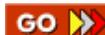




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## Latest News

SESSION ACTIVE

### Fielding rules out compromise on BCCI Act; Award-free accountants "a myth"; and more

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#### Fielding rules out compromise on BCCI Act

Family First Senator Steve Fielding has committed to voting against Labor's construction industry IR bill unless it accepts all five of his proposed amendments to the legislation.

Senator Fielding said in a speech to MBA Victoria today that if the current bill was passed the State's industry would once again become the "unions' paradise" it was before the ABCC.

His [amendments](#) to the [Building and Construction Industry Improvement Amendment \(Transition to Fair Work\) Bill](#) – which include retaining higher penalties for the industry and scrapping the proposed coercive power switch-off mechanism – would ensure it better strikes the balance between worker and employer interests, he said (see [Related Article](#)).

The Coalition has indicated it will oppose the bill, which means Labor needs Senator Fielding's vote in order to pass the legislation through the Senate.

But Senator Fielding today told journalists that, while he will hold talks with the Government, there is "no way" he will support the bill unless it includes all of his proposed amendments.

"Each of the five address different issues and they each ensure we retain a tough cop on the beat," he said, continuing that he would rather vote against the bill than accept a compromise that meant securing three or four of the five amendments.

"Those [five] things have to remain there, otherwise it's just a waste of time, a charade," he said.

Senator Fielding said he would be meeting with the CFMEU this week to discuss their concerns over the building industry laws.

#### APESMA shatters award-free accountants myth

Employer concerns that the AIRC's draft Miscellaneous Award will break new ground in extending award coverage to accountants are wide of the mark, according to APESMA.

Following the award modernisation full bench's publication of the draft award last week, some employer groups argued managers and professionals such as accountants would be dragged into the award system (see [Related Article](#)).

But APESMA director of IR, Michael Butler, says many accountants currently have access to an employment safety net, either through instruments such as NAPSAs or under classifications in awards such as that covering the banking and finance industry.

The union also rejects the underlying argument that professions should not have the benefit of award coverage.

"Engineers and scientists have had award coverage since the 1960s, so it's not clear why accountants should be excluded, particularly at graduate and lower levels."

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"So the issue is not so much if there should be award coverage, but how it should be extended," he says

Further, the modern [Professional Employees Award](#) covers professional employees such as engineers, scientists and quality auditors and contains pay rates, hours of work and a range of different compensation mechanisms appropriate for these types of employees.

APESMA proposed in its submission to the AIRC that it should make an accounting industry award containing pay and conditions of a similar kind to those afforded other professionals.

But a simpler alternative might be to create a new set of classifications for accountants in the professionals award, he says.

"If it's not appropriate for professional classifications to go into the Miscellaneous Award, the easy solution is to create a section for accountants in an award where conditions of employment are suitable for professional employment," he says.

Such a step would be consistent with the award modernisation principles and would resolve employer fears that "blue-collar style" penalty rates could be applied to professional staff, he says.

### **English test for teachers not discriminatory: tribunal**

An English language test that the NSW education department requires some foreign university graduates to satisfy before engagement is not discriminatory, an appeal panel of the State's Anti-Discrimination Tribunal has ruled.

The department rejected as unsuitable for teaching a candidate with qualifications in engineering and teaching from universities in Lebanon and Australia after he objected to taking its Professional English Assessment for Teachers (PEAT).

The appeal panel upheld the first instance Tribunal finding that the man had been rejected, not for refusing to take the test, but because he had complained angrily about having to do so, swearing and using abusive language.

On the PEAT test, the appeal panel rejected his argument that, having obtained a graduate diploma in teaching from Australian Catholic University, it was discriminatory to further require him to complete the test.

"PEAT is a requirement applying to prospective teachers with academic qualifications that were obtained substantially or wholly in a non-English speaking environment.

"We see nothing problematic in an education authority wishing to be satisfied that a prospective teacher is capable of communicating in the language of the educational system at the level of proficiency necessitated by the kind of teaching envisaged. The PEAT standard was directed to that end," the appeal panel said.

[Laalaa v Director General, Department of Education and Training \(EOD\) \[2009\] NSWADTAP 56](#)

### **ABCC seeks penalties over stalled concrete pour**

The ABCC has commenced Federal Court proceedings alleging the CFMEU (construction and general division) and an organiser engaged in unlawful industrial action when the official prevented a concrete pour from happening on a Melbourne building site.

The regulator claims Labcon Industries was approached by an organiser while installing guard rail and wire rope safety barriers for a road widening project and told that it was working on a union site and required to have a union EBA.

When a later meeting with company managers to discuss the issue fell through, the organiser arrived on site, ordered the concrete pour not to go ahead and issued a Notice of Suspected Contravention under the Victorian Occupational Health and Safety Act, it alleges.

It will seek penalties for breaches of s38, 44 and 45 of the BCCI Act in the matter, which is scheduled for a directions hearing on October 23.

### **Correction on cross-border employment claim**

In last Thursday's story entitled "[Former CEO can't serve claims in England: Federal Court](#)", *Workplace Express* incorrectly reported that the man at the centre of the case lost his job when his company's English parent closed the Australian subsidiary he was heading. In fact, it is still operating. His claim is that his employer repudiated its contract with him when it demanded he return to England.

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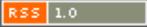
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