

# In Review

Your monthly **Industrial Relations** update

August 2017



## August Update

**Despite escalating pressure on a number of fronts, this month has seen the most important and positive outcome for workplaces in the building and construction industry since the ABCC was re-established.**

The Turnbull Government introduced legislation to amend laws affecting Registered Organisations to prevent unions merging if they have repeatedly breached the law. The Bill also gives the Fair Work Commission and Federal Court powers to deregister unions and disqualify officials.

This legislation was drafted in response to strong lobbying by Master Builders against the proposed CFMEU/MUA/TCFUA "super union" and the lack of consequences for union officials who repeatedly break the law.

Amendments include provisions to disqualify officials of Registered Organisations from holding office or standing for office if they are found to have deliberately broken workplace laws, not acted in members' interests, or not be fit and proper people (for example, if they have broken a criminal law). ROs can be deregistered if they, their officers or members deliberately break workplace laws, or do not act in their members' best interest. There is also a new requirement for RO amalgamations that mergers are in the public interest, and changes relating to administration arrangements for dysfunctional ROs.

The CFMEU has an appalling record of unlawful conduct. Over the past 13 years, the union has been forced to pay more than \$10 million dollars in penalties, fines ultimately paid by its members. Master Builders strongly believes that ROs and their officers should be accountable for flagrant and repeated breaches of the law.

As this column goes to print, proceedings remain underway in the Fair Work Commission to approve the CFMEU/MUA/TCFUA merger under existing laws. However, a union member ballot, is unlikely to be concluded until the end of the year.

The industrial relations environment

has really heated up as the 31 August deadline to secure a Code-compliant agreement approaches. Labor's Motion to disallow the Building Code was rejected by the Senate on August 9. However, that has not prevented the CFMEU from playing hardball with major companies.

Interstate, in return for removing restrictions on casuals and rostered days off, Probuild agreed to a 5 per cent pay rise, new casual loadings of 80 per cent after six weeks of work, and penalty rates of up to 300 per cent for working an RDO or Christmas and Easter. The provisions bear no correlation to increases in productivity. Employment Minister Michaelia Cash slammed the deal as "commercial self harm" that would render Probuild "uncompetitive" for federal tenders.

In another significant development, Boral subsidiary DMG, after threatening to sack its work force when they voted down proposed changes in June, reached a deal allowing for a new loading of 80 per cent to be paid to casuals after six weeks. What happens in our industry next will determine how much value taxpayers get on future major projects such as roads, schools and hospitals.

**Will Frogley**  
Industrial Relations and Policy Manager



**MASTER BUILDERS**  
SOUTH AUSTRALIA

## Cartledge approved as WHS consultant, but no entry right

Business groups including Business SA and Australian Industry Group have overlooked multiple workplace law breaches by CFMEU state secretary Aaron Cartledge in appointing him an approved WHS consultant.

The appointment does not carry a right of entry; section 494(1) of the Fair Work Act 2009 specifically requires the holding of a federal permit for entry. Mr Cartledge does not presently hold a right of entry permit.

However, as an approved WHS consultant, Mr Cartledge may be invited on site at the request of a health and safety representative exercising their powers or performing a function as described in section 68(1) of the *Work Health and Safety Act 2012*. Those reasons should be fully documented to ensure there is no abuse of the legislated power.

There are no other lawful reasons under which Mr Cartledge has a right to enter a construction site.

Master Builders SA is raising this concerning development with the Government and Opposition.



## Portable Long Service Leave

Members are reminded of their obligations under the *Construction Industry Long Service Leave Act 1987*. Employers of eligible workers are required to register with Portable Long Service Leave, lodge Employer Returns every two months and pay a levy based on 2.15% of remuneration (apprentices are levy free). Recently, Master Builders SA has become aware of members owing significant sums of money. It is far better to be proactive now than be met with a Bill for many thousands of dollars that has accumulated over the years. This is especially true given the Federal Government is cracking down on non-compliance with superannuation obligations. Please contact the IR Department on **8122 4990** for further information.

## Building Code Update

The Turnbull Government has revised Building Code 2016 to explicitly exclude essential service workers. This is a minor adjustment regarding definitions and doesn't affect the substantive effect of the Code unless you are an essential service provider.

Please contact the IR Department on **8122 4990** if you require further information.

## Industrial Manslaughter Update

The Weatherill Government has rejected a Greens push to introduce industrial manslaughter laws in South Australia after the proposal was examined by a parliamentary committee. The Government agreed with the Committee that penalties and safeguards to prevent workplace deaths were "adequate" under the Work Health and Safety Act.

Under current laws, a person with a duty of care that exposes an individual to a risk of death or serious injury or illness faces five years' jail and a \$300,000 fine.

However, SA Unions is continuing to push for a tripling of maximum penalties to allow up to 15 years' jail for bosses found responsible in workplace deaths.

Master Builders SA lobbied hard to defeat the Greens' proposal and will continue to do so to defeat this latest push.



## Industrial Relations Committee

The next Master Builders SA Industrial Relations Committee will be held at 4:00pm on Wednesday 6 September at Master Builders House.

Phone **08 8122 4990** to find out more.



**MASTER BUILDERS**  
SOUTH AUSTRALIA