

the bill, saying the amendments will provide people greater control over their time and the right to adjust their work schedule to fit changes in personal circumstances, lifestyles and family arrangements.

However the Australian Industry Group said the amendments will put undue pressure on employers that are already trying to do the right thing by their staff.

“Business conditions are very tough under the two speed economy and the high dollar is impacting substantially on many of our members,” Australian Industry Group CEO John O’Callaghan told a committee inquiry into the bill.

“Most employers try hard to accommodate reasonable requests for flexible working arrangements as it currently exists under the Fair Work Act.” •

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## LEGAL AFFAIRS

## Judging the judges

### Support for judicial complaints mechanism.

**A** new framework for dealing with complaints against federal court justices is a step closer after a report by the House of Representatives Social Policy and Legal Affairs Committee recommended the proposed legislation be passed by the House.

The Judicial Complaints Bill sets up an internal mechanism for lower level complaints about judicial conduct to be handled by the Chief Justices of the Federal and Family Courts and the Chief Federal Magistrate.

The Parliamentary Commissions Bill is focused on serious complaints against sitting Commonwealth judicial officers, including a Justice of the High Court of Australia. The bill enables the establishment of parliamentary commissions, following a resolution by each house of the parliament, to investigate specified allegations of misbehaviour or incapacity, which in rare circumstances could lead to the dismissal of a federal court justice.

First assistant secretary at the Attorney-General’s Department Louise Glanville said together the bills will provide parliament and the judiciary with standard mechanisms for investigating complaints and allegations of misconduct or incapacity.

“The bills will give the public increased confidence that complaints about judicial officers will be handled appropriately and in this way the bills will promote an independent, robust and accountable judiciary,” Ms Glanville said.

But opposition members of the committee have raised concerns the bills could lead to a flood of complaints and impact on the independence of the judiciary.

Committee deputy chair Judi Moylan (Pearce, WA) questioned whether the Parliamentary Commissions Bill could undermine the independence of the judiciary by formalising a system allowing

politicians to dismiss judges from the federal courts.

“I think we have to be very, very careful that there is not political interference in the work of our judiciary,” Mrs Moylan said. “I think that is my overriding concern and, reading through the submissions, that clearly comes out as a concern of many.”

Former Attorney-General Philip Ruddock (Berowra, NSW), who joined the committee for its examination of the two bills, also cast doubts on the changes, predicting a steep rise in vexatious claims.

“What I am worried about is something that all of the data and statistics that you have will probably not reflect, the propensity for litigants in the family law area in particular to be so fixated about outcomes they will pursue every avenue, even to the point in the end of not accepting the function and the role of the judiciary.

“And I suspect providing a mechanism is likely to generate an enormous number of complaints in comparison to what you have seen in other jurisdictions.”

However Law Council of Australia treasurer Michael Colbran QC said the council supports the two bills, with the new system having the potential to increase transparency and public confidence in the judiciary.

“Our perception and our present position is that we do not fear a floodgate of new problems arising through that mechanism,” Mr Colbran said. “But what we do see is that there may be additional complaints that are identified by the fact that you have an established mechanism.

“So at the moment we may have a situation where there is, shall I say, unsatisfied demand to bring forward a complaint which in itself has a tendency to undermine confidence in the operation of the judicial system.” •