

# WORKPLACE LAW

## Labor

*The Labor Party did not provide a response for this forum. Policy information has been collated from the ALP website [www.alp.org.au](http://www.alp.org.au)*

A Rudd Labor Government will protect millions of working families by replacing AWAs. Australian workers who do their bit and help businesses grow and prosper deserve a portion of the prosperity they have helped create.

To get the balance right between fairness and flexibility Federal Labor's Policy Implementation Plan will:

- Replace Mr Howard's Workchoices laws and his unfair AWAs.
- Ensure employees earning under \$100,000 per year are protected by a strong safety net which will protect key entitlements like public holidays, overtime, penalty rates, annual leave, parental leave, and redundancy for Australian employees.

### Replacing WorkChoices and AWAs

Federal Labor is unapologetic about the need to replace Australian Workplace Agreements.

AWAs are unfair and they give too much bargaining power to large employers, and leave no bargaining power to individual employees. Other than for high income employees, it is unrealistic to think that an individual employee can match the bargaining power of a large employer.

Leaked government statistics revealed that 44 per cent of AWAs surveyed took away all protected award conditions from employees. Federal Labor will give Australian businesses a transitional period equal to the full term of an AWA to move employees off AWA's.

### Building a Stronger Safety Net

Federal Labor's system will guarantee fairness for employees by ensuring there is always a safety net. Employees earning less than \$100,000 a year will have the most protection and a strong safety net.

Federal Labor's safety net will have two distinct parts:

- 10 National Employment Standards, a set of 10 legislated minimum conditions which guarantee basic entitlements like annual leave, parental leave and redundancy entitlements for every Australian employee.
- A safety net which includes modern, simple awards restricted to 10 basic conditions and entitlements.
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A Rudd Labor Government will create a new independent industrial umpire to oversee Labor's new industrial relations system and bring fairness to Australian workplaces. Federal Labor will introduce a strong safety net that makes sure workers are fairly rewarded for hard work.

Under Federal Labor's new system, each and every industry award will contain a flexibility clause which will allow employees relying on the award to negotiate individual flexibilities. Employees protected by awards will still be able to enjoy flexibility upwards not downwards. For example, an award may provide for the employee to start and finish work early, allowing them to collect their children from school without the employer paying additional penalty rates for the early start.

Under a Rudd Labor Government, Australians will be able to walk into a workplace knowing that there is a genuine safety net; they can't be sacked unfairly and an independent umpire to ensure they are treated fairly.

## Coalition

Australia now has a workplace relations system that will continue to deliver more jobs and higher wages for working families into the future. Our clear plan is to bed down the important economic reforms of the past three years and concentrate on moving towards the Coalition's long-held goal of full employment. In fact, in the past 18 months, 430,700 new jobs have been created — 77% of them full time.

Wages have grown by 21.5% over and above inflation (cost of living increases) in the past 11 years and by 2.9 percent since the new workplace relations system began. In contrast, when Labor was last in Government, real wages decreased and nearly one million people became unemployed.

The essence of the Coalition's reform of workplace relations is to provide flexibility to both employers and workers — including the ability of employees to negotiate a better balance between work and family. The Coalition Government's Workplace Relations Act formally protects a range of entitlements relating to family time and responsibilities including hours of work, annual, personal and parental leave, and job protection.

Specifically, the Coalition Government's Workplace Relations Act protects family time and responsibilities in a number of ways:

- The Australian Fair Pay and Conditions Standard guarantees that the maximum ordinary hours of work are 38 per week and that any hours a worker is requested to perform in addition to these must be reasonable having regard to factors such as his/her family responsibilities;
- It is unlawful to terminate a worker's employment because of his/her family responsibilities or on the ground of religion.
- 4 weeks' paid annual leave is now a guaranteed legal right.
- 10 days paid personal/carers' leave is now a guaranteed right and workers can utilise this leave to care for a family member who is ill;
- Workers also have the capacity to access unpaid carer's leave on an ongoing basis;
- Up to 52 weeks' unpaid parental leave is now a guaranteed legal right.
- It is against the law for an employer to dismiss or otherwise alter a worker's employment status because he/she has refused to work on a public holiday on the basis of family responsibilities or other personal circumstances,

- If an employer seeks to alter an Award entitlement to penalty rates and/or overtime, the Fairness Test administered by the Workplace Authority requires that the worker must be fairly compensated in return.

The Coalition's system has strong protections to ensure Australians get a fair go at work. A Workplace Infoline provides detailed advice and a Workplace Ombudsman is in place to protect all employees.

Australia's system strikes the right balance between strong protections for workers and flexibility. It is more regulated and provides more protections than similar countries such as the UK and New Zealand.

At the same time our system is giving people the option of having more flexible working arrangements which suit the modern workplace and help Australians balance work and family life.

A modern and flexible workplace system, combined with disciplined economic management will allow the Coalition to implement important economic policies such as taxation reform with confidence.

## Socialist Alliance

The Socialist Alliance has a comprehensive Charter of Worker and Union Rights available from its website: [www.socialist-alliance.org.au](http://www.socialist-alliance.org.au).

Specifically we would ditch all of Howard's anti-union laws, dissolve the Australian Building and Construction Commission and ensure the right of workers to take action in defence of their interests. We would set the minimum wage at 60% of average weekly earnings. We would restore to unions the right to freely enter workplaces to speak to workers. We would enshrine the right to strike as the most fundamental of democratic rights of workers.

## Socialist Equality

Workchoices is destroying penalty rates and wages and allows employers to hire and fire at will. The Labor Party IR laws are not much different to the Howard government's laws.

The SEP advocates the cutting of the working week to 30 hours, with no loss of pay, guaranteed penalty rates and five weeks annual leave for all employees. All workers must have the right to join a union and full legal protection from unfair dismissal. All laws against strikes and pickets must be repealed.

## Greens

The Australian Greens are committed to protecting and enhancing workplace conditions. We will vote to abolish Work Choices and replace it with a fair and equitable industrial relations system that protects the wages and conditions of Australian workers.

The Greens commit to protecting workplace conditions by expanding the safety net of minimum conditions, abolishing AWAs and not supporting any form of individual agreement that can override awards or collective agreements, restoring unfair dismissal

laws for all employees and restoring the powers of the Australian Industrial Relations Commission to ensure fair minimum wage increases.

The Greens support laws and policies which enable Australian families to lead balanced lives, in caring and friendly communities. We believe this can be advanced by paid parental leave, flexible working hours, affordable and high quality childcare and fairer industrial relations and welfare systems.

## Australian Democrats

The Australian Democrats are committed to a fair and balanced system that delivers fair and just pay and conditions and treatment. The Democrats would bring back fairness and balance, while not jeopardising productivity competition and growth, based on the following principles which includes a unitary single national IR System; strong and independent AIRC; a national regulator; genuine safety net; a mix of industrial agreements; fair and balanced minimum wage; protection from unfair dismissals; fairer balance between work and family; reasonable hours; work of equal value; non-discriminatory skills based wage system.

We have a long and proud record of arguing for family friendly work practices. We have opposed the obscenity of 24/7 commercial activity. We would provide disincentives to non-essential weekend employment through reintroducing penalty rates, legislating for reasonable hours, and requiring employment contracts to contain key family-friendly provisions such as carers leave, maternity and paternity leave, maternity pay and proper rostering practices.

For further detail on our policy and actions see

[http://www.democrats.org.au/docs/ActionPlans/Workplace\\_BalancedandFair\\_2007.pdf](http://www.democrats.org.au/docs/ActionPlans/Workplace_BalancedandFair_2007.pdf)

[http://www.democrats.org.au/docs/ActionPlans/WorkFamily\\_WorkFamily\\_2007.pdf](http://www.democrats.org.au/docs/ActionPlans/WorkFamily_WorkFamily_2007.pdf)

[http://www.democrats.org.au/docs/ActionPlans/WorkFamily\\_PaidMaternityLeave\\_2007.pdf](http://www.democrats.org.au/docs/ActionPlans/WorkFamily_PaidMaternityLeave_2007.pdf)

## Christian Democrats

It is important that business enterprises be allowed to prosper to provide maximum employment opportunities to all. At the same time, mechanisms must be put in place to protect vulnerable and low-paid workers. The priority of government should be to establish an industrial relations framework that ensures that unions are truly democratic institutions and representative of the workers' interests. There should be no room for bullying and intimidation of workers by union officials. At the same time, unscrupulous employers should be prevented from acting unjustly. The major problem with Australian industrial relations is that a culture of "them v us" has been fostered for many years; more cooperation between management and workers should be encouraged to avoid conflict wherever possible.

The CDP policy on industrial relations recognises the importance of securing flexible working arrangements for workers who have family commitments or part time employment. The traditional award system is not the best method of achieving the flexibility required in 21st century Australia. Some changes in workplace laws have been introduced with a view to introducing more flexibility in working hours, shifts etc. This is a step in the right direction. Yet, the concept of an Australian Fair Pay Commission

performing a wage-setting function and providing a safety net for the low paid must be retained. Current unfair dismissal laws need to be reviewed to ensure that more specific criteria be defined. In this regard, the CDP policy states that:

- the exemption threshold for unfair dismissals should be reviewed to ensure that only genuinely small businesses may benefit from the protection of these laws;
- the legislation should set out some criteria to assist with the interpretation of what is a fair dismissal. Such criteria could require consideration to be given to the employee's effort to date, the resources deployed by the employer to support the employee and the representations made by the employee as to his capacity to work at a set standard;
- more objective guidelines should be made to apply to dismissals by larger businesses on the grounds of "operational reasons, economic, technological and structural matters".

CDP believes that Australian workplaces should become more responsive to the needs of families and recommends the following measures be adopted as soon as possible:

- Flexible arrangements regarding working hours (starting and finishing times) to assist parents who need to bring or collect children from schools;
- paternal and maternity leave;
- government subsidized work place crèches;
- no work on Sundays;
- workplace family counselors and chaplains;
- educational campaigns to make businesses more aware that better, more efficient workers are found in happier families and,
- government provision assistance and information to develop more family friendly work environments.