

# **AUSTRALIA'S FEDERAL WORKPLACE RELATIONS SYSTEM**

**PRESENTATION: AUSTRALIA – U.S. FREE  
TRADE AGREEMENT NEGOTIATIONS**

**21 MARCH 2003, CANBERRA**

# SOME DIMENSIONS OF THE AUSTRALIAN WORKFORCE

- Australia has a workforce of 9.56 million (February 2003)
  - Male 55.3%
  - Female 44.7 %
  - Fulltime 71.6%
- Average earnings c. A\$46,371 per annum (November 2002)
  - full-time adult ordinary time earnings

# THE NATURE OF THE AUSTRALIAN WORKPLACE RELATIONS SYSTEM

- Australia has a Federal system of workplace relations.
- The Commonwealth's power to regulate workplace relations is derived from the constitution:
  - conciliation and arbitration power;
  - corporations powers.
- The Commonwealth can override State systems.

# THE NATURE OF THE AUSTRALIAN WORKPLACE RELATIONS SYSTEM

- Australia has six sets of workplace relations laws.
- Victoria has referred its power to the Commonwealth.
- Some businesses may be covered by more than one jurisdiction.

# WORKPLACE RELATIONS REFORM IN AUSTRALIA SINCE 1996

- The *Workplace Relations Act 1996* (the WR Act) has transformed the federal Australian industrial relations system.
- The 1996 reforms have contributed to strong economic and employment growth:
  - 1,230,000 new jobs since March 1996;
  - average GDP growth of 3.72% p.a. (from 1996 to 2002);
  - labour productivity growth up from around 2% to 3%;

# **WORKPLACE RELATIONS REFORM IN AUSTRALIA SINCE 1996**

- a substantial increase in the real wage - average weekly full time earnings up by 12% in real terms;
- a marked increase in the efficiency and international competitiveness of Australian Industry;
- lowest levels of industrial disputation ever recorded.

## – AGREEMENT MAKING

- Pre-1996: industrial awards were the predominant form of regulation.
- Agreements at the enterprise and workplace level are now the main way wages and conditions are settled:
  - 80% of federal employees wages and conditions covered by agreements;
  - 20% by awards.

## – AGREEMENT MAKING

- Employers can make:
  - formal collective agreements - certified agreements at the enterprise/workplace level;
  - with employees or unions;
  - individual agreements, Australian Workplace Agreements AWAs;
  - multi-employer certified agreements in very limited situations;
  - informal arrangements.
- Both certified agreements and AWAs can replace awards.
- Agreement making has led to increased flexibilities for both employers and employees.



## – AWARDS

- Agreements have to meet the ‘no-disadvantage test’ – a comparison with awards.
- Awards have been significantly simplified. For example awards now exclude
  - organisation of work;
  - restrictions on the use of part-time and casual work; and
  - training arrangements.
- Some 1,680 mainly obsolete awards have been set aside and hundreds of others have been simplified.

## – INDUSTRIAL ACTION

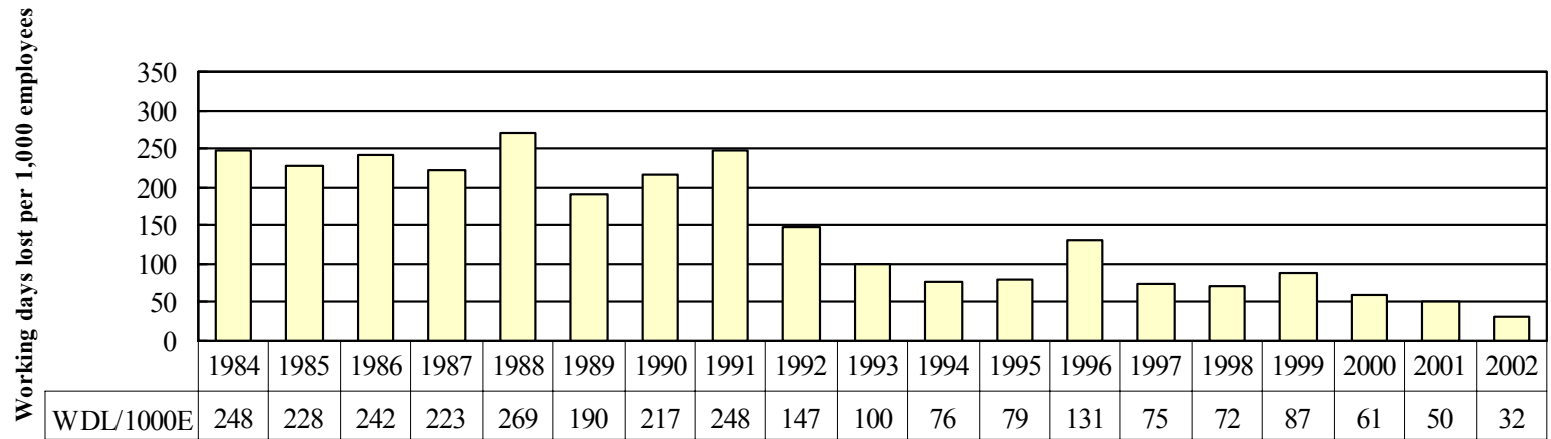
- Under the WR Act, the right to take industrial action is recognised in particular circumstances.
- The Australian Industrial Relations Commission has the power to stop or prevent unlawful industrial action.
- This is supported by access to injunctive relief through the courts where the commission's orders have not been observed.
- Industrial action which hinders interstate or overseas trade is prohibited. Secondary boycotts are prohibited
  - damages can be awarded.

## – INDUSTRIAL ACTION

- Over recent years Australia's record on industrial action has improved markedly. In 2002, Australia recorded the lowest strike rate reported for any calendar year since records were first kept in 1913.

# – INDUSTRIAL ACTION

**Chart 1: Working Days Lost Per 1000 Employees  
twelve months ending December**



Source: ABS, Industrial Disputes, Australia (Cat. No. 6321.0)

## – FREEDOM OF ASSOCIATION

- Freedom of association is the choice to be, or not to be, a member of a union or employer association.
- It is a key principle of Australia's workplace relations system.
- The WR Act provides a place for responsible unionism, but does not allow for unions an unfair special position.

## – FREEDOM OF ASSOCIATION

- Compulsory unionism, 'closed shops' and preference for union members in employment are outlawed.
- A strictly defined right of entry onto work premises for union officials.

## – UNFAIR DISMISSAL

- The WR Act made substantial improvements to the unfair dismissal system.
- The new system is based on the concept of ‘a fair go all round’.
- More balanced and fair to both employers and employees.
- It is less legalistic and costly and emphasises conciliation.

## – SAFETY NET PROTECTIONS

Employees' wages and conditions are protected by:

- adjustments to minimum award wages.
- legislative minimum standards in certain areas; and
- particular legislative process requirements:
  - the AIRC adjusts safety net rates of pay;
  - the no-disadvantage test protects employees entering into agreements;
  - employees have protection from unfair dismissal and unlawful termination;
  - agreements must not contain provisions which are discriminatory on a range of grounds;



## – SAFETY NET PROTECTIONS

- employers are required by legislation to pay 9% of an employee's wages into a superannuation fund to fund the employee's retirement;
- in cases of business insolvency, most accumulated employee entitlements are protected by a Federal Government funded scheme; and
- employees who lose their jobs have access to unemployment benefits and assistance in finding new employment.

## **- ENFORCEMENT ARRANGEMENTS**

- Office of Workplace Services (OWS) helps employers and employees understand and exercise their rights and choices under the WR Act.
- OWS provides a telephone advisory and referral service (WageLine) and an on-line information and enquiry service (WageNet).

## **- ENFORCEMENT ARRANGEMENTS**

- Inspectors appointed under the WR Act have powers to secure compliance with awards and agreements.
- Officers of OWS, and State public servants providing services on behalf of the Commonwealth, hold appointments as inspectors.
- The Office of the Employment Advocate (OEA) provides assistance to employers and employees on matters under the WR Act, particularly AWAs and freedom of association.

## – OCCUPATIONAL HEALTH AND SAFETY

- States and Territories have primary responsibility for occupational health and safety.
- State regulations and codes are generally based on National Standards agreed by all governments.
  - National Standards reflect relevant international standards.
- A National Occupational Health and Safety Strategy 2002-2012 has set targets to reduce fatalities by at least 20% and workplace injuries by at least 40%, over the next decade.

## – WORKERS' COMPENSATION

- Workers' compensation is also primarily a State responsibility.
- Each State and Territory has a compulsory workers' compensation scheme.
- These are based on 'no-fault' compensation with employers liable for work related injuries, disease and deaths suffered by employees.
  - The arrangements also assist in rehabilitation and return to work.

# FURTHER WORKPLACE RELATIONS REFORM

- The Government is continuing with workplace relations legislative reform.
- Amongst other things, current proposals seek to:
  - further reduce the burden of unfair dismissal;
  - require a secret ballot before protected industrial action can be taken;
  - provide improved protection against unacceptable industrial behaviour; and
  - simplify agreement making procedures.

# FURTHER WORKPLACE RELATIONS REFORM

- Reform is also about ensuring that the workplace culture better reflects the freedoms, opportunities and responsibilities already available.
- In the longer term, the government wishes to move towards a more unified national workplace relations system.