

Resolution

SUBJECT: Australian Building and Construction Commission

1. Congress calls on the Rudd Labor government to immediately repeal the Building and Construction Industry Improvement Act ("the BCII Act") and to abolish the Australian Building and Construction Commission ("the ABCC").
2. Congress condemns the Rudd Labor Government for maintaining the BCII Act and the ABCC. Congress notes that the continued existence of the BCII Act contravenes Labor Party policy, which affirms that Labor does not support laws that discriminate against workers employed in a particular industry.
3. Congress notes that:
 - The ABCC has had a serious negative effect on Occupational Health and Safety in a high-risk industry;
 - The ABCC persistently breaches the standards of propriety, honesty, fairness and professionalism expected of government agencies and fails to observe the standards required of a government model litigant. The ABCC has pursued politically motivated investigations and prosecutions against unions and workers and has failed to prosecute one employer for underpayment or non-payment of workers entitlements, despite having the power to do so; and
 - On five occasions Committees of International Labor Organisation have stated that the law is inconsistent with Australia's obligations under ILO conventions concerning Collective Bargaining and Freedom of Association.
4. Congress rejects proposals to create a separate inspectorate within Fair Work Australia, and to retain coercive interview powers as inconsistent with fairness, Labor policy and ILO conventions.

5. Congress maintains that:
 - No group of workers should be subject to discriminatory laws;
 - Coercive interrogation powers have no role in industrial relations and must not be inserted into the Fair Work Act;
 - Workers should have a right to confidential communications with their union and colleagues regarding industrial matters and to representation by the lawyer of their choice; and
 - Any regulator dealing with industrial matters should be even-handed, transparent and professional in its conduct and ensure procedural and substantive fairness to all parties.
6. Congress calls for the immediate removal of those provisions of the Building Industry Code and Guidelines that are aimed at weakening workers' rights and union organisation.
7. Congress calls on unions affiliated to the ALP to support the principles of this resolution in all forums of the party, including the 2009 ALP National Conference.
8. Congress condemns the prosecution of workers for alleged refusal to participate in compulsory ABCC interrogations, particularly the current prosecution of Ark Tribe. Congress affirms its support for any worker who is prosecuted for non-compliance with coercive interviews. Congress authorises the ACTU Executive to co-ordinate a campaign of protest and industrial action against this prosecution and, if necessary, support for any worker who is prosecuted or jailed for non-compliance.