



# CAMPAIGN UPDATE AUTUMN 2009

**yourrightsatwork**  
worth fighting for

## New Fair Work Laws

**After four years of campaigning, and months of debate in the Federal Parliament, a new set of 'fair work' industrial relations laws to replace WorkChoices was signed into law on 7 April 2009.**

*The Fair Work laws will give workers stronger rights to negotiate their wages and conditions and to have a say in their workplace.*

*They will safeguard the rights of workers to be represented by a union and to bargain collectively for safe, secure and satisfying work.*

*And young people and other vulnerable workers will be protected by a strong safety net of national standards, awards and rights.*

*The passage of the laws is a victory we can all take pride in having achieved. A special thanks goes to all those who took part in union campaign activities in recent months.*

*But our work goes on.*

*The new Fair Work laws will begin to take effect from 1 July – just in time to give Australian workers added protection in these tough economic times.*

*Unions will be able to use the new laws to redress the damage caused by WorkChoices and to protect the jobs, wages and conditions of workers in the economic downturn.*

*There is also an opportunity now to focus on other important issues; paid maternity leave in this year's Budget, a decent minimum wage increase, better health and safety laws, and an end to unfair laws in the construction industry.*

*Above all we want to make sure there are good jobs and strong local industries for when the economy recovers.*

**We need your help to do this, so please stay active in your union and in our campaign.**



ACTU Secretary  
Jeff Lawrence



ACTU President  
Sharan Burrow

## Global Financial Crisis

The arrival of the new industrial relations laws is timely to provide crucial protections for Australian workers and their families when they need them most.



Already we are seeing thousands of Australians losing their jobs or having their hours of work cut back as a result of the global financial crisis.

The Rudd Government's two economic stimulus packages will provide a buffer against the downturn. Unions are calling for a \$21 a week increase to minimum award wages to maintain consumer spending and economic activity.

Unions have also proposed a set of National Interest Expenditure Principles to apply to all recipients of public funding of any kind.

These guidelines would seek to protect and create Australian jobs and local content, making public funding conditional on maximizing employment opportunities for Australian workers.

Those who received public money must commit to respect the rights of workers to union representation, collective bargaining and consultation.

Public funding must not be used to finance decisions that sacrifice jobs or damage the future growth of Australian industry, or to contribute to excessive executive salaries, bonuses or incentives.

And companies that breach these commitments must pay the money back.

This must include the banking industry, which has been underwritten by government guarantees on deposits and wholesale funding, yet continues to send jobs offshore.

Other responses to the GFC must include effective assistance to avoid redundancies where companies are viable but suffering a temporary downturn, including government support towards the cost of training and wages on stand-down days.

The national employee entitlements scheme must be improved to protect 100% of workers' entitlements, and to put workers ahead of other creditors in cases of insolvency.

Above all, there has to be a major shift of thinking away from the damaging ideology of free markets, deregulation and greed that has caused economic havoc and put at risk the jobs and incomes of working people.

# Our campaign goals

Here is a summary of what the Your Rights at Work Campaign has achieved so far:



## 1. No AWA individual contracts

AWAs were the centrepiece of the Howard Government's WorkChoices. They were used to break down collective strength in the workplace, and to drive down wages and conditions. They were an anathema to the spirit of a fair go.

The Rudd Government banned the making of new AWAs a year ago. While it is disappointing workers can remain on these contracts, the new laws will allow workers on expired AWAs to access collective bargaining. Other AWAs will also have to comply with the new National Employment Standards.

## 2. A strong safety net

The safety net of awards and National Employment Standards will be expanded far beyond the minimum five basic conditions under WorkChoices. Under the new laws, entitlements that will be protected include maximum weekly hours of work, overtime pay, penalty rates, public holidays, redundancy, annual leave and rest breaks. Employers will not be able to strip them away.

A streamlined system of new, modern awards are also being created that will safeguard minimum wages, types of employment, superannuation, and procedures for dispute settlement. WorkChoices left awards to waste away, but under the new laws they will be reviewed every four years.

Unions will also be able to regularly run "test cases" which in the past delivered such important conditions as carers leave, maternity leave and the 38 hour week across the community.

The process for determining minimum rates of pay will also be fairer and a lot more transparent under Labor's new laws. Under WorkChoices, the wages of more than one million award-reliant workers declined in real terms. Minimum wage workers can now look forward to a much fairer and more transparent system of setting their pay.

## 3. Collective bargaining rights

Collective bargaining will be the centrepiece of the new IR system. Bargaining will be required to be conducted "in good faith" meaning that employers must be fair dinkum about trying to get a result.

Workers will be able to insist on bargaining for a collective agreement and your union will also have a guaranteed right to represent you — both things which were denied under WorkChoices. The agreement must be genuinely reached and it must leave workers better off overall.

In addition, the new industrial umpire will be able to settle an agreement when there have been serious and persistent breaches of good faith bargaining, as we have seen in cases like Telstra and Cochlear.

Importantly, the umpire will also be able to help groups of workers like cleaners, childcare workers, hospital workers and community workers to bargain collectively in ways not previously possible and to settle an agreement where necessary.

## 4. Right to union membership and representation

One of the basic tenets of democracy is the choice to belong to a union. WorkChoices encouraged a pattern of intimidation by threats of dismissal, pressure, discrimination and victimisation that eroded this basic right. The right to be in a union will be enshrined by the new laws and there will be greater protections for delegates during collective bargaining.

It will be unlawful to take action against someone simply because they exercise a workplace right, or to discriminate against someone because they are a union member or involved in union activities.

In addition, there will be a guaranteed right of union representation in those situations where you need your union involved, including in consultation and dispute settlement processes. The ability of unions to enter workplaces to hold discussions with members or potential

# IMPLEMENTING THE NEW LAWS & UNFINISHED BUSINESS



*Unions will never stop campaigning for a better deal for Australian workers and their families. We will help workers use the new laws to secure better wages, conditions and rights in their workplace. And, while these laws are a major step forward, there is still unfinished business that must be sorted out, including:*

members and to check workers are not being ripped off will no longer be displaced by non-union agreements.

## **5. Protection from unfair dismissal**

All workers will once again have protection from unfair dismissal after a six month qualifying period (if you work in a small business of 15 or less, you will have to be employed for a year). This will include high earners covered by awards.

The exemption from unfair dismissal when sackings occur for “operational reasons” will be removed.

This is a major improvement on WorkChoices which slashed unfair dismissal rights and left many young and vulnerable workers with no protections at all, a situation that many employers exploited.

## **6. An independent umpire**

The role of the independent umpire is vital to making sure the system works properly. It needs to be easy to use, affordable, timely and have the teeth to do the job properly.

WorkChoices rendered the industrial umpire powerless, but the new laws will deliver an umpire with the powers to get the job done. Fair Work Australia will be able to conciliate, mediate, call compulsory conferences and make recommendations.

One of Fair Work Australia’s main roles will be to assist with bargaining, including supervising industrial action, and facilitating bargaining for low paid workers. And the umpire will have real teeth, with new grounds for arbitration when bargaining fails.

The courts will also be given a new role in overseeing the application of awards and the National Employment Standards. This will provide a strong deterrent against the infringement of workers’ rights and entitlements, with employers facing court-imposed orders, injunctions, and penalties.

- **The need for a range of improvements to the transitional Bill, including stronger rights for workers stuck on WorkChoices AWAs to return to collective bargaining.**
- **Removing the restrictions on the content of bargaining and collective agreements.**
- **Improving workers’ rights to take industrial action and an end to the docking of a minimum of four hours pay for taking unprotected industrial action.**
- **Strengthening workers access to cheap and effective dispute procedures when they have a grievance at work.**
- **Ensuring no workers are disadvantaged by the proposed modern awards and that the rights of contractors are protected.**
- **An end to the discriminatory laws for workers in the construction industry. The Australian Building and Construction Commission is an affront to our values and must not be replaced by a new entity with a different name but the same oppressive powers.**



## Construction Workers

The campaign to ensure that construction workers have equal rights to the rest of the workforce is continuing following the release of a report into the new building industry watchdog.

Despite a lack of evidence that the Australian Building and Construction Commission has led to improved productivity or industrial harmony, former judge Murray Wilcox QC has recommended the retention of coercive powers that breach building workers' human rights. If his recommendations are adopted, building workers will

continue to face the risk of jail for refusing to give evidence to the watchdog which will operate as a division of the Fair Work Ombudsman.

The recommended safeguards do not go far enough, and unions have vowed to continue campaigning to abolish these discriminatory laws which are a hangover from the Howard Government.

For more information  
[www.rightsonsite.org.au](http://www.rightsonsite.org.au)

## Paid Maternity Leave

The ACTU and unions believe a paid maternity leave scheme is a sound economic stimulus measure that should be introduced in the 2009 Federal Budget.

The economic uncertainty created by the global financial crisis is no excuse for delaying a scheme and makes it even more important for families to have ongoing economic support with the arrival of a new baby.

The Productivity Commission and an Australia institute

analysis have said it is affordable and a recent Auspoll found widespread support for a paid maternity leave scheme.

The campaigns section of our website will give you more information on what you can do keep up the pressure in the lead up to the Federal Budget. For more information

[www.actu.asn.au/pml](http://www.actu.asn.au/pml)



## Minimum Wages

More than 1.3 million Australian workers depend on the annual minimum wage case to maintain their standard of living.

This year, unions are seeking a \$21 a week wage rise for the low-paid, to maintain their spending power and stimulate the economy.

The \$21 per week pay rise is a modest claim that would

lift the federal minimum wage to \$564.78 a week, or \$14.86 an hour.

Over the past three decisions of the Fair Pay Commission, more than a million award dependent workers have seen their real wages go backwards.

For more information  
[www.actu.asn.au/campaigns/](http://www.actu.asn.au/campaigns/)



## Health and Safety

Recommendations to harmonise Australia's OHS laws are being currently considered by Federal and State Governments. Unions are concerned that if some of the recommendations are accepted, workers in a wide range of workplaces across Australia will lose important protections.

A new report from the Australian Safety and Compensation Council shows that the cost of work-

related injury and illness to the Australian economy has jumped by 68% to over \$57 billion, and that employers only bear a fraction of this cost.

With the economic difficulties bearing down on workplaces it is even more important that employers don't cut corners when it comes to health and safety.

For more information visit  
[www.actu.asn.au/campaigns/](http://www.actu.asn.au/campaigns/)