Australia: New workplace laws to slash pay and conditions

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Employers will be given virtual open slather to dismiss workers, cut wages, decimate conditions and remove penalty payments for weekend, night-time and overtime work under industrial relations legislation unveiled by the Howard government late last month.

Millions of people will no longer have even minimal legal safeguards against unfair dismissal; a business-dominated "Fair Pay Commission" will slash pay rates; and the majority of workers will be left with no choice but to sign so-called "individual" contracts on the employers' terms.

The sweeping package of laws announced by Prime Minister John Howard and his Workplace Relations Minister Kevin Andrews constitutes a new stage in the assault on the basic rights and protections of Australian workers that has been underway for two decades. The legislation is set to pass in the Senate after July 1, when Howard will have a majority in the parliamentary upper house for the first time.

In introducing the new laws, the prime minister dropped his claim that no worker would be worse off as a result of the workplace "reforms". At the same time, he insisted that the measures would deliver "genuine choice" and end the era "of the few making decisions for the many".

In reality, the centrepiece of the package is the abolition of unfair dismissal restrictions on firms employing up to 100 people. Scrapping these limited provisions against arbitrary sackings will precisely open the way for "the few" to dictate all terms and conditions to "the many".

Five million workers—two-thirds of the Australian workforce—will be directly excluded from unfair dismissal laws. And the impact will not stop there. Corporate lawyers have predicted that many larger companies will break up their operations into multiple employment units of 100, in order to escape the unfair dismissal provisions.

Employees who object to sub-standard conditions, complain about victimisation, fail to meet production quotas or resist changes to their contracts are liable to be fired at will. New contracts will not even have to include termination periods or retrenchment pay.

In addition, the current probationary period of three months, in which new recruits can be sacked without recourse, will be extended to six months. This will make it easier for employers, large and small, to accelerate the elimination of job security—replacing full-time, permanent jobs with casual, part-time, temporary or contracted-out positions, invariably on worse terms.

The Fair Pay Commission's mandate will be to reduce real minimum and award rates of pay by setting them according to criteria such as productivity levels and business viability.

To ensure that it gets its way in the future, the government is abolishing the wage-fixing jurisdiction of the Australian Industrial Relations Commission (IRC). Unlike IRC judges, who enjoy some tenure of office, the Fair Pay Commission will consist of five or seven easily removable government appointees, chaired by a business representative.

Howard argued that real average wages would keep rising, citing a supposed 13 percent increase since 1996. But that statistic is completely misleading, distorted by soaring incomes among the wealthy. According to a report issued by the St Vincent de Paul charity last week, the gap between the richest and poorest tenths of the population grew from 3.66-fold to four-fold between 1996-97 and 2002-03.

In its final national wage decision, handed down last week, the IRC commented that despite a 10.5 percent real increase in the minimum wage since 1996, low-wage workers had fallen more than $150 a week further behind average weekly earnings. If the government had succeeded in its submissions to the IRC's annual national wage cases since 1996, workers on the minimum wage would be receiving $2,300 a year less than the $24,304 they currently get.

Nevertheless, the IRC awarded only a meagre rise of $17 a week in the minimum wage. Even if low-paid workers received the full amount, it would not even buy a family meal in a fast food restaurant. But under the Howard government's punishing income tax scales, most minimum-wage workers will receive only a few dollars after tax, with many ending up actually worse off, due to the means testing of welfare benefits.

Employers are demanding the abolition of even these token pay rises. The *Australian Financial Review* has lamented that real minimum wages have risen in Australia since 1998, whereas in the United States they have dropped by 11.8 percent.

Some of the so-called pay rises in Australia have involved workers being pressured into "cashing in" conditions. For example, two workers, Charles Crabbe and Ray Cox, are paid $13.40 an hour to clean Perth train stations and bus stops. Employed by the contract cleaning company Arrix, they signed Australian Workplace Agreements (AWAs—individual contracts) that boosted their hourly rates by 10 cents in return for the abolition of most penalty rates and a reduction in annual leave from four weeks to two.

In reporting their story, Murdoch's *Australian* noted that the two men earned more than previously by working up to 60 hours a week, without Arrix having to pay overtime rates.

The government's blueprint seeks to push more workers into AWAs, which currently cover less than 5 percent of the workforce. In the name of "flexibility", the laws will remove the "no disadvantage" test, which has prevented registration of AWAs that undercut federal

or state award conditions. Apart from minimum pay, AWAs will have to meet just four legislated standards, covering holiday leave, personal leave, parental leave and maximum hours.

Every other basic condition—including overtime, penalty, weekend and public holiday loadings, and redundancy payments—will be on the chopping block. Employers will slash their costs by requiring staff to work for flat rates at any hours of the day or week, and for broken and "standby" shifts.

There will be nothing "individual" about these contract terms; they will become the standard. Employees will be confronted with pre-drafted documents and those who refuse to sign can be sacked with impunity.

To facilitate this shift, AWAs will no longer require official approval, not even by the government's pro-employer Office of Employment Advocate (OEA). The OEA will also replace the IRC as the body approving collective agreements. The IRC's only surviving function will be to mediate and possibly arbitrate particular industrial disputes. In addition, a task force will be established to "rationalise" federal and state awards.

For the dwindling numbers of employees on awards, the minimal conditions will be reduced from 20 to 16, eliminating the provisions for long service leave, termination notice, employer superannuation contributions and jury duty leave.

To further ensure that workers have no "choice" except to submit to employers' demands, union representatives will be virtually barred from visiting work sites, tougher penalties will be imposed for taking illegal industrial action (outside short-lived "bargaining periods") and government-supervised ballots will be required before any work stoppage.

Any escape route from the new regime will be closed by overriding existing state laws, and sidelining their industrial courts, together with the federal IRC. The federal government will use its "corporations" power under the Constitution to take exclusive control over industrial relations.

The state governments, all presently Labor-controlled, are considering a High Court challenge to the elimination of their industrial relations powers. But their objections relate to the loss of their prerogatives, not the destruction of workers' rights. Their chief criticisms are that they have been more effective than the Howard government in suppressing resistance to the employers' demands.

Queensland Premier Peter Beattie, for example, said: "I can't understand why after a period of sound economic growth the Prime Minister wants to stuff it up. Our strike rate in Queensland is the lowest it has been for about 30 years." New South Wales Premier Bob Carr emphasised that the state systems "suit employers as much as the workforce".

Likewise, the federal Labor leadership has refused to guarantee that it would repeal the legislation if it were returned to office. Labor's industrial relations spokesman Stephen Smith declined to give any commitment when questioned on Australian Broadcasting Corporation (ABC) radio.

This is entirely in line with Labor's record. In announcing the new laws, Howard noted that the assault on workers began in earnest under the Labor governments of Hawke and Keating in the 1980s. He specifically hailed the Mudginberri meatworks and Dollar Sweets disputes of 20 years ago (1985 and 1986), in which the unions blocked any mobilisation against massive fines imposed on picketing workers under anti-strike laws.

The Labor government then worked hand-in-glove with the trade unions to defeat major workers' struggles and implement the free market program of "international competitiveness". It de-registered and broke up the Builders Labourers Federation, shut down the Williamstown Naval Dockyards, paving the way for the axing of 1,500 jobs, and mobilised the armed forces to break the 1989 airline pilots strike.

Keating then imposed enterprise bargaining in 1993, which became the direct forerunner of the Howard government's measures. National-based and industry-wide awards were replaced by agreements struck at individual workplaces or companies, undermining workers' solidarity.

The Australian Council of Trade Unions (ACTU) acted as Labor's police force under the prices and incomes Accord and the "Australia Reconstructed" program. Union delegates who resisted the erosion of conditions were removed.

Largely as a result of the disillusionment and hostility produced by this onslaught, Labor suffered a landslide defeat in 1996, opening the door for Howard. The ACTU sabotaged the mass struggle that erupted later that year against Howard's first Workplace Relations Act. Again, in 1998, the unions deliberately curtailed widespread opposition to the mass sackings of waterfront workers, helping to engineer a settlement that gave employers the job losses and speedup they demanded.

True to form, the ACTU has ruled out any concerted industrial action against the latest package. Instead, the unions will run impotent public relations campaigns, urging people to protest and then vote Labor in 2007.

Business leaders and media outlets, while welcoming Howard's measures as a "giant step forward," have declared that they do not go far enough. Murdoch's *Australian* urged Howard to continue to "build on the work of a reforming Labor government" by scrapping the unfair dismissal laws completely, removing more core conditions from awards and abolishing the IRC's arbitration power.

Labor and the unions will accommodate themselves to this agenda. Their old perspective of squeezing concessions from employers and governments within a nationally-regulated economy has been shattered irrevocably by the globalisation of production and finance. Like their counterparts around the world, their program has become one of extracting concessions from workers, pitting them against their counterparts around the world in the endless race to be internationally "competitive".