

As a servant to the people of Queensland and Australia I rise to speak on the Fair Work Legislation Amendment (Closing Loopholes **No. 2**) Bill 2023.

In doing that I will illustrate why this Bill is a sham that does not protect workers like the name implies.

Nothing in this bill will fix the absolute scandal One Nation has uncovered.

The Labor government is putting more power with union bosses. This is putting the fox in charge of the henhouse.

As I will explain, unions are the ones that have been ripping off workers and it's all been endorsed by the government regulator.

I challenge anyone to explain to me in detail how Closing Loopholes 2 will fix the cases I am about to explain.

Our report details the largest wage theft scandal Australia has ever seen.

Coal Mine workers have **each** had tens of thousands of dollars stolen from them - **every** year.

And labour-hire companies, union bosses and governments are covering it up.

For a decade, or more.

The culprits are labour-hire companies supplying casual workers to some Central Queensland and Hunter Valley coal mines.

The CFMEU, Construction Forestry Mining and Energy Union enabled and supported the wage theft.

The Fair Work Commission signed off and endorsed the enterprise agreements enabling the wage theft.

One Nation commissioned independent analysis showing that hard working casual coal miners are **each** being shafted, on 2023 pay rates an average, **every year more than \$30,000**.

This is systemic wage theft from collusion between labour-hire companies including major foreign multinationals, the CFMEU and the Fair Work Commission.

My grave and disturbing allegations are based on solid research and hard facts.

### The scam

A quirk in the Black Coal Mining Industry Award makes the scam possible.

Under that award it's **illegal** for mine employers to have casual employees.

Yet if casuals were legal, everyone in Australia knows that the employer would have to pay casuals 25% more than the award full time rate.

**A 25 per cent casual loading.** For loss of basic entitlements like leave, sick leave, ...

**While the award prohibits casuals, labour-hire companies created enterprise agreements to employ casuals WITHOUT any loading.**

The CFMEU negotiated, approved or sought to become a party to these agreements.

Closing Loopholes 2 claims that the solution to all of the problems in industrial relations can be solved if we get the unions more involved and give them more power.

What is the use of giving the CFMEU more power if they negotiated and approved agreements that rip off casual workers?

The Fair Work Commission should be policing and rejecting these agreements yet approved them.

The rates under the agreements were less than the award with a 25% loading.

This means that the enterprise agreements are paying much less than what should be paid under the award if it allowed casuals.

**Some paid CASUALS even less than the full-time award.**

Through technical, legal trickery all parties claim these agreements are "legal".

Yet everyone knows a casual gets a 25% loading on the hourly rate of a full-time worker. Paying them any less, is wage theft.

It appears that once the Fair Work Commission approves an enterprise agreement that pays less than what should be paid under the award, the underpayment becomes '*legal*'.

Yet One Nation is awake. All Australians deserve honest pay for an honest day's work.

We have spent nearly five years investigating the wage theft. Tonight, I launch our major report detailing the extent of the wage theft scam.

### **The One Nation Report**

In 2019, after the CFMEU brushed off casual coal miners' complaints for many years, the miners brought their underpayment complaints to One Nation.

We took action. I've been holding the Fair Work Commission accountable for nearly five years.

We asked the Fair Work Commission to provide their copy of the Better Off Overall Test, BOOT Test they've done on relevant enterprise agreements.

The BOOT, or Better Off Overall Test, is supposed to be a safety net that rejects underpaying agreements and protects workers from underpayment.

Yet the Commission handed us no documents. There are no spreadsheets, no tables comparing conditions and benefits and no real assurance they'd properly weighed it up.

The response was along the lines of *"trust us, it passes"*.

The CFMEU has been signing off on dodgy agreements for a decade and the Fair Work Commission is either asleep at the wheel or complicit.

Either way both enable and are responsible for **MASSIVE** wage theft.

Last year we raised this issue with the Fair Work Ombudsman and with Minister Burke. Responses from both have been like that of the Fair Work Commission. Trust us they say! Yet provide no hard evidence.

One Nation then commissioned independent research with results in a report.

The first part presents the facts of coal mining "casual" work patterns . It marries those patterns against what the award requires if casual employment were possible under the award.

The second part exposes how the scam has been allowed to continue in breach of common-sense application of the law.

The report details that coal miners are required to work anytime, 24 hours a day, seven days a week. Work close to a 44-hour week. Saturdays, Sundays, public holidays, days and nights. It's long, hard work that can be dangerous.

The report shows that according to the award an example **full-time mineworker** doing 12-hour shifts will earn about **\$120,849 per year** or **\$53.84 an hour**.

Taking what a full-time mineworker should earn under the award and adding a casual loading, a **casual mineworker** doing the same hours should earn **\$151,061 a year**, or a flat rate of **\$66.40 an hour** regardless of hours worked.

The independent analysis One Nation commissioned looked in detail at mineworkers' hourly rates under the five most common Enterprise Agreements covering casuals in coal mining.

We found that none of the Enterprise Agreements were paying casual workers anywhere near the **\$66.40 an hour** they should be receiving.

Some were even paying casuals **less** than the hourly rate a full-time worker gets under the award.

The fact that a casual worker could be paid less than the hourly rate of a full-time worker under some of these agreements should have set off alarm bells at the Fair Work Commission.

Every single Enterprise Agreement has the CFMEU union's fingerprints on it. And the Fair Work Commission signed-off every single Agreement.

The research assessed five of the major enterprise agreements in consultation with independent analysts, lawyers and coal miners.

### **CoreStaff**

The CoreStaff Enterprise Agreement 2018 pays casual mineworkers **\$56.16 an hour**.

Much less than the **\$66.40** a casual should be paid.

The CFMEU is recognised under the agreement.

The Fair Work Commission approved the agreement.

The yearly underpayment of each casual miner is **\$22,623**.

### **FES Coal**

In Rockhampton, at a hearing of the inquiry into Labor's Closing Loopholes Bill, we received evidence that the FES Agreement 2018 pays casual employee Dwayne Arnold **\$54 an hour**.

Well short of the **\$66.40** a casual should be paid.

This agreement was made with the CFMEU.

The Fair Work Commission signed off the agreement.

The yearly underpayment of each casual miner is **\$27,563**.

### **WorkPac**

The WorkPac Agreement 2019 provides four different pay rates for a casual mineworker between **\$42.99 and \$51.38 an hour** depending on the day. All less than the hourly rate of a permanent worker. (Calculations use the highest weekend rate even though this is more than what an average mineworker will get.)

Far short of the **\$66.40** that should be paid.

The CFMEU negotiated and approved the agreement.

The Fair Work Commission signed off.

The yearly underpayment, is **\$33,555**.

### **Chandler Macleod**

The Chandler Macleod Agreement 2020 pays a casual **\$48.85 an hour**.

Far below the **\$66.40** that should be paid.

**And less than the hourly rate of a permanent worker on the Award.**

The CFMEU was a bargaining representative for the 2015 agreement, supported its approval and is a party to the 2020 agreement.

The Fair Work Commission approved the agreement.

The yearly underpayment is **\$39,341**.

### **TESA Group**

The TESA Group Agreement 2022 pays a casual **\$48.28 an hour**.

Far below the **\$66.40** that should be paid. **And less than the hourly rate of a permanent worker on the Award.**

The CFMEU is a party to the agreement.

The Fair Work Commission approved it.

The yearly underpayment is **\$40,645**.

### **Average theft**

Across these agreements a casual mineworker loses on average almost **\$33,000** every year compared to what they should be paid with the standard casual loading on the award rate.

### **A challenge**

One Nation challenges each of the parties in this scam.

To the labour hire companies, the CFMEU and the Fair Work Commission, One Nation says, prove to us that our report is wrong.

Don't give us the excuse of the legal construct that you have created to enable and endorse the wage theft.

Prove to us that the payments to the coal workers is higher than would be paid if the award allowed casual workers.

Prove to us casuals are paid a loading.

You will fail.

**Casuals are not paid a loading. It's wage theft.**

There are potentially tens of thousands of victim mineworkers and a history of dodgy agreements reaching back **over a decade**.

The total wage theft is massive.

The failure of the Fair Work Commission and the Fair Work Ombudsman is shocking institutional failure.

The fact they covered it up after we informed them is disgraceful failure.

It calls into question the entire structure, promise and integrity of the system in Australia that's supposed to protect Australian workers from underpayment. From wage theft.

The failure of the CFMEU is even more obvious.

We even have a signed letter between the Hunter Valley CFMEU and Labour Hire company Chandler Macleod.

In that letter, the CMFEU promises to ***never*** take action against Chandler Macleod for any breaches of worker entitlements.

Our report details that the CFMEU has had commercial, business dealings in the coal sector for decades. The CFMEU pretends to be a union. In fact, it's one of the employers, the bosses.

This theft must stop. CFMEU union bosses must be held to account for failing to represent workers. For betraying workers.

The Fair Work Commission must be held to account for failing to stop dodgy enterprise agreements.

### **Amendment**

My amendment that I will move in committee of the whole will ensure that those workers underpaid in the black coal industry will receive their fair pay entitlements.

It adds transparency that is missing from the Fair Work Act by ensuring that the Fair Work Commission does its job while the over prescriptive provisions of the Fair Work Act hide or ignore basic protections for workers.

The Fair Work Commission has previously admitted that the Fair Work Act does not provide sufficient oversight of the Fair Work Commission when it fails to do its job.

One thrust of this appalling Bill is to cover up and bury Australia's largest ever wage theft.

Thousands of coal miners have been underpaid annually around \$30,000 with their union in a shady deal with the employer. I have detailed the proof of this.

This amendment will put an end to these dodgy deals and enterprise agreements that pay well less than the award and it will ensure workers are reimbursed their stolen wages with the costs born by the union, Fair Work Commission and offending labour hire company.

### **Conclusion**

Nothing in the Closing Loopholes 2 Bill will hold the union or the Fair Work Commission to account.

Instead, Anthony Albanese's solution is to give unions even more power.

With what I have detailed in this speech, it's obvious that would simply be putting the fox in charge of the hen house.

The changes contained in Loopholes 2 will be far reaching and have devastating impacts on the way almost every operation in Australia is forced to do business.

We have had countless meetings with unions, small businesses, employees, industry associations, law groups and more.

The overarching message that all of them could agree with me on was that the Fair Work Act is simply too complicated for any normal worker or business to understand.

The act is already a bulky 1,341 page sledgehammer that is killing our economy. It's so big, it has to be split up into three volumes so they can print it. It started it 15 years ago as just a 652 page act.

In the last five years alone, the Fair Work Act has increased by over 300 pages.

What hope has someone who runs a bakery got?

The only ones that can keep up with all of the legislation changes, the complicated legal sections and find the loopholes are big corporations.

I call them the industrial relations club. It includes big corporations, industrial relations lawyers and union bosses.

Big corporations love a complex Fair Work Act because it stops small businesses who can't figure out all of the red tape from competing with them.

Industrial relations lawyers love it because it keeps them in a job.

Unions love it because it forces them into the conversation, whether the employees want them there or not.

That's why you hear so much support for this bill from the big money players.

Genuine small business owners who are too busy trying to run small operations and pay their staff don't have time to write parliamentary submissions or understand some amendments that might come into law.

If this bill is passed, the 1,341 page Fair Work Act won't get smaller and easier to understand.

It will make the Act longer, more complex, more prescriptive, the opposite of everything we need to fix industrial relations in this country.

As a servant to the people of Queensland and Australia I know only One Nation will fight to make sure workers receive their entitlements and my amendment will do exactly that.