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What Industrial Relations changes are we likely to be canvassed in the upcoming Federal Election?

It is still a few months away from the next federal election, but the ALP Opposition is clearly focussed on industrial relations policy, as a key election issue. The ALP claims that it is on the side of workers and that workers will benefit from more job security, better pay and a fairer industrial relations system under an Albanese Government - if elected.

The coalition government are yet to respond to the ALPs announcements or provide any alternatives to the current industrial relations environment. This is despite the recognition, in last years' Attorney-General's IR Roundtable discussions, that the system needed repair and the failed introduction of the Fair Work Amendment (Supporting Australia's Jobs and Economic Recovery) Act 2021.

What are the issues and how might these issues affect doing business in public transport terms?

Same Job Same Pay

Anthony Albanese has already flagged his determination to make working conditions a major election battleground by introducing into Parliament a *Fair Work Amendment (Same Job, Same Pay) Bill 2021* to ensure that workers, employed through labour hire companies, receive no less than workers employed directly.

While the changes will not stop employers using temporary labour hire it would end the business model that provides an economic incentive for companies to undercut the wages of workers in permanent jobs who have been able to improve their position through collective bargaining.

Job Security

An Albanese Government, if elected, claim that they will improve job security by:

- making job security an object of the Fair Work Act 2009, so that it becomes a core focus for Fair Work Commission (FWC) decisions.
- extending the powers of the FWC to include 'employee-like' forms of work, such as those seen in the gig economy, allowing to better protect people from exploitation and dangerous work conditions.
- legislating a fair, objective test to determine when a worker can be classified as a casual, so that people have a clearer pathway to permanent work. It is not known how this object will overlap with recent legislation to enable casual employees to convert their employment to permanent or part time employment. It is of importance to the passenger transport industry where a large proportion of drivers, in the latter stage of their working careers, choose the flexibility, to remain in casual employment
- working with state and territory governments, unions, and industry to develop portable entitlement schemes for annual leave, sick leave, and long service leave for Australians in insecure work.



A Fairer Industrial Relations System

An Albanese Government will abolish the Registered Organisations Commission (ROC), presumably returning its powers to the Fair Work Act 2009. They would also abolish the Australian Building and Construction Commission (ABCC), claiming both bodies have been used as political weapons against the union movement and workers.

It is possible that an Albanese government will consider the restoration of the Road Safety Remuneration Tribunal (RSRT), which was disbanded by the Turnbull government in 2016. The RSRT sought to set employment terms and conditions in the road transport industry. Passenger transport was exempt (except where passenger transport provided freight transport services).

It appears that, despite the major trade unions advocating strongly for the power to pursue multi-employer and sector wide industry pay claims to drive higher wages, the Albanese Labor opposition has shown a reluctance to make this an election promise.

Other issues that are still on the table, include:

- the current process to determine annual minimum wage increases. These are determined by the FWC, rather than as a determinate of a living wage. The trade union movement has always advocated employers are making substantial profits, whilst employee wage increases are barely meeting the growth in the cost of living.
- paid domestic and family violence leave, for which 10 days paid leave is advocated by the trade union movement, is supported by the ALP for all employees, casual, part time and permanent. The FWC is also reviewing the current national employment standard provisions, which provides for 5 days unpaid leave.
- portable long service leave has been on the table for some time, as has wage theft, industrial manslaughter, all of which have been partially legislated in many states and territories.
- The issues of discrimination are still bubbling over with the Religious Freedom Bill 2021. This Bill makes it unlawful and discriminatory at work to discriminate against another person on the basis of their personal religious beliefs or activity.
- The recommendations of the Sex Discrimination Commissioner, Kate Jenkins, were not adopted in their entirety by the most recent legislation, Sexual Discrimination and Fair Work (Respect at Work) Amendment Act 2021. It is conceivable that an Albanese Government will seek to amend the Sexual Discrimination Act to firmly place the onus of proof, not upon the complainant, but upon the employer, to prove that the harassment or discrimination did not occur.

Whatever the outcome of the next federal election, it is hard to see either the trade union movement or the major employer associations not advocating meaningful change to the current system. The onus upon the passenger transport industry the BIC to make sure its members interests are fully considered in any change.

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