Australia: Howard's draconian industrial relations laws come into operation today

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The Howard government's new industrial relations laws come into force today, after Australian Minister for Employment Workplace Relations Kevin Andrews released the regulations governing their application on March 19.

The draconian IR laws, known as WorkChoices, were passed by the Australian parliament in November last year. They contain sweeping changes that allow the dismantling of longstanding working conditions, including penalty rates and shift allowances and they abolish limited laws protecting workers in small industries from unfair dismissals. At the same time, they undermine the already minimal rights for workers to take industrial action, including giving new extraordinary powers to the workplace relations minister to declare strikes illegal.

The bulky Workplace Relations Regulations 2006 document presented by Andrews buttresses the government's industrial reform legislation and defines the host of terms and categories contained within it. The document also further details attacks on workers' conditions and rights, including a range of "prohibited items" to be stripped out of all existing work agreements and forbidden from inclusion in new ones.

The prohibited items include:

* Allowing employees to challenge or remedy unfair dismissals;

* Any restrictions on employers' use of contractors and labour hire workers;

* Leave for workers to attend trade union training and paid leave for attending union meetings;

* Recognition of the right of union officials to enter a workplace and the payment of union dues by payroll deduction; and,

* Any other matters that do not directly "pertain to the employment relationship".

The regulations prescribe fines of $6,000 for individual workers who attempt to force employers to include "prohibited items" into work agreements and $33,000 for unions. Employers who enter sweetheart agreements to include these items could face fines of up to $33,000 as well.

The government's determination to exclude any private arrangement giving workers an avenue to appeal unfair dismissals, and to make illegal any restrictions on the use of contract labour, is indicative of the highly repressive and exploitative industrial regime it is intent on creating.

The dismantling of unfair dismissal challenges, in the name of flexibility, gives employers unbridled power to sack workers at will, creating even greater insecurity for the five million workers—two-thirds of the Australian workforce—employed in small business. The abolition of the remaining restrictions on contract labour, currently included in many hundreds of workplace agreements, will accelerate the present trend towards the casualisation of the workforce and assist employers to slash even more permanent jobs.

These measures will also lead to a further decline of safety on worksites by removing from enterprise work agreements proficiency and safety standards that contractors must meet before coming on site. Compliance with the standards has generally been enforced by the permanent workforce. Even then, fatalities on construction and work sites have often resulted from the use of inexperienced contractors, who, in many cases, have received little or no work induction.

In addition, Workplace Relations Regulations 2006 outlines the application of the so-called "pay averaging" provisions in WorkChoices, which allow employers to pay less than the minimum wage for any part of the year so long as they commit to making up the shortfall at a later time. The document provides the example of workers employed in industries with "significant seasonal fluctuations in work demands".

Andrews' insistence last week that "pay averaging" will not result in workers being disadvantaged is entirely cynical. The well-paid minister contemptuously ignores the fact that unlike himself, and thanks to his government's decade-long assault on wages and other benefits, hundreds of thousands of ordinary working people are forced to live from week to week.

At the same time, "pay averaging" will assist employers to dodge paying minimum rates. Firstly, it will be extremely difficult for workers to keep a tally on just what they have been paid, and secondly, the only way to recoup any outstanding amount from reluctant employers will be to undertake expensive legal action. Employers can also average out hours worked to avoid paying overtime.

Combined with the removal of unfair dismissal laws, "pay averaging" will allow small businesses to employ workers for a trial period at less than the minimum wage, and then sack them after three or six months to avoid making up the shortfall. At the same time, there exist few avenues for workers to claim outstanding wages if companies fail or go bankrupt. Over the last decade thousands of workers have lost millions of dollars in outstanding pay and entitlements as a result of company collapses.

The regulations enforce laws severely restricting workers'

ability to take industrial action. Strikes will only be allowed during the so-called "protected period" for a new work agreement. Even then, the regulations and IR laws set out a complicated and lengthy process before a strike can take place. This includes first having to seek a protected bargaining period and then making application for an Australian Electoral Commission-run secret ballot stipulating the reason for the strike and its timing. Failure to comply will see workers and unions hit with heavy fines.

Even if workers run the gauntlet and vote to strike, the federal workplace relations minister can overrule the outcome if he determines the strike to be in a so-called "essential industry", or that it constitutes a threat to "public welfare", or that it will be damaging to "the economy". No such restrictions, however, are placed on employers who only have to provide three days' notice before enforcing a lockout of their workforce. Nor can employers be penalised for refusing to negotiate a collective agreement, even if the majority of workers in the enterprise want one.

Soon to become operational is the Howard government's new Fair Pay Commission (FPC), which will assume the traditional wage-fixing jurisdiction of the Australian Industrial Relations Commission. In that capacity, it will determine minimum and other rates of pay on the basis of productivity levels, business viability or the so-called ability of companies to pay.

According to recent media reports, the selection of the remaining four commissioners, who will join the recently appointed FPC head Professor Ian Harper, is near completion. Harper's credentials point to those of the other appointees. An economist and "sincere Christian", Harper is an open advocate of the capitalist market system that he once described as "a servant of humanity in the interests of improving our material lot on this earth".

Speaking on March 23 on ABC television's nightly "7.30 Report", Harper made clear that "Christian values" would not inhibit any decision to drive down wages and working conditions, declaring: "In setting the legal minimum wage the Fair Pay Commission must consider the level of minimum wages as a potential obstacle to unemployed persons finding paid work."

The response of the Australian Council of Trade Unions (ACTU) to the implementation of the WorkChoice laws has been empty bombast, combined with a determination to confine all opposition to limited protests and advertising campaigns.

Typical is the puerile "name and shame" campaign just launched by ACTU president Sharon Burrow, which promises that employers using the new industrial laws to "cut workers' take home pay and conditions" will "not be without attention". ACTU secretary Greg Combet declared to the media last week: "I will ask for people to be treated fairly and I won't pay a fine for doing it". Combet, it needs to be remembered, has never defied any of the government's repressive industrial laws. On the contrary, together with the entire trade union bureaucracy, he has been central in derailing workers' hostility to them.

Undeterred by the ACTU theatrics, employers are chaffing at the bit to use the new IR laws. Qantas managing director Geoff Dixon, an ardent supporter of IR "reform", is already demanding substantial concessions from the company's maintenance workforce, while shedding over 400 jobs. Last week, he made known that pilots' pay and conditions are in the crosshairs. Car component company Dana in Melbourne is demanding its 300 existing workers accept a 5 percent pay cut and wants to cut pay for new starters by 20 percent.

Demonstrations scheduled by the ACTU in June will similarly be ignored by employers. These limited protests have nothing to do with mobilising any genuine mass opposition to the IR laws or the companies that use them. On the contrary, they are simply a cog in the wheel of the ACTU's campaign for the election of a Labor government at the next federal elections.

While Labor Opposition leader Kim Beazley has promised to abolish the new laws, any new Labor government will implement precisely the same assault on workers' rights and conditions, whether under the new WorkChoices legislation, or through the auspices of the old arbitration system. And it will enjoy the direct collaboration of the ACTU and its affiliated unions. Prime Minister John Howard has continually acknowledged that the ground for the government's present attacks was laid by the Hawke and Keating Labor governments, which held office from 1983 to 1996.

Despite many employers feeling they now have the whip hand, some hold concerns about the ramifications of weakening the old mechanisms that have been used so successfully in the past to keep the working class in check. These concerns found expression in an article by Kenneth Davidson in the Melbourne *Age* on March 23.

Declaring that, to his knowledge "no other advanced industrial country has, or is contemplating, industrial law as prescriptive and as steeply tilted in favour of the employers as the Howard Government's workplace relations act" Davidson warns that in "criminalising hitherto legitimate trade union activity, the danger is that the legislative thuggery of the Government will ... be matched by the equally hard remnants of the trade union movement".

Like any other informed political commentator, Davidson is well aware that there is no such animal as the "hard remnants of the trade union movement". His real concern is that the lack of any means, within the existing legal and parliamentary structures, to address their problems will propel workers into struggles that will begin to challenge the entire framework of the profit system. It is with this in mind that Davidson warns: "The pity is, it is becoming apparent that the class warriors in the Government are looking forward with relish to the new class war they are instigating."