# New labour laws: here we go again

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To paraphrase the title of a book recently mentioned in this column, it seems that too much change is never enough for the drafters of our industrial laws. The past five years have seen huge legislative change in all Australian jurisdictions. Its sweep and significance is unprecedented. The whole focus for wage negotiation and employment conditions has been fundamentally altered. And time-honoured practices have been dispensed with remarkably quickly.

Reflecting on all of this, it might be logical now to anticipate a period of relative calm. You could be excused for thinking these radically-different approaches to employment relationships would need to be bedded-down and analysed for cause and effect. Think again, because more major changes to our labour laws are well and truly in the pipeline.

Leading the charge is the federal government, with proposed 'second-wave' changes to its *Workplace Relations Act*. The state governments are not far behind. New South Wales, Queensland and South Australia all have new legislatives packages ready for debate in their parliaments. In each case, this comes with the ink barely dry on new industrial relations laws brought in over the past year or two. Constant legislative upheaval with its inevitable attendant uncertainty seems almost to have become a specific policy objective in itself. Moreover, the diametrically opposite approaches taken by different governments can only increase suspicion that a professed commitment to fairness involves some worrying semantic gymnastics. Comparison of the federal and Queensland government's respective reform agendas highlights the contrast sharply.

ALIA members will recall the federal Act's birth — with great fanfare — just two short years ago. Photographs of minister Reith and then-Democrats leader Kernot festooned the newspapers as they celebrated finalisation of a package which, they said, would revolutionise industrial relations in Australia, by building a fair balance between the interests of business and labour. And the government, in the preamble to its new *Workplace Relations Legislation [More Jobs, Better Pay] Bill 1999*, asserts that this has indeed occurred. Which makes one wonder why further changes are necessary so soon. Are we now pursuing something fairer than fair? And if so, fairer to whom? Isn't this all sounding increasingly like the Orwellian script wherein some are more equal than others?

The major elements of proposed federal changes include steps to expand the incidence of individual agreements [AWAs], to discourage what the government calls 'industry wide agreements and pattern bargaining', to place further limitations on the role of the Industrial Relations Commission [IRC], to largely remove unfair dismissal protection in smaller organisations and to hasten the trend to use of the civil courts for resolution of industrial disputes [as occurred in the waterfront dispute of 1998]. These issues will be the subject of intense debate in coming months. Clearly the Australian Democrats will play a major role in determining how much of the government's program actually becomes law.

But whatever form the amended Act finally takes, the success of the government's agenda will ultimately depend on the extent to which employers adopt it. The fact that more changes have been put forward so soon after introduction of the original Act indicates that many employers have, to date, been less enthusiastic about individualisation of employment conditions and negotiation than the government. The relatively small number of organisations using AWAs confirms that suspicion. This is not at all surprising. The view that too much change can be counter-productive is not restricted to employees. After a period of unprecedented upheaval, many employers may justifiably see a period of relative stability as more fertile soil for business success than still more chaos and uncertainty.

At the opposite end of the political [and policy] spectrum, the Queensland government is seeking precisely the same objective — a fair and balanced system — by moving in precisely the opposite direction. Rather than winding back the role of its Industrial Relations Commission, Queensland will ensure a stronger role and increased powers for the tribunal. Instead of encouraging open-slather negotiations which could, for example, see workers surrendering their basic leave entitlements in exchange for a pay rise, Queensland will move to guarantee core conditions [such as annual, sick, long-service and family leave] for all workers, whether covered by registered awards/agreements or not. Rather than removing unfair dismissal protection, Queensland will guarantee it to all workers, while at the same time introducing more streamlined dismissal-review processes to save employers time and money. A wider variety of agreements will be available, allowing choice between single enterprise, multi-employer, whole-of-industry or

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specific project agreements. While the state version of AWAs [QWAs] will remain, controls over them will be tightened considerably by comparison with their federal counterparts. Firm no-disadvantage provisions will be enforced. And, by contrast with federal arrangements — which expressly prevent a role for the IRC — the Queensland tribunal will have strong public-interest powers in respect of QWA's, including consideration of the relative bargaining power of the parties and their impact on low-paid and other disadvantaged workers. Instead of recourse to the civil courts, the new Queensland laws seek to minimise industrial action by adopting an enforced twenty-one-day peace period during which industrial action is illegal and genuine bargaining is required.

What are we to make of such wildly differing routes to a supposedly common destination: a fair and balanced system? Primarily, perhaps, that 'fairness for whom?' remains the central question in reform of labour laws. Legislative adjustments can certainly improve, or damage, the climate for negotiation. Whether you favour removal or strengthening of controls over negotiations, greater or lesser access to an independent umpire in the shape of an industrial tribunal and the encouragement of individual or collective determination of conditions probably depends largely on your political viewpoint and your role in the labour market. One thing, however, is certainly clear: neither tinkering with nor complete overhaul of the law will in itself change the behaviour of labour and capital. Only attitudinal change and good will is likely to achieve sustainable improvement. The continuing reliance on shifting the legal deck chairs of industrial relations suggests that neither industry nor governments have yet grasped that simple fact. ■

# Library workers moving toward pay equity

**After a period of delay caused by the state election, recent months have seen encouraging progress toward implementation of the Pay Equity Inquiry's recommendations to redress the undervaluation of librarian's work.**

**Extensive discussions are continuing between the Public Service Association [PSA] and the Public Sector Management Office [PSMO]. Valuable concessions have already been won.**

**After wishing to deal only with the State Library initially, PSMO has now accepted the Association's proposal for integrated single cross-state negotiations. All public-sector organisations [including all government departments, smaller agencies and TAFE] will be involved. It has been agreed that library technicians and archivists [who were not formally covered by the Pay Equity Case findings] will be included.**

**A draft *Librarians, Library Technicians and Archivists Award* is being negotiated. It is hoped that the proposed State Wage Case to establish the new Equal Remuneration Principle will be held shortly, thus opening the way for the new Award to be finalised.**

**These are critical negotiations for ALIA members in New South Wales, and, potentially, for those in other parts of Australia. The Public Service Association is doing a sound job in converting encouraging findings from the Pay Equity Inquiry into tangible workplace benefits for library workers.**

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