in the Melbourne suburb of Mulgrave.

Under its proposed dispute-resolution procedure, either party could refer the matter to the tribunal for conciliation. They could agree to have the matter arbitrated but, if either party did not agree, the matter could not come before Fair Work Australia.

Mr Smith described this provision as a "power of veto" and found it did not meet the requirements of the Fair Work Act.

"(The act) must be read as creating an obligation to include a procedure that either requires or allows Fair Work Australia or another independent person to settle disputes," he said.