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Single senator sinks jobs reform

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Almost a year of negotiation and hard work has amounted to little with the government's industrial relations omnibus bill gutted in the Senate and a cloud cast over the potential for future reform.

Responding to the heavy defeat, Prime Minister Scott Morrison left open the possibility of another attempt at IR reform after just one of the five elements in the bill survived – that dealing with casuals.

The other four relating to wage theft, enterprise agreements, award simplification and greenfields agreements were either withdrawn or defeated.

The Australian Chamber of Commerce and Industry, the Australian Industry Group, the Master Builders Association, the Business Council of Australia and the Australian Mines and Metals Association issued a joint statement praising the “much-needed certainty” of the casual reforms.

However, they urged the government “not to abandon the rest of the bill and further efforts need to be made over the months ahead to secure support”.

As the bill was being pulled apart by the Senate yesterday, the government itself withdrew one key element – cracking down on wage theft and underpayment – with the aim of using it as leverage to secure support should it decide to try again for further change.

“I will send them other things to approve. I will send them other job-making initiatives they can support,” Mr Morrison said on a day the unemployment rate fell to a better-than-expected 5.8 per cent.

“If they don't want to support these job-making initiatives, then that is on them. If they don't want to create jobs as much as the government does, then they need to answer to that.”

The ACTU and Labor contended the changes to casualisation would increase job insecurity and they said the government had given the green

light to wage theft by withdrawing the wage theft provisions.

The bill, which was formulated after

months of discussions last year between unions, business and the government, was opposed from the outset by Labor and the Greens.

Crossbenchers Rex Patrick and Jacqui Lambie declined to fully engage, leaving the government dependent on the support of Senator Stirling Griff and One Nation.

While agreement was struck with One Nation on the whole bill in return for amendments to the casual provisions, Senator Griff would only pass the measures relating to casuals and those that cracked down on wage theft and underpayment.

Senator Griff's vote sparked a rift in his two-person Centre Alliance party with lower house colleague Rebekha Sharkie accusing him of not following the party position, saying “where this landed is totally unacceptable”.

She said she and Senator Griff “had agreed that we would only support two parts of the omnibus bill and only if both the business community and the

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unions were in agreement. Those parts related to the definition of casual workers and harsher penalties for wage theft.”

Under the changes achieved, there will be a new definition of a casual and employers must offer them a permanent job after 12 months, or explain why it would not be appropriate – with recourse to the Federal Circuit Court's small claims division for disputes.

Small businesses, defined as 15 or fewer employees, will be exempt from having to offer conversion after 12 months. Instead, the employee can request it.

As well, the bill overturned a precedent set last year by the Federal Court when a labour hire worker was

awarded back pay equivalent to all the entitlements of a permanent worker – but was also allowed to keep the 25 per cent casual loading he had already paid.

This precedent created a potential \$39 billion liability for employers.

Business hopes for reforms now turn to the Fair Work Commission, which is considering more flexibility in hospitality and retail awards, including “all in” rates, streamlined classifications and exemptions for high earners.

The measures include an ACTU-COSBOA proposal similar to the bill's dumped provision that allowed part-timers to work extra hours without overtime penalties, but with more safeguards.

Australian Industry Group chief executive Innes Willox said it was vital that the government does not give up on IR reform.

“To do so would send a terrible message to small and large businesses,” he said.

The rest of the legislation failed because three crossbenchers showed “capitulation to union threats and intimidation trumped the interests of hundreds of thousands of Australians”.

BCA chief executive Jennifer Westacott said the Senate's failure to pass reforms for enterprise agreements was a “betrayal of Australian workers”.

“By failing to make these important changes to the workplace relations system, particularly the EBA system, Australia has been condemned to the slow lane and Australian workers condemned to lower wages,” she said.

“The reforms were very modest, but they would have revitalised the EBA system, which now faces a slow and painful death.”

She said new agreements had fallen 63 per cent since 2008, which was “a disaster” as they paid workers an average \$100 a day more than the award.



It is understood that Senator Griff's colleague Ms Sharkie, who holds the Adelaide Hills seat of Mayo, was threatened by Labor and the unions with a campaign against her. One Nation was issued with similar threats. She said they had supported the ACTU and COSBOA deal on the casual "double dipping" provisions, announced earlier yesterday.

"Those amendments did not pass and consequently Stirling voted in a manner that I do not support," she said.

"I simply cannot support any IR reform that is not supported by both COSBOA and the unions. I cannot support a package that doesn't include wage theft provisions for workers."

ACTU secretary Sally McManus also accused Senator Griff of choosing to "sell out working people".



Crossbencher Stirling Griff, left, with Finance Minister Simon Birmingham in the Senate yesterday. PHOTO: ALEX ELLINGHAUSEN



Senator Stirling Griff in debate over the industrial reform bill with Labor Senate leader Penny Wong, above, Social Services Minister Anne Ruston, below, and crossbenchers Jacqui Lambie and Rex Patrick. PHOTOS: ALEX ELLINGHAUSEN