

ACTUS WORKPLACE LAWYERS

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Multi-employer wage fight test

As Stephen Smith, Principal of Actus Workplace Lawyers, highlighted in an [article by Ewin Hannan in *The Australian*](#) on 15 February, a small group of heating, ventilation and air-conditioning (HVAC) installation businesses are currently discussing a multi-enterprise agreement with the Australian Manufacturing Workers Union (AMWU). At least some of these businesses have entered into generous pattern enterprise agreements with the AMWU in identical terms. The agreements are called: “[Insert company name] On-Site Construction HVAC Workers NSW Enterprise Agreement 2020-2023” and they expire this year.

The pattern agreement contains a 36-hour week, base pay rates of \$48 per hour, a \$191 per week travel allowance, \$110 per employee per week into a redundancy fund, income protection insurance through the union’s preferred provider, a \$3.60 per hour site allowance, and numerous other employee benefits.

It appears likely that any multi-enterprise agreement that is agreed upon between this small group of HVAC businesses and the AMWU will be a ‘single interest employer agreement’ under the Government’s new IR laws. If such an agreement is made and the union then applies to vary the agreement to include other employers (as is likely), many HVAC businesses are going to have to devote a lot of time and money to proving to the Fair Work Commission that their operations and business activities are not ‘reasonably comparable’ with those of the employers originally covered by the agreement and that they do not have ‘common interests’ with the other employers.

It is not surprising that a small group of HVAC businesses want their competitors to pay the same extremely generous rates and conditions they have conceded in response to union claims, but why should hundreds of other HVAC businesses be forced to do so? There is nothing fair about this.

The Government’s and unions’ argument that these laws are designed to avoid a ‘race to the bottom’ does not stack up because Australia has a very comprehensive safety net of awards and legislated minimum standards. Also, widespread skill shortages are resulting in substantial wage movements in the HVAC sector and many other industries. The laws appear to be designed to impose a ‘race to the top’, regardless of how sustainable that is for many businesses and their customers, or whether those employers who are paying at the ‘top’ are doing so just to maintain industrial peace or to remain on the unions’ list of preferred contractors.

This same scenario is set to play out in numerous industry sectors. The effect will be less competition, less investment, lower employment, lower economic growth, more costly community infrastructure, and more disruption.

Actus Workplace Lawyers is well placed to provide strategic and operational assistance to businesses with all enterprise bargaining matters. Please contact Stephen Smith, Principal of Actus Workplace Lawyers at stephen.smith@actuslawyers.com.au or 0418 461 183.

A copy of Actus Workplace Lawyers handy 30-page digital *Guide to Bargaining under the Secure Jobs, Better Pay Amendments* can be ordered and immediately downloaded [here](#).