

FIVE URGENT REFORMS

REFORM 5: Replace the Fair Work Commission

AMMA IS ADVOCATING FOR FIVE URGENT REFORMS TO RESTORE SOME BALANCE TO OUR WORKPLACE RELATIONS SYSTEM AND BETTER SUPPORT EMPLOYMENT, INVESTMENT AND GROWTH IN AUSTRALIA'S RESOURCE INDUSTRY.

Reform 5: Replace the Fair Work Commission with modern, balanced institutions by creating an Australian Employment Tribunal and a separate Employment Appeals Tribunal.

Why does the Fair Work Commission need to be replaced?

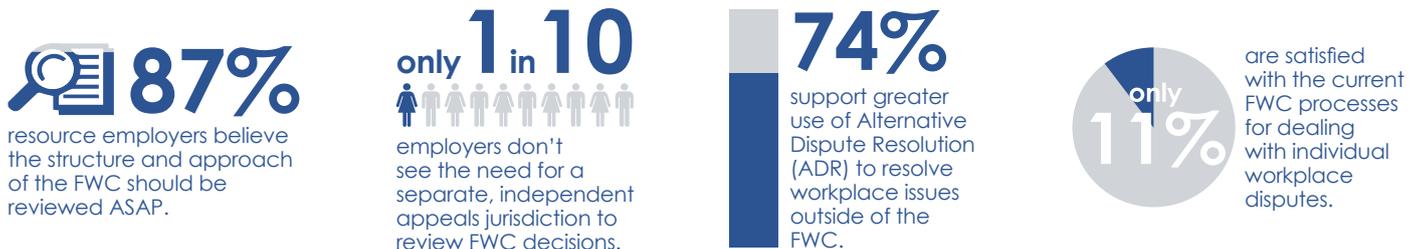
Under the *Fair Work Act 2009* a new national workplace tribunal - the Fair Work Commission (FWC) - was introduced and now oversees a vastly expanded jurisdiction. It is important that employers and employees have the utmost confidence in the FWC and can rely on consistent decision making from its members.

Worryingly, an unprecedented restructuring of the tribunal including a disproportionate number of appointees from trade union or ALP backgrounds has led to perceptions of an imbalance of experience and qualifications among FWC members.

This is exacerbated by concerning signs of judicial activism, with some tribunal members ignoring well established precedent and instead substituting their own decisions for those of business owners and experienced managers.

The Productivity Commission's recent review of Australia's workplace relations framework was also highly critical of the FWC and suggested significant reforms to its structure and decision making and appointment processes.

A 2016 survey of more than 100 resource employers found:



"The industry in which we operate has changed considerably while the labour institutions and regulatory framework has been very slow to respond." – Australian mining sector employer, 2016

How do we improve the Fair Work Commission?

For a start...

- 1.** Replace the FWC with an Australian employment tribunal and separate employment appeals tribunal modelled on international best practice.
- 2.** Build pathways within the employment law framework to assist employers and employees to resolve disputes without heading to employment tribunals or courts.
- 3.** Immediately restore the Australian Building and Construction Commission (ABCC) and establish a Registered Organisations Commission to better regulate trade unions and registered employer groups.

How will Australia benefit if we replace the Fair Work Commission?

The benefits of replacing the Fair Work Commission with a suite of 'fit for purpose' national employment institutions and focused regulators include:

- A national employment tribunal that is fair and balanced, and equipped with highly qualified people with experience from the business sector, will improve the confidence of employers, employees and the community.
- More disputes resolved directly between employers and employees will mean more co-operative and productive workplaces, and less cases clogging up tribunals and courts.
- A separate appeals tribunal would result in fewer matters being appealed to the courts and greater consistency of decision making from the tribunal, thus sending clear signals about the law to both employers and employees..
- Focused and well resourced regulators in the ABCC and Registered Organisations Commission would better uphold Australia's employment laws and promote more productive and harmonious Australian workplaces.

