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Workplace Relations Amendment (Award Simplification) Bill 2002

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Workplace Relations Amendment (Award Simplification) Bill 2002

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20 March 2003

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Workplace Relations Amendment (Award Simplification) Bill 2002

Date Introduced: 13 November 2002

House: House of Representatives

Portfolio: Employment and Workplace Relations

Commencement: No later than the day after 6 months of the Act receiving Royal Assent

Purpose

To reduce the number of allowable matters in federal awards and provide for a 12 month review of awards during which they will be expected to be amended (varied) so that they comply with the Bill. Federal awards prescribe employment conditions such as wages, classifications, annual leave, sick leave and other entitlements (or obligations). The scope of the provisions which federal awards may address is governed by an item-by-item prescription of matters which the *Workplace Relations Act 1996* specifies as allowable. The Act provides some scope for the Australian Industrial Relations Commission (AIRC) to develop principles on award simplification, but the Bill prescribes certain award matters previously sanctioned by the AIRC as 'non-allowable'. The rationale is to encourage award matters to be negotiated in enterprise agreements, as the Hon. Tony Abbott MP noted in his Second Reading Speech to this Bill.[1]

Background

The *Workplace Relations and Other Legislation Amendment Act 1996* (WROLA) amended and re-named the *Industrial Relations Act 1988* as the *Workplace Relations Act 1996* (WR Act). Part 2 of Schedule 5 of WROLA provided transitional provisions[2] under which federal awards existing in 1997 were required to be reviewed so that award clauses would comply with the WR Act's 'new' prescriptions on the content of awards. The WR Act stipulates the role and contents of awards under a number of provisions, particularly section 89A and section 143. Section 88B prescribes the role of the AIRC in maintaining an award safety net.

Current allowable matters

Section 89A of the WR Act prescribes the matters which awards may address. It stipulates that awards must prescribe minimum rates as well as prescribing other requirements. Following agreement with the Australian Democrats, the initial eighteen allowable matters proposed by the WROLA Bill became twenty allowable matters under the WR Act (subsection 89A(2)). These are:

- (a) classifications of employees and skill-based career paths;
- (b) ordinary time hours of work and the times within which they are performed, rest breaks, notice periods and variations to working hours;
- (c) rates of pay generally (such as hourly rates and annual salaries), rates of pay for juniors, trainees or apprentices, and rates of pay for employees under the supported wage system;
- (d) piece rates, tallies and bonuses;
- (e) annual leave and leave loadings;
- (f) long service leave;
- (g) personal/carer's leave, including sick leave, family leave, bereavement leave, compassionate leave, cultural leave and other like forms of leave;
- (h) parental leave, including maternity and adoption leave;
- (i) public holidays;
- (j) allowances;
- (k) loadings for working overtime or for casual or shift work;
- (l) penalty rates;
- (m) redundancy pay;
- (n) notice of termination;
- (o) stand-down provisions;
- (p) dispute settling procedures;
- (q) jury service;
- (r) type of employment, such as full-time employment, casual employment, regular part-time employment and shift work; and

- (s) superannuation;
- (t) pay and conditions for outworkers, but only to the extent necessary to ensure that their overall pay and conditions of employment are fair and reasonable in comparison with the pay and conditions of employment specified in a relevant award or awards for employees who perform the same kind of work at an employer's business or commercial premises.

Section 143 of the WR Act stipulates that award provisions are to be modern, written in plain English, non-discriminatory, not prescribe restrictive work practices of the enterprises bound by awards, nor contain matters of detail best dealt with by agreement at the enterprise or workplace level.

Non-allowable matters and review as proposed by the Bill

The Bill proposes to delete the following from allowable award matters:

1. skill-based career paths from subsection 89A(2)(a), but classifications are to be retained
2. bonuses from subsection 89A(2)(d), but piece rates are to be retained
3. long service leave, currently allowed under subsection 89A(2)(f)
4. notice of termination, currently allowed subsection 89A(2)(n), and
5. jury service, currently allowed under subsection 89A(2)(f).

As a result of this Bill, the current twenty allowable matters would become seventeen allowable matters. Also, the Bill proposes that award clauses dealing with the following issues are **not** to be considered as allowable:

- transfers between work locations
- cultural leave, which is to be replaced with a more specific and restrictive form of ceremonial leave for Aboriginal and Torres Strait Islander (ATSI) peoples
- extra public holidays above those specified as public holidays by a State/Territory government, eg union picnic days
- leave for training and study purposes
- recording of employees' worktimes
- accident make-up pay
- exclusive union representation of members in dispute settling processes

- movement of employees between forms of employment, eg casual to on-going
- number or proportion of employees which an employer may employ in a classification and any other award regulation on the employment of persons in particular classifications, and
- maximum or minimum hours to be worked by regular part-time employees.

The Bill makes a further changes by specifying, for example, that only a Full Bench of the Australian Industrial Relations Commission (AIRC) will be able to make 'exceptional matters' orders.[3] Other provisions of the Bill are designed to facilitate the proposed twelve month review period and to specify that non-allowable award provisions become ineffective by the end of the period.

This review process is modelled on the WROLA review period (then) of eighteen months. Following the required review of awards by the AIRC and the parties to the particular award, any provisions found not to conform with the WROLA prescription were required to be modified or deleted. For example, it was common for federal awards to include 'union consultation' clauses following an Arbitration Commission test case on termination, change and redundancy in 1984.[4] Award clauses addressing union consultation were not specified as allowable under WROLA, and, in the main, such clauses have been deleted from federal awards. A similar process can be expected to apply to those matters prescribed as non-allowable under this Bill.

The narrower scope of award provisions envisaged by the specified award matters of section 89A, in conjunction with WROLA's stipulated review process can be regarded as 'award simplification'. The AIRC has produced a useful on-line Resource Book which outlines how the variety of award clauses have been considered under its award simplification principles.

Workplace Relations Legislation Amendment (More Jobs Better Pay) Bill 1999

The Government introduced the Workplace Relations Legislation Amendment (More Jobs Better Pay) Bill 1999 (the 'More Jobs Better Pay' Bill) to the House of Representatives on 30 June 1999 and it passed that House on 29 September. The Bill was referred to the Senate Committee for Employment, Workplace Relations, Small Business and Education for inquiry on 11 August 1999. The Committee reported on the Bill on 29 November 1999. Schedule 6 of the 'More Jobs Better Pay' Bill proposed making all of the following non-allowable award matters:

- minimum or maximum hours of work
- transfers between work locations
- transfers from one type of employment to another (eg part-time to full-time)
- training and education

- recording of work times
- accident make-up pay
- jury service
- long service leave
- union representation for dispute settling procedures
- union picnic days
- limitations of numbers of employees of a certain types, and
- tallies, although bonuses were initially to be removed as well, but the Bill was amended to retain bonuses
- The schedule also introduced other amendments in addition to the issue of allowable award matters.

As is apparent, the current Bill reintroduces key provisions of Schedule 6 of the 'More Jobs Better Pay' Bill. Concerns about potential effects of removing award provisions such as long service leave and skill related career paths were presented to the Senate Committee reviewing that Bill and reflected in its 'Minority Report'.[5]

Other legislation which has considered allowable award matters since the 'More Jobs Better Pay' Bill, has been the Workplace Relations Amendment (Tallies and Picnic Days and Tallies) Bill 2000 ('Tallies and Picnic Days' Bill). Following the Senate's rejection of the 'More Jobs Better Pay' Bill, the Government introduced this Bill on the premise that the Senate and particularly the Australian Democrats, might more favourably consider provisions of 'More Jobs Better Pay' should its 18 schedules be re-introduced as separate Bills, or as the Hon. Peter Reith put it, 'in bite-size chunks'.[6]

The purpose of the 'Tallies and Picnic Days' Bill was to delete tallies (a form of production bonus mainly found in meat industry awards) from allowable award matters and to have (union) picnic days considered to be non-allowable. It also proposed a review of all awards so that they complied with requirements of the Bill. This amounted to a second award simplification review. In the event, the 'Tallies and Picnic Days' Bill was amended in the Senate so that tallies would be removed from allowable award matters. Picnic days, where they were provided for in certain awards, continued to be regarded as allowable and no additional award review was authorised, other than a review of those awards which contained tallies. (The outcome of this Bill is discussed below).[7]

Award simplification and the relevance of awards

As the current Bill proposes a further simplification of awards, it is useful to establish the progress of the initial simplification review which was supposed to be complete by mid 1998, but while getting close to completion, is in some respects still underway.

The AIRC's Annual Report 2001-02 has revealed that by the end of June 2002, the AIRC had completed the (initial) award simplification review process in relation to 85 per cent of the 3 223 federal awards requiring review.[8]

In the year 2001-02 the AIRC simplified 327 awards, 484 awards were under review totalling 2 739 awards that have been simplified since 1998 which includes 1 393 awards set aside. In September 2002, there were 2 156 current federal awards.[9]

The AIRC Annual Report indicated that over the last five years, applications to vary awards have decreased significantly (to 20 per cent of their 1998 level).[10] Amongst the factors that have influenced this trend were: a decrease in the number of awards through award simplification, an emerging stability in the award safety net; and the legislative focus on agreement-making as a means of settling industrial disputes. On the other hand, as the number of agreements has generally increased, the AIRC has been more involved in dealing with disputes under the dispute settling procedures in certified agreements. The Annual Report notes that in the previous financial year, the number of applications made to certify agreements decreased – 6 495, compared with 8 409 12 months earlier.

It is also useful to ascertain the scope of award and agreement coverage, which is the proportion of workers employed under awards collective or individual arrangements. As will be shown below, there appears to be a strong inter-relationship between the decline of the role of awards, and the growth of certified agreements. Awards in 1990 covered 80 per cent of those employees under a formal instrument.[11] The Australian Bureau of Statistics in its 'method of payment' surveys reveals a downward trend of the proportion of employees employed under awards such that in May 2002 only 21 per cent of employees were covered by awards without reference to another instrument.[12] The same survey for May 2000 had shown 23.2 per cent of employees under awards. On the other hand, the proportion of employees covered by individual agreements had grown to 42 per cent in May 2002, (40 per cent in 2000) although it is not made clear in these surveys to what extent awards may underpin these agreements. The proportion under collective agreements had increased by less than one per cent to 37 per cent.[13] Awards thus have a declining influence as the prime determinant of wage and employment conditions.

Award simplification and certified agreements

Research into federal awards and certified agreements is now suggesting a relationship between the decline of industry awards, award simplification and the recent growth of certified agreements. David Plowman has surveyed certain data from the 1 160 awards and 30 000 certified agreements listed on the OSIRIS database and also made some observations about a sample of the (then) 200 000 Australian Workplace Agreements

(AWAs) filed with the Office of Employment Advocate to the end of year 2000. The OSIRIS database exclusively deals with federally registered awards and certified agreements.

His research shows a strong connection between the growth of certified agreements (CAs) and award simplification, where CAs are being used to catch conditions removed from awards under the simplification process. He makes a number of observations about the streams of employment regulation under the federal jurisdiction. It is now common, indeed the norm, for employees to be regulated by both awards and certified agreements, (and even possible for employees to be regulated by an award, a CA and an AWA). From the review of awards in the OSIRIS database, he concludes that 370 of 1 160 awards are general conditions awards, many are single issue documents (e.g. the award may deal with superannuation or long service leave) and many formerly multi-employer awards are giving way to single employer documents. Concerning the 30 000 or so certified agreements, he concludes that more than 10 000 or so, have been superseded, while another 10 000 have as their main purpose the capture of matters removed from awards under award simplification. The report notes:

> Most certified agreements are post 1996 agreements. They do not seek to provide for general conditions of employment. In the main they are supplementary agreements that take up the award conditions that have had to be shed in the award simplification process.
>
> This situation has been forced on employers and employees by the "simplification" requirements of the WR Act that reduce the content of awards to 20 "allowable matters".
>
> Most certified agreements continue to complement awards … Our analysis suggests that the process of award simplification has given rise to a plethora of certified agreements – in excess of 10,000 (30,000 listed on OSIRIS, 60% of these are superseded). This figure compares with the approximately 700 certified agreements in 1994.[14]

Related to the apparent increase of certified agreements and the reduction of allowable matters of federal awards is the so-called 'No Disadvantage Test'. Under the WR Act the key provision prescribing the relationship between federal awards and certified agreements is the No Disadvantage Test provided under Part VIE of the Act. Section 170XA prescribes:

> (1) An agreement passes the no-disadvantage test if it does not disadvantage employees in relation to their terms and conditions of employment.
>
> (2) Subject to sections 170XB, 170XC and 170XD, an agreement disadvantages employees in relation to their terms and conditions of employment only if its approval or certification would result, on balance, in a reduction in the overall terms and conditions of employment of those employees under:

> (a) relevant awards or designated awards; and
>
> (b) any law of the Commonwealth, or of a State or Territory, that the Employment Advocate or the Commission (as the case may be) considers relevant.

As this Bill reduces allowable matters and makes certain award provisions non-allowable, its effect is likely to be a lowering of the bar for certified agreements to meet the current No Disadvantage Test because of the proposed deletion of current allowable matters from awards.[15]

Basis of policy commitment

Under, Part 6 of the Coalition's 2001 workplace relations policy Choice and Reward in a Changing Workplace commitments were made to maintaining the award safety net and further award simplification:

> A. Minimum wages
>
> The Coalition is committed to maintaining a minimum wage safety net independently made by the Australian Industrial Relations Commission.

and,

> C. Industrial awards
>
> Minimum safety net industrial awards independently made by the Australian Industrial Relations Commission will be maintained and simplified.

Position of significant interest groups/press commentary

The peak employers' association, the Australian Chamber of Commerce and Industry (ACCI) supports further reforms to the award system. It proposes to make it only a minimum safety net and has proposed a 'Minimum Conditions Act'.[16] This would set out pay and leave conditions, broadly following the lines of Victorian minimum conditions of employment currently under Part XV and Schedule 1A of the WR Act, which the Bracks Government is seeking to render inoperative by new State (and complimentary federal) legislation.[17] The ACCI is very likely therefore to support the intent of this Bill, as it has welcomed the simplification of awards:

> Award simplification under the *Workplace Relations Act 1996* contemplated the most substantial change in the federal award system … Simplification and the amended Act more generally have restricted in part the previous unchecked growth in award regulation. This is a welcome development.[18]

However not all employer associations are committed to the blueprint which this Bill proposes. This can be gleaned this from employer comments about Schedule 6 of the 'More Jobs Better Pay' Bill. For example, Victorian Automobile Chamber of Commerce in

1999 argued against removing certain allowable matters which the current Bill also proposes to remove:

> Our associations have some reservations in relation to the proposed changes to section 89A(2)(f) in relation to the removal of long service leave from the allowable matters. We would see that that would create administrative burdens to members, especially where they have national businesses operating across state borders. Removing the long service provisions from federal awards for our members … would subject these sorts of businesses to a multiplicity of different arrangements across different states, including different access times to long service leave and different outcomes in relation to the amounts of leave that are due…
>
> Choice of superannuation … the removal of reference to superannuation funds from awards may be a simple way of dealing with choice, but certainly we would have grave concerns if there were moves to remove the reference to ordinary time earnings in awards because they have been set in place. The intention of the *Superannuation Guarantee (Administration) Act 1992* was that it not disturb existing arrangements that were either agreed to or arbitrated through the industrial commissions by industrial parties through the award process. We would say that the awards and the arrangements, as they currently apply, suit the industries as they operate.
>
> The other issue I would like to quickly draw the committee's attention to is 89A(2)(n), the proposal to remove reference to notice of termination. Currently under the award there is a requirement for an employer to provide notice—and that happens to be the same as under the federal legislation—but there are also provisions there which require employees to provide notice. To remove any reference to notice periods under federal awards would then remove the employees' obligations to provide similar notice to that that employers provide.[19]

Although somewhat dated, these comments made in 1999 assist in alerting to the likely consequences of making the changes to awards which the current Bill also contemplates and suggest that the proposed changes may impact on administrative arrangements of employers.

Pros and cons

Pros

Those arguing in support of the Bill are likely to refer to comments made by the former Prime Minister, the Hon. Paul Keating favouring the simplifying of federal awards and outlined in the ALP's *Working Nation*,[20] which the Hon Peter Reith was fond of quoting:

> It is interesting to note that the previous Labor Government also favoured simplified awards. In a speech to the Institute of Directors in Melbourne on 21 April 1993, Mr Keating, when he was talking about the model of industrial relations they were working towards, said:

> *The safety net would not be intended to prescribe the actual conditions of work of most employees, but only to catch those unable to make workplace agreements with employers. Over time the safety net would inevitably become simpler. We would have fewer awards, with fewer clauses.*
>
> This speech was followed by *Working Nation*, which also noted that "awards will increasingly only need to protect basic core provisions as a true safety net".[21]

These comments reveal that the simplification of awards and the concomitant move to enterprise bargaining has had bi-partisan support, to some extent. Further simplification may encourage the move from awards and into agreement-making.

Cons

Those opposing the Bill such as trade unions, are likely to point to the WR Act's requirement to establish an award safety net of fair minimum wages and conditions of employment. Removal of the proposed allowable matters, and the matters formally considered incidental to the operation of awards, will result in employees 'falling between the cracks', potentially losing entitlements, for example if State/Territory legislation is not specific to cover all affected federal award employees, or, where a particular allowable matter (eg jury service) is not reflected in current certified agreements of some federal award employees. Others may point to the generally high economic outcomes and low industrial disputation achieved under the current workplace regime[22], the extensive and time-consuming nature of the award simplification process undertaken over the past five years and the move away from awards as the principal form of wages instrument. The logic of fragmenting entitlement prescriptions in order to force people to bargain may be questioned when the data reveals a core of 1.7 million wage earners dependent on award provisions.

ALP/Australian Democrat/Greens policy position/commitments

The ALP opposed Schedule 6 of the 'More Jobs Better Pay' Bill, as did the Australian Democrats. As noted above, when the Workplace Relations Amendment (Tallies and Picnic Days and Tallies) Bill 2000 was considered in the Senate, the ALP opposed the Bill, while the Democrats agreed to the removal of tallies from the allowable award matters, while opposing picnic days being made non-allowable. The ALP supported certain Democrat amendments. The Democrat amendments were proposed on the basis that the AIRC had signalled a three year sunset arrangement for the removal of tallies from meat industry awards under the award simplification process. Consequently the Government agreed with Senate amendments and the Bill was amended to remove its reference to picnic days, thus the Bill only deleted tallies from allowable matters.[23] The Bill was passed as the *Workplace Relations Amendment (Tallies) Act 2001*.

However with the current Bill, none of the current award prescriptions proposed for discontinuance are under any similar process of review by the AIRC through award simplification, therefore, it is likely that both the ALP and Democrats will oppose this Bill.

Senator Nettle released a media statement which stated the Australian Greens would oppose a related Bill (Workplace Relations Amendment (Protecting the Low Paid) Bill 2003).[24] As the current Bill also affects the content of federal awards, it is likely that the Greens may oppose this Bill.

Significant technical issues

Certain concerns of the business sector and other groups at the prospect of removing key federal award provisions such as long service leave, on the basis that such matters may otherwise be determined by State laws (and awards) have been noted above. The proposed changes to awards facilitated by this Bill introduce a likelihood that former uniform prescriptions for a particular entitlement may be open to State/Territory determination, inviting the prospect of not only differing prescriptions but also possibly more favourable prescriptions than the current federal standards. This is because as the content of federal awards is removed, federal awards will not displace inconsistent State 'laws' under section 109 of the Constitution. Such a prospect appears in contradiction to the thrust of certain other legislative proposals, notably, the Workplace Relations Amendment (Termination of Employment) Bill 2002 which seeks to displace State industrial codes in respect of unfair dismissal so as to provide a nationally consistent dismissal code for the corporate sector.

On the more general question as to whether the Bill will withstand legal challenge upon its enactment, the High Court's decision in *re Pacific Coal* should be referred to, as it holds that award simplification as required by WROLA is valid.[25]

Main Provisions

Schedule 1 – *Workplace Relations Act 1996*

Part 1 – Amendments

Item 1 deletes skilled-based career paths from paragraph 89A(2)(a). This paragraph will only specify classifications of employees.

Item 2 deletes piece rates from paragraph 89A(2)(d). The paragraph will only specify incentive-based payments and bonuses.

Item 3 repeals paragraph 89A(2)(f) - long service leave.

Item 4 deletes compassionate and other like forms of leave from paragraph 89A(2)(g). The paragraph will specify personal carer's leave, sick leave, family leave, bereavement leave and compassionate leave.

Item 5 inserts into paragraph 89A(2)(g) ceremonial leave for Aboriginal and Torres Strait Islander people, and other like forms of leave, to meet cultural obligations under **new subparagraph 89A(2)(ga)**.

Item 6 repeals and replaces **paragraph 89A(2)(i)** (public holidays) with a provision outlining the observance of days declared by the Government of a State or Territory to be observed by employees who work in the State/Territory (or region) and the entitlements to pay in respect of those days.

Item 7 repeals and replaces **paragraph 89A(2)(j)** (allowances), with a provision setting out three kinds of monetary allowances which include allowances for expenses incurred in employment, allowances associated with skills or responsibilities and those in the nature of compensating for a disability (eg confined space allowance).

Item 8 repeals and replaces **paragraph 89A(2)(m)** (redundancy pay) with a more restrictive definition of redundancy, ie where termination is on the initiative of the employer and on the grounds of operational requirements.

Item 9 repeals **paragraph 89A(2)(n)** (notice of termination).

Item 10 repeals **paragraph 89A(2)(q)** (jury service).

Item 11 inserts **paragraph 89A(2)(sa)** creating the allowable matter of bonuses for outworkers.

Item 12 removes bonuses for outworkers from the allowable matter which prescribes pay and conditions of outworkers (paragraph 89A(2)(t)).

Item 13 ensures that while the AIRC can only make a minimum rates award under subsection 89A(3), such an award will provide only for 'basic minimum entitlements'.

Item 14 inserts **new subsection 89A(3A)** – Matters that are not allowable award matters. The following matters are not to be considered as allowable matters:

(a) transfers between locations;

(b) training or education (except in relation to leave and allowances for trainees or apprentices);

(c) recording of the hours employees work, or the times arrival or departure from work;

(d) payments of accident make up pay by employers;

(e) rights of an organisation of employers or employees to participate in, or represent, the employer or employee in the whole or part of a dispute settling procedure, unless the organisation is the representative of the employer's or employee's choice;

(f) transfers from one type of employment to another type of employment;

(g) the number or proportion of employees that an employer may employ in a particular type of employment or in a particular classification;

(h) prohibitions (directly or indirectly) on an employer employing employees in a particular type of employment or in a particular classification; and

(i) the maximum or minimum hours of work for regular part-time employees.

Item 15 repeals **subsection 89A(4)** – (Limitations on Commission's powers) as these matters are addressed in the proposed subsection 89A(3A).

Item 17 amends subsection 89A(6) allowing the AIRC to include a matter incidental to the award only where the matter is essential for the purpose of making a particular provision operate in a practical way.

Item 21 amends subsection 120A(4) with the purpose of ensuring that all exceptional matter orders are to be made by a Full Bench of the AIRC, including a proposed order applying to a single business.

Part 2 – Application and transitional provisions

Item 22 provides that the amendments prescribed under Part 1 apply to industrial disputes being dealt with by the AIRC including those which commenced before the commencement of Schedule 1.

Item 23 prescribes a **transitional provision – review of awards**:

Within 12 months the AIRC must review all awards and make variations to ensure consistency with the amended section 89A. All award provisions that are inconsistent as a matter of law and regardless of review, cease at the end of this 12 month period.

Concluding Comments

The Bill re-introduces provisions as previously introduced by the primary provisions Schedule 6 of the Workplace Relations Legislation Amendment (More Jobs Better Pay) Bill 1999 with slight variation. The debate over the provisions of the Bill is likely to include whether awards or certified agreements form the centrepiece of employment regulation, as well as the relationship of CAs to awards through the 'no disadvantage test' with the imputation that future certified agreements are likely to be required to meet a weakened statutory test prior to their certification. The Bill also raises prospects of the States being able to prescribe higher (or indeed lower) entitlements than current federal standards in respect of the matters removed from federal awards.

Endnotes

1 The Hon. Tony Abbott MP, Workplace Relations Amendment (Award Simplification) Bill 2002 Second Reading Speech, *Parliamentary Debates*, House of Representatives, 13 November 2002, p. 8855.

2 See Items 49 and 51 of Schedule 5 of WROLA.

3 An exceptional matter is when in certain circumstances, the AIRC includes provisions in an award, a matter or wage rate not sanctioned under section 89A of the WR Act.

4 Australian Conciliation and Arbitration Commission: *Termination, Change and Redundancy case* (1984) 8 IR 34; 1984 AILR ¶256, *Termination, Change and Redundancy case, Supplementary Decision* (1984) 9 IR 115; 1985 AILR ¶1.

5 Senate Employment, Workplace Relations, Small Business and Education Legislation Committee, *Consideration of the Provisions of the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999*, pp. 203–224.

6 The Hon. Peter Reith, 'Transcript of the Hon Peter Reith MP', *Parlinfo*, 6 June 2000.

7 See *Workplace Relations Amendment (Tallies) Act 2001*.

8 AIRC, *Annual Report 2001-02*, p. 19.

9 Workplace Relations Amendment (Award Simplification) Bill 2002 Explanatory Memorandum, p. 5.

10 AIRC, *Annual Report 2001-02* p. 7.

11 ABS , *Award Coverage Survey*, Cat. No. 6315.0, 1990.

12 ABS *Employee Earnings and Hours*, Cat. No.6305 May 2002 (December 2002).

13 ABS Cat. No. 6305, May 2000 (December 2000).

14 David Plowman et al, 'Awards, certified agreements and AWAs: some reflections', *ACIRRT Working Paper No.75*, April 2002, p. 11.

15 See also John Lewer and Peter Waring, 'The No Disadvantage Test failing workers', *Labour and Industry*, V.12(10) August 2001.

16 ACCI, *Modern Workplace: Modern Future A Blueprint for the Australian Workplace Relations System 2002-2010*, p. 24.

17 See 'Abbott to accept Hulls' Schedule 1A referral' *WorkplaceInfo*, 28 February 2003.

18 ACCI, Modern Workplace: Modern Future A Blueprint for the Australian Workplace Relations System 2002-2010, p. 53.

19 Mr G. Hatton, Director, Industrial Relations and Training, Motor Traders Association of New South Wales, evidence to the Employment, Workplace Relations, Small Business and Education Legislation Committee re the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999, 7 October 1999.

20 The Hon. Paul Keating, *Working Nation: Policies and Programs*, June 1994, p. 33-34.

21 Quote by the Hon. Peter Reith in Address to the Centre For Independent Studies: *Impediments To Prosperity – Labour Market Reform And Beyond*, 22 July 1999.

22 See for example Gerard Henderson, 'Getting it right on the economy' *The Age*, 11 March 2003.

23 The Hon. Tony Abbott moved that the Senate amendments to the Workplace Relations Amendment (Tallies and Picnic Days) Bill 2000 be accepted by the House of Representatives on 7 March 2001, *Debates*, p. 1859.

24 Senator Kerry Nettle, 'Government determined to punish low paid workers' *media release*, 13 February 2003.

25 *Re Pacific Coal Pty Ltd & Ors; Ex Parte Construction, Forestry, Mining and Energy Union* (2000) HCA 34, 15 June 2000.