



CAMPAIGN UPDATE SUMMER 2008-09

yourrightsatwork
worth fighting for

The tide has turned

After years of going backwards on workers' rights, the tide has now turned.

A year since last year's election, the Rudd Government has released its proposed new industrial relations laws.

They are a major step forward for the right of workers to collectively bargain and be represented by unions.

Once the proposed laws are passed they will change the landscape of our workplaces and begin to restore decent rights for Australian workers.

However it would be incorrect to say that unions are satisfied with everything the Labor Government is proposing.

There is unfinished business, and we know there is much more work to do.

Let us assure you that the ACTU and all of the unions are determined to continue campaigning for the best possible deal for all Australian workers.

In the coming months, we will have a job on our hands to get the new workplace system passed by the Senate.

And there are other important issues we will still campaign for, including the rights of construction workers.

We need your help to do this, so please stay active in the Your Rights at Work campaign.



ACTU Secretary
Jeff Lawrence

ACTU President
Sharan Burrow

Collective bargaining rights - an historic achievement

The new Collective Bargaining Laws introduced by the Federal Government will, when they are passed by Parliament, represent one of the most momentous overhauls of industrial relations in this country for 100 years.

- For the first time in history, employers will be required to respect workers' rights to collectively bargain and be represented by their union. They will also be required to negotiate in good faith.
- Collective bargaining was systematically undermined by the Howard Government, which for 10 years reduced workers' ability to gain decent wages and conditions.
- When the Labor Government's new system is passed by Parliament in 2009, collective bargaining will drive better wages and conditions for workers and deliver higher productivity for our economy.
- Unions were concerned that collective bargaining would be meaningless unless it was enforceable, and we are pleased the Government has largely accepted this argument. In certain circumstances the independent industrial umpire will have the power to settle disputes and workers will also be able to access courts in some cases.
- In a major step forward for low paid workers the new umpire, Fair Work Australia, will have the power to arbitrate to assist employees in low paid industries to collectively bargain for higher wages and improved conditions.

Combine this with a new safety net of awards and minimum standards, an open and transparent process for the setting of minimum wages, and the new system will provide workers and their unions a very good foundation on which to build and advocate for the interests of working Australians.

Our campaign goals

Here is a summary of our six key goals and what we have achieved so far:



1. No AWA individual contracts

AWAs were the centrepiece of Howard's WorkChoices. They were used to break down collective strength in the workplace, and to drive down wages and conditions. They were an anathema to the spirit of a fair go.

The Rudd Government banned the making of new AWAs in March this year. While it is disappointing workers can remain on these contracts, the proposed legislation will allow workers on expired AWAs to access collective bargaining. Other AWAs will also have to comply with the new National Employment Standards. Common law contracts will have to be above the award.

2. A strong safety net

The safety net of awards and National Employment Standards will be expanded far beyond the minimum five basic conditions under WorkChoices. Under the new legislation, entitlements such as maximum weekly hours of work, overtime pay, penalty rates, public holidays, redundancy, annual leave and rest breaks will be protected. Employers will not be able to strip them away.

New, modern awards are also being created that will safeguard minimum wages, types of employment, superannuation, and procedures for dispute settlement. WorkChoices left awards to waste away but under the new laws they will be reviewed every four years.

Unions will also again be able to run "test cases" which were banned under WorkChoices. Test cases have in the past delivered such important conditions as carers leave, maternity leave and the 38 hour week.

Minimum wage workers can now look forward to a much fairer system of setting their pay under Labor's new laws. Under WorkChoices, the wages of more than one million award-reliant workers declined in real terms.

3. Collective bargaining rights

Collective bargaining will be the centrepiece of the new IR system. Bargaining will be required to be conducted "in good faith" meaning that employers must be fair dinkum about trying to get a result.

A majority of workers will be able to insist on bargaining for a union collective agreement and your union will also have a guaranteed right to represent you — both things which were denied under WorkChoices. The agreement must be genuinely reached and it must leave workers better off overall. In addition the umpire will be able to step in to settle an agreement after all other efforts have been made and there is harmful industrial action. The umpire will also be able to intervene when there have been serious and persistent breaches of good faith bargaining requirements, as we have seen in cases like Telstra and Cochlear.

Importantly, there will also be new, effective ways for groups of workers like cleaners, childcare workers, hospital workers and community workers to get assistance to bargain collectively in ways not previously possible.

4. Right to union membership and representation

One of the basic tenets of democracy is the choice to belong to a union. WorkChoices encouraged a pattern of intimidation by threats of dismissal, pressure, discrimination and victimisation that eroded this basic right. The right to be in a union will be enshrined in the new legislation and there will be greater protections for delegates during bargaining.

It will be unlawful to take action against someone simply because they exercise a workplace right, or to discriminate against someone because they are a union member.

In addition, there will be a guaranteed right of union representation in those situations where you need your union involved, including in consultation and dispute settlement processes. The ability of unions to

The campaign continues **UNFINISHED BUSINESS**



While this legislation is a big step forward, there are still gaps and unfinished business, including:

- We will need to campaign further to help workers access collective bargaining and make AWAs disappear entirely from

the workplace landscape in the years ahead.

- Restrictions on the content of collective agreements are unnecessary and the docking of minimum four hours pay for taking unprotected action is absurd.

- The ability of workers to access arbitration or the courts in respect of the application of the safety net and collective agreements may pose practical problems.

- We must be vigilant to ensure that no workers are disadvantaged by the proposed modern awards and that the rights of contractors are protected.

- The discriminatory laws for workers in the construction industry simply have to go. The ABCC is an affront to our values and must not be replaced by a new entity with a different name but the same oppressive powers.

- There may also be further push back from employer groups or the Coalition in the Senate which will need to be addressed.

enter workplaces to hold discussions with members or potential members and to check workers are not being ripped off will no longer be displaced by non-union agreements.

5. **Protection from unfair dismissal**

All workers will once again have protection from unfair dismissal (if you work in a small business, you will have to be employed for a year before these apply). This will include high earners covered by awards.

The exemption from unfair dismissal when sackings occur for “operational reasons” will be removed.

This is major improvement on WorkChoices which slashed unfair dismissal rights and left many young and vulnerable workers with no protections at all.

6. **An independent umpire**

The role of the independent umpire is vital to making sure the system works properly. It needs to be easy to use, affordable, timely and have the tool kit to do the job properly.

WorkChoices rendered the industrial umpire powerless, but we expect the new laws to have an umpire with the powers to get the job done. Fair Work Australia will be able to conciliate, mediate, call compulsory conferences and make recommendations.

One of Fair Work Australia’s main roles will be to assist with bargaining, including supervising industrial action, and facilitating bargaining for low paid workers. And the umpire will have real teeth, with new grounds for arbitration for the low paid when bargaining fails.

The courts will also be given a new role in overseeing the application of awards and the National Employment Standards. This will provide a strong deterrent against the infringement of workers’ rights and entitlements, with employers facing court-imposed orders, injunctions, and penalties.

WHAT YOU CAN DO

- **Tell your Senator how important your rights at work are. Make a submission to the Senate Inquiry into Labor’s proposed new laws.**

- **Get involved in union campaigns for construction workers’ rights, paid maternity leave and national health and safety laws.**

- **Make sure employers who exploit workers are kept in check and be active in your unions. Contact the Union Hotline on 1300 4 UNION (1300 486 466).**

- **View the ACTU Turn the Tide video message or sign up to email updates – Join nearly 200,000 supporters on the Rights at Work website**

www.rightsatwork.com.au

Paid Maternity Leave LONG OVERDUE



Paid maternity leave is a long overdue economic and social reform that unions are campaigning to have introduced as a national scheme next year.

The 18 week scheme recommended by the Productivity Commission to cover all working women is broadly supported by the ACTU and would provide a good base for unions to build on in coming years.

It would allow women to be with their babies without

financial stress or worrying about losing their job.

Employers would also benefit by reducing re-hiring and training costs.

Despite the global financial crisis, the ACTU and unions believe the scheme should be included in the Rudd Government's 2009 federal budget.

For more campaign info and to read the ACTU's PML submission go to www.actu.asn.au/pml

Health and Safety FINES WELCOME



Every year many thousands of Australians get sick, are injured or die because of their work.

There are currently nine different workplace health and safety laws operating in Australia. Unions agree the system requires reform but it must deliver the highest standards for harmonized health and safety laws.

A recent review by a Government panel has just released the first of two reports containing 75 recommendations for new OHS laws. While many of the recommendations will improve the system, others don't go far enough.

For example, the recommended maximum five year jail terms for people who cause a workplace death, is higher than that applying in most states but a drop in standards for the ACT where there is a 7 year maximum.

Other proposals to increase the maximum fines for companies and directors who cause death or injury to workers are positive, but may not be enough to deter bad employers.

For more information, contact ohs@actu.asn.au or **03 9664 7350**



Construction Workers ONE LAW FOR ALL

The campaign to abolish the construction industry watchdog – the Australian Building and Construction Commission (ABCC) is continuing to highlight the unfairness of the Howard Government's laws that remain.

The ABCC has draconian powers that include the ability to summons any person to give evidence. It is an offence, punishable by up to six month's jail to refuse to even give evidence.

But now an independent review by Murray Wilcox QC has

found the ABCC discriminates against construction workers and infringes their rights. "These rules treat building workers more harshly than people in other industries," the review said.

Labor changed its policy to abolish the ABCC prior to winning the 2007 election, and now the Government says the ABCC will remain until 2010. Unions say this is not good enough — construction workers deserve to be treated the same as other workers.

For more information, visit www.rightsonsite.org.au