

PROPOSALS TO USE ARTIFICIAL INTELLIGENCE AS A PRETEXT TO EXPAND UNION CONTROL IN THE WORKPLACE

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- Unions are using AI to expand long-sought powers, including pre-decision consultation over the introduction of any workplace technology and expanded powers to enter workplaces.
- Proposed changes would overturn long-standing consultation rules by requiring employers to consult unions before decisions are made to adopt new technology.
- The practical effect would be to entrench unions in business decision-making, giving them effective veto powers over technology deployment.

1. Background

This note is an overview of the various ways in which the Australian union movement is attempting to use concerns over Artificial Intelligence as a 'stalking horse' to impose greater controls over businesses in relation to the use of technology generally, not just AI. The supposed 'risk' of AI is being used to secure new powers unions have unsuccessfully sought for four decades.

The Albanese government's 'National AI Plan', released on 2 December 2025¹, indicates that the government intends to grant unions this power. Legislation introduced by the NSW Labor government in November 2025 would also deliver union objectives on the pretext of 'safety'.²

2. Context

AI systems are rapidly evolving and being introduced in workplaces. Applications range from recruitment and performance management to rostering and job design.

In the mining sector, AI is already being applied to improve safety, productivity, and environmental monitoring among other things. It has already provided a range of clear and measurable benefits for businesses and workers.

3. The union agenda

The union movement's claims have been set out in detail in ACTU policy, which calls for a range of legislative changes to address concerns regarding Artificial Intelligence.³ ACTU Secretary Sally McManus has said AI represents a '*very big threat*' to workers and policy action is needed to ensure employees share the benefits, including wage increases and shorter working hours.⁴

The ACTU policy includes the following positions:

- **AI in workplaces to be deemed 'high risk':** The ACTU argues that '*AI systems that impact the world of work and in any manner affecting the work that workers do, the conditions by*

¹ Australian Government, [National AI Plan](#), 2 December 2025.

² 'Work Health and Safety Amendment (Digital Work Systems) Bill 2025': <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=18847>

³ ACTU, policy, [Artificial Intelligence](#), June 2024.

⁴ The Australian, [ACTU push to win AI benefits for workers](#), 31 May 2024.

which they do it, and the means through which work is allocated and/or managed and distributed, is by its nature high risk'

- **Worker consultation regimes:** Introduce workplace consultation provisions that require employers to genuinely consult with workers about the potential use of AI in connection with their work; *'Introduction of Change'* regime to ensure workers are consulted before final decisions are made, and which guarantees the workers' right to training
- **Worker veto rights:** Give workers and unions the power to refuse to adopt AI if they decide it is not in the public interest in certain situations
- **Right to challenge AI implementation:** All decision-making, including decision-making using AI, which affects workers must be *'open, transparent and capable of both internal and external review and challenge'*

On 29 July the ACTU expanded these claims and called for mandatory enforceable agreements that would *'compel employers to consult with their staff before new AI technologies can be introduced into workplaces'*.⁵

4. What the union agenda would mean in practice

The ACTU is seeking to use AI as a pretext to undo existing consultation obligations that apply to employers under the *Fair Work Act*.

The current consultation rules require employers to consult with affected employees after a *'definite decision'* has been made to introduce a *'major workplace change'* that is likely to have a *'significant effect'* on employees.⁶

The consultation obligation in the Act is based on the standard set by the former Conciliation and Arbitration Commission (the predecessor to the Fair Work Commission) in a major *'test case'* in 1984 which developed standard consultation terms for industrial awards. This was the *'Termination, Change and Redundancy Case'* 1984⁷ (the **TCR case**).

During the TCR case, the ACTU argued unsuccessfully that the obligation to consult should be triggered before a decision to introduce change has been made by the employer. However, the Commission rejected this proposal as impractical and settled on the current rules, which are balanced and workable. Certain unions have been attempting to *'re-litigate'* this issue ever since the TCR case.

The ACTU position is that AI systems that *'impact the world of work and in any manner affect the work that workers do'* are by their nature *'high risk'*.⁸ This suggests broad consultation obligations for any implementation of the technology regardless of risk or impact. Any such impacts could fall well outside the definitions of *'significant effect'* or *'major change'*, which are the current consultation triggers.

What the ACTU seeks is effectively an unfettered right for unions to insert themselves into business decision making, and the ability to veto plans to implement new technology.

5. Amending the *Fair Work Act* to deliver union claims

The union agenda could be delivered through relatively minor amendments to the consultation obligations in the *Fair Work Act*. Whilst they are likely to be described as *'updating workers' rights'* they are, in effect, one of the most significant changes ever made to enhance union powers, not just in relation to AI.

⁵ ACTU, media release, [Unions seek enforceable agreements on the use of AI](#), 29 July 2025.

⁶ Section 205 of the *Fair Work Act*

⁷ [Termination, Change and Redundancy Case \(No 2\)](#) (1984) 295 CAR 673

⁸ ACTU, Submission on Introducing mandatory guardrails for AI in high-risk settings, October 2024, p. 6.

The Australian government has recently indicated that it will pursue such amendments (see below).

6. Using safety legislation to deliver union claims

An example of how workplace safety legislation can also be used to deliver union claims is the legislation introduced by the New South Wales Government to amend the state's *Work Health and Safety Act* in order to provide new powers to unions under the pretext of 'safety'.

The *Work Health and Safety Amendment (Digital Work Systems) Bill* was introduced to the NSW Parliament in November 2025. Its key features include:

- A new positive duty on employers to ensure that workers' health and safety is not '*put at risk*' from the '*allocation of work by a digital work system*'⁹
- 'risk' is defined to include:¹⁰
 - '*excessive or unreasonable workloads for workers*'
 - '*excessive or unreasonable metrics to assess and track the performance of workers*'
 - '*excessive or unreasonable monitoring or surveillance of workers*'
- Union permit holders can enter workplaces in response to such 'risks' and will have the power to 'inspect' any '*digital work system relevant to the suspected contravention*'.¹¹ This power builds on existing powers under the Act that allow union entry without prior notice in response to '*suspected contraventions*'.¹²

The concepts of 'excessive' or 'unreasonable' are highly subjective. All that is required for a union to exercise the new powers is that one employee or one union official asserts, in their subjective judgement, that something is 'unreasonable'. Unlike other union powers under safety legislation, no tangible safety hazard or actual risk is required to trigger the powers.

What is most notable about these powers is that they are not limited to Artificial Intelligence. They can be used in relation to 'concerns' relating to any 'digital work system', which is broadly defined as:

*'an algorithm, artificial intelligence, automation or online platform'*¹³

This definition goes far beyond artificial intelligence and could cover almost any use of robotic technology or any IT system. In the mining industry, 'automation' could apply to any piece of equipment that is programmed to undertake a certain task, whilst 'online platform' could cover any IT system or data storage system, including those not even located at the site where work is performed. Union powers to 'inspect' digital work systems mean they will have the ability to access any IT system or asset that falls within this definition.

7. The Australian government's position

The Albanese government's public policy positions strongly indicate that it will amend the *Fair Work Act* to deliver the ACTU's demands in some form. Whilst its public statements are expressed in terms such as '*workers voice*' and '*transparency*', when they are considered in context, they effectively reflect the ACTU's policy demands.

⁹ Proposed section 21A(1)

¹⁰ Proposed section 21A(2)

¹¹ Proposed section 118(a1)

¹² Sections 117 and 119 of the Act

¹³ Clause 1 of Schedule 1 of the Bill

	ACTU AI Policy	Albanese Government 'National AI' Plan¹⁴
Union 'consultation' powers	<i>'Introduction of Change' consultation regime to ensure workers are consulted before final decisions are made.</i> <i>...a new set of mandatory enforceable agreements that would compel employers to consult with their staff before new AI technologies can be introduced into workplaces.¹⁵</i>	<i>Workers' voices and union engagement must guide decisions on technology adoption to ensure fairness and protect rights.</i> <i>...deploying these technologies should involve meaningful consultation with workers....</i>
Union veto powers	<i>'A right to challenge decisions made about us'</i> <i>A further 'right to reject' the use of AI 'in the public interest'.</i>	<i>The government will ensure that workers' rights are fit for purpose to deliver these outcomes.</i>
Union 'co-design'	<i>'A right to not just be consulted but to participate in decision making'</i>	<i>...deploying these technologies should involve meaningful consultation with workers, including into the design of AI systems.</i>
Union right of entry	<i>'The removal of any barriers on the transparency of how technology will operate, make determinations or recommendations in the workplace'.</i> <i>'All decision-making' which affects workers must be 'capable of both internal and external review and challenge'.</i>	<i>Reviewing Work Health and Safety laws: Safe Work Australia have received feedback and submissions through the best practice review relating to AI and included a section on the potential impact of AI in the initial discussion paper for the review.</i>

The Albanese government's 'National AI Plan' was released by the Minister for Industry, Senator Tim Ayres, on 2 December 2025. The plan included the commitment to *'ensure that workers rights are fit for purpose'*.

Minister Ayres also announced on 2 December that the implementation of this specific commitment would be undertaken by the Minister for Workplace Relations, Amanda Rishworth. The allocation of responsibilities to the Workplace Relations portfolio confirms the government's intention to amend workplace laws. It is highly likely that amendments to the *Fair Work Act* to deliver this commitment will be progressed during 2026.

Such an approach is also consistent with previous government comments. Minister Ayres previously expressed his view that:

*"I will be looking in particular at how we can strengthen worker voice and agency as technology is diffused into every workplace in the Australian economy and I look forward to working with our trade union movement on all of this."*¹⁶

In terms of specific government proposals, a 2025 recent report by a House of Representatives committee inquiry commissioned by former Minister Tony Burke made a number of recommendations to amend the *Fair Work Act* to 'regulate' artificial intelligence in workplaces.¹⁷

The ALP majority report of this inquiry specifically recommended a major change to existing consultation obligations in the *Fair Work Act*, which currently require employers to consult with

¹⁴ National AI Plan, p. 21.

¹⁵ ACTU, media release, 'Unions seek enforceable agreements on the use of AI', 29 July 2025.

¹⁶ Australian Financial Review, [Ayres signals a bigger role for unions over AI use at work](#), 3 June 2025.

¹⁷ House of Representatives Standing Committee on Employment, Education, and Training, Inquiry into the Digital Transformation of Workplaces, report, Future of Work, released 11 February 2025, page 78.

employees after a definite decision has been made to introduce 'major change' that is likely to have a significant effect on employees. Instead, under this proposal, the Act would be amended to:

*'...strengthen obligations on employers to consult workers on major workplace changes **before, during, and after** the introduction of new technology. This should include consideration of whether the introduction of a technology is fit for purpose and does not unduly disadvantage workers.'*

8. The significance of what is proposed

The consequences of what is being considered under the pretext of 'Artificial Intelligence' are potentially more significant than any other recent change to workplace laws. They could fundamentally restrict the ability of Australian businesses to manage their affairs effectively and productively.

Any business that proposes to introduce new technology to manage its operations – not just Artificial Intelligence – would need to gain permission of the relevant union(s) beforehand and involve them in "co-design" of the technology.

This proposal would entrench unions in business decision-making and expand the role of the Fair Work Commission with new enforcement powers in respect to the 'consultation' obligations.

Any business that seeks productivity gains through the introduction of new technology – or even the development of existing technology – would be forced to consult with unions before a decision has even been made. The ACTU policy even requires consultation on the potential use of AI.

If the unions object to the proposal, or assert that the 'consultation' is inadequate, they would have the power to litigate the matter in the Fair Work Commission, with the Commission having the power to determine whether the business can proceed with its plan, or potential plan. Unions would have the ability to wage such 'lawfare' against any proposal (or business) of which they disapproved.