



Australian Government

WorkChoices

Right to join a union

Under the Workplace Relations Act all employees have the right to belong, or not belong, to a trade union. An employer cannot dismiss an employee because they belong to, or do not belong to a union.

Representation by a union

Unions will continue to be able to be registered under the Workplace Relations Act and have the right to represent their members in proceedings before the Australian Industrial Relations Commission and in legal proceedings under the Workplace Relations Act.

Enterprise Unions

An enterprise association is a union where the majority of members are employees performing work in the same enterprise.

Under WorkChoices, the number of members required to form an enterprise association will be reduced from 50 to 20.

Unions as bargaining agents

Under WorkChoices, employees will retain the right to nominate a bargaining agent to help them in the agreement making process, including making individual workplace agreements. A bargaining agent can be a trade union representative. When a bargaining agent is appointed in relation to a collective agreement, the employer must give the bargaining agent a reasonable opportunity to meet and confer about the proposed workplace agreement. When one party appoints a bargaining agent relation to an AWA, the other party must not refuse to recognise the bargaining agent.



WorkChoices and unions

Union collective agreements

A union collective agreement (UCA) is a type of workplace agreement that is made between a union and an employer. For a UCA to be made there must be at least one employee at the workplace who is a member of the union and whose employment will be subject to the workplace agreement. A union collective agreement binds the employer, the employees and the union that made the agreement.

The other type of workplace agreement that can be made directly with a union is a union greenfields agreement (UGA). A UGA is an agreement that relates to a new business, project or undertaking the employer proposes to establish, or is establishing. A union greenfields agreement must be made before anyone who will be covered by the agreement is employed in the new business.

Enforcement role of unions

Unions have enforcement capacities where they are bound to a collective workplace agreement. Similarly, unions can enforce a term of an award where they have a member who is covered by the award.

Unions can enforce the conditions contained in the Australian Fair Pay and Conditions Standard (the Standard) where the union has at least one member working for the employer.

For more information on the Standard, see the 'WorkChoices and the Australian Fair Pay and Conditions Standard' fact sheet.

Unions will also be able to investigate and apply for a penalty for a breach of an Australian Workplace Agreement (AWA) where the employee asks the union to do so in writing.

Union right of entry

Under WorkChoices, unions can enter certain workplaces to investigate a suspected breach of the Workplace Relations Act or to hold discussions with employees.

Unions may only enter a workplace to investigate a breach of an award or collective agreement if a member of the union is carrying out work at the premises and the suspected breach affects a union member.

If all employees are on AWAs or there is a collective agreement to which the union is not a party, a union does not have a right of entry under the Workplace Relations Act for discussion purposes.

Union officials must have a permit from the Australian Industrial Registrar to enter a workplace. The Registrar can only issue a permit if satisfied that the union official is a fit and proper person.


State registered unions and the transition to the federal system

Under WorkChoices, a state registered union may apply to the Australian Industrial Registrar to become transitionally registered for up to three years from the date WorkChoices commenced (27 March 2006).

Within three years a transitionally registered union must become fully registered under the Workplace Relations Act. During the transitional period, the state registration regime, and not the Schedule in the Workplace Relations Act that regulates registered associations will apply to the transitionally registered union.

WorkChoices is a new system of workplace relations legislation that covers up to 85 per cent of Australian employees. This series of fact sheets is available to assist workers and employers to understand their rights and obligations under the legislation.

For more information call the **WorkChoices Infoline** on **1300 363 264** or visit the **WorkChoices** website **www.workchoices.gov.au**



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