

Agreement-making choices

- Formalised and informal. Union and non-union. Individual and collective. Federal/State
- No agreement stream favoured over another

Australian workplace agreements (AWAs) – a new option

- Between employee and employer
- Can be negotiated collectively or individually
- Limited right to strike/lock out during bargaining
- Bargaining agents can be appointed
- Signed individually
- Global no disadvantage test – benchmark against relevant award and any relevant law
- User friendly EA approval process
- Period to be specified / upper limit of 3 years
- Can terminate at any time by written agreement
- AWAs and CAs continue in force after expiry date, unless
 - agreement provides for an alternative *or*
 - replaced by a new agreement, terminated by agreement between the parties or on application
- terminated by AIRC if not against the public interest

Certified agreements (CAs) – modified

- Between employer and union(s) or directly with employees
- Collectively negotiated
- Limited right to strike/lock out during bargaining
- No need for underpinning award
- Emphasis on single business CAs – obtaining multi-employer CAs tightly controlled
- Majority approval of employees required
- Global no disadvantage test – benchmark against relevant award and any relevant law
- AIRC to certify
- New employees automatically covered – unless otherwise agreed
- Apply for an upper limit of 3 years
- Can be terminated at any time, with majority approval.

Access to advice, services and remedies

The Employment Advocate

- Guarantees the integrity of AWA arrangements
- Readily accessible, user friendly
- Advice & information on AWAs, freedom of association and related matters
- Vetting of AWAs (not via formal hearings)
- Freedom of association and AWA breaches
- Powers to enforce
- Special attention to needs of workers disadvantaged in bargaining
- Publish aggregated statistics on AWAs

Department of Industrial Relations

- Power to investigate award and CA breaches – voluntary compliance/can prosecute
- Advice and information on workplace relations issues

The AIRC

- Unfair dismissal jurisdiction
- Maintenance of the award safety net
- Award simplification
- Conciliation role in assisting CA making
- Dispute resolution
- Arbitration role within specified limits
- Matters relating to registered organisations

The Federal Court

- Takes over the jurisdiction of the Industrial Relations Court, including injunctions relating to industrial action
- Can impose penalties for discrimination or victimisation under freedom of association
- Approval of union disamalgamation



Industrial action

- Protected action – right to strike/lock out during bargaining
- Industrial action prohibited during the term of an agreement
- Strike pay unlawful
- AIRC enhanced powers to stop/prevent unprotected industrial action
- Secondary boycotts provisions restored to Trade Practices Act
- Compliance – higher maximum penalties for breaches of awards/agreements



FEDERAL AWARDS

*Employers
and
Employees*

THE SAFETY NET



Freedom of association

- Voluntary unionism
- Compulsory unionism and preference outlawed
- Protection against coercion & discrimination
- 'Conveniently belong' replaced – greater employee choice of representation
- Enterprise unions
- Limited union right of entry – Industrial Registry Permit needed
- Registered organisations – minimum registration requirement of 50. Disamalgamation of unions.
- 12 month limit on liability for union dues

Operating an effective system

Federal/State harmonisation

- Complementary legislation, where needed
- Administrative improvements through collaboration
- Cooperation on service delivery

Flexibility for changing work patterns

- Regular part-time work
- Balancing work & family responsibilities

Striking a fair balance

- Anti-discrimination provisions
- Equal remuneration provisions
- Special arrangements for apprentices and young people in training
- Continuation of junior rates + access to new wage arrangements for new apprenticeships and traineeships
- Safeguards for vulnerable workers involved in bargaining
- EA's role in relation to women, young people, apprentices, trainees, outworkers and people from a non-English speaking background



Safety net

- Fair and enforceable minimum wages and conditions
- AIRC to arbitrate safety net adjustments – needs of the low paid
- Awards confined in scope to 20 subject areas ('allowable matters') – AIRC can settle exceptional cases about non-allowable matters
- Awards to be simplified – through AIRC fair and transparent process
- Paid rates → minimum rates, with overall pay safeguarded
- Special case arbitration by AIRC above safety net strictly limited, only in circumstances where bargaining exhausted – disputes threatening serious harm to community/economy, *or* where employees have been customarily covered by paid rates awards



'Fair go all round' unfair dismissal

- Balances interests of employees and employers
- Limited to employees covered by federal awards and agreements
- Simple test applied – harsh, unjust or unreasonable
- Dismissal on discriminatory grounds not allowed *
- Notice still to be given or pay in lieu *
- AIRC to deal with cases. Conciliation stressed. If arbitrated, reinstatement or compensation (with limits). Frivolous or malicious applications discouraged + possible costs

* For all employees



Key features of the new federal workplace relations law