

Index

- Anti-competitive conduct
 - authorisation of, 607-611
 - collective bargaining, 604-611
- Anti-discrimination legislation, 105-106, 460-465
 - breach of, 112
 - dispute resolution, 111-112
 - duties under, 110, 114
 - effectiveness, 123-124
 - enforcement of, 106, 111
 - normative change, 115-116
 - objectives, 105-106, 109
 - sanctions, 112-114
 - Sex Discrimination Act *see* Sex Discrimination Act 1984 (Cth)
 - standards, 109-111, 114
 - symbolic effect, 116-117
- Australian Industrial Relations Commission
 - control by, 228
 - determinations, 88-89
 - considerations for, 88-89
 - dispute resolution, 238
 - duties of, 233
 - enterprise agreements
 - approval of 227-229, 235
 - certification of, 235-237
 - dispute resolution, 238
 - functions of, 90, 223, 227, 461
 - mega-regulator, 238-241
 - powers, 223
 - arbitral, 228
 - private arbitration jurisdiction, 238
 - referrals to, 238
 - regulatory influence, 229
 - role of, 89, 228, 229
 - conciliatory, 231-233
 - investigatory, 228
 - supervisory, 228
- Australian Mines and Metals Association (AMMA)
 - workplace relations, 187-201
 - employee participation 197-199
 - self-regulatory model, 190-199
- Australian national employment exchange
 - development of, 286
- Australian Workplace Agreement (AWA)
 - filing of, 89
 - legal effect, 89
- Bargaining
 - collective *see* Collective bargaining
 - power, 349
 - regulation of, 67-85, 89
 - breach of, 81-85
 - contextual and conceptual frame, 69-71
 - enforcement of, 81-85
 - forms and legalities, 72-75
 - penalising breaches, method of, 81-85
 - practical applications, 75-81
 - protected action, 77-81
 - recovery of entitlements, 81-85
 - scope of, 75-77
- Basic wage
 - female, 390
 - male, 390
- Building and construction industry
 - regulation of, 159-163
 - BCII legislation, 159-168
- Building Council of Australia
 - big business interest, representation of, 53-55
 - establishment of, 53
 - policy, 53
- Business
 - capacity, 88
 - definition of, 87
 - regulation of, 87
 - "single business", 89-90
- Business organisations
 - downsizing, 28, 32, 35
 - hybrid forms, 208-220
 - public regulation, 211-220
 - practice
 - changes affecting labour law, 6, 28-40
 - regulation of, 208-211
 - restructuring, 28, 32, 35
- Cartelism, 56-59
- Centrelink
 - establishment of, 287
 - function of, 355
 - market share, 288
 - unemployment benefits, administration of, 355-356
- Certified agreements
 - approval of, 227-228
 - enforcement of, 227
 - making of, 89
- Children in employment, 12, 31, 32, 33, 313
 - prohibition of, 312
 - regulation of, 312, 320
- Cole Royal Commission
 - recommendations, 159
- Collective agreements
 - certification of, 615
 - informal, 227
 - no-disadvantage test, 615
 - "sweetheart deals", 227
- Collective bargaining
 - access to, 600-612, 615
 - anti-competitive conduct, 604-607, 616
 - authorisation for, 607-611
 - assistance in, 168
 - availability, 597-598
 - employees, 600-602
 - law-based, 598
 - meaning of, 168
 - non-employed labour market participants, 602-603, 615
 - power imbalance, 597, 616

INDEX

- process, 597-598, 615-616
- regulation of, 600-613
 - differential, 612-613
 - objectives of, 611-612
- regulatory framework, 603-604, 615
- small business, 597
- structures, 613-615
- Collective boycotts
 - small business, 597
- Collective workplace agreements
 - making of, 223
- Commercial contracts
 - fair dealing, obligation of, 584-587, 590-591
 - good faith, obligation of, 584-587, 591
- Commercial law and labour law
 - tension between, 24
- Commonwealth Employment Service
 - abolition of, 287
 - efficiency of, 286
 - employer-oriented services, 287
 - establishment of, 285
 - fee-for-service activities, 287
 - focus, 287
 - functions, 285-286, 295
 - impact of, 286
 - responsibilities, 285-286
 - services, 287
 - unemployment benefits, registration for, 351
 - work test, administration of, 350
- Compensation
 - breach of employment contract, 256, 688-691
 - discrimination, 106, 112-113
 - injury *see* Workers compensation
- Conciliation and arbitration
 - business considerations, 87-89
 - conduct of, 111
 - confidential, 111
 - domestic life, 390-392
 - Human Rights and Equal Opportunity Commission *see* Human Rights and Equal Opportunity Commission
 - Industrial Relations Commission *see* Australian Industrial Relations Commission
 - private, 112
 - termination of, 112
 - women, for, 412
- Confederation of Australian Industry
 - establishment of, 53
 - small to medium sized employers, representation of, 53
- Contracting
 - regulation of, 67-85
 - breach of, 81-85
 - contextual and conceptual frame, 69-71
 - enforcement of, 81-85
 - forms and legalities, 72-75
 - penalising breaches, method of, 81-85
 - practical applications, 75-81
 - protected action, 77-81
 - recovery of entitlements, 81-85
 - scope of, 75-77
- Contractors
 - contract labour, importation of, 326
 - independent, 315
 - profit income, 315
 - regulation of, 315
 - occupational licensing, 315
 - self-employed, 315, 618
 - subcontracting, 346
- Damages
 - aggravated, 112
 - breach of employment contract, 256-257
 - determination of, 113
 - discrimination, 112-113
 - economic loss, 112
 - non-economic loss, 112
 - termination of employment, 255, 256
- Deakin and Wilkinson study, 4, 6, 7, 14
- Discrimination
 - anti-discrimination *see* Anti-discrimination legislation
 - dispute resolution process, 111-112
 - elimination of, 105, 106
 - employer, 109, 110
 - employment, 461
 - harm of, 106
 - non-discrimination policies, 114
 - prevention of, 114
 - prohibition of, 106, 109-111
 - enforcement of, 111
 - reform, 115-123
 - regulatory framework, 109-115
 - remedies, 106, 112-113
 - risk minimisation, 114
 - sex *see* Sex discrimination
 - victims, 106
 - workplace, 105, 110, 464
 - elimination of, 110
- Dispute resolution
 - conciliation *see* Conciliation and arbitration
 - courts, by *see* Federal Court; Federal Magistrates Court
 - discrimination, 111-112
 - franchise, 575-576
 - Human Rights and Equal Opportunity Commission *see* Human Rights and Equal Opportunity Commission
 - industrial tribunals *see* Australian Industrial Relations Commission
- Economic theory
 - regulatory analysis of taxation, 366-367
- Employability, 315, 322, 325, 326, 329, 335, 336, 340
- Employee entitlements
 - carer's leave, 456, 460, 467
 - family leave, 456, 467
 - family regulation, 454-469
 - parental leave, 466, 468
 - personal leave, 456
 - statutory, 460
 - unpaid maternity leave, 459, 465
 - unpaid paternity leave, 459, 465

LABOUR LAW AND LABOUR MARKET REGULATION

- Employees
 - balancing interests of, 254, 389-397, 411, 454-455
 - collective bargaining, 600-602
 - discriminatory conduct of, liability for, 114
 - duties of, 252-253, 259-260
 - equality of, 615
 - expectations, 637
 - income, 378-379
 - income tax, 378-379
 - job security *see* Job security
 - labour-hire, 292-293
 - occupational health and safety *see* Occupational health and safety
 - “standard”, 658
- Employer
 - balancing interests of, 254
 - discrimination by, prohibition of, 109, 110
 - sex, on grounds of, 110
 - duties of, 110, 114, 252-253, 259-260, 583
 - expectations, 637
 - non-discrimination, duty of, 114
 - vicarious liability, 114
 - employees, for, 114
 - workplace inequality, elimination of, 110
- Employment
 - “appropriate”, 358
 - casual, 292, 346, 348-349, 357, 618, 670-671
 - categories of, 720
 - contracts *see* Employment contract
 - decasualising, 348
 - discrimination, 461
 - domestic, 390-392
 - full, 353
 - full-time, 286, 348, 362
 - “gainful”, 352
 - insecurity, 292
 - irregular, 347
 - joint, 551-552
 - market transaction, 309-310
 - “normal”, 346
 - open ended, 350
 - opportunities, 315
 - part-time, 357, 411, 616
 - permanent, 285, 348-350, 676
 - promotion, 721
 - protection, 721
 - regular, 286
 - relationships, 13, 128, 303, 307
 - regulation of, 617
 - short-term, 293, 294, 357
 - termination of *see* Termination of employment
 - terms and conditions, 326
 - unfair dismissal *see* Unfair dismissal
 - wrongful dismissal *see* Wrongful dismissal
- Employment agencies
 - impact of, limitation of, 283
 - labour market structure, impact on, 282-284, 301
 - market-based regulation, under, 284-286, 301
 - perception of, 282
 - private sector, 282, 283
 - clients, 288, 290
 - effectiveness, 299-300
 - expansion of, 289, 302
 - fees, 288-289
 - labour-hire agencies, 290-304
 - licensing, 296-297, 301
 - market share, 288
 - non-profit, 303
 - recruitment agencies, 289-290, 295-301
 - regulation of, 288, 290, 292, 300, 303
 - role of, 288-295, 301, 302
 - services, 289-290, 295
 - subsidies, 295-301
 - public sector, 282, 283
 - decline of, 286-287, 302
 - development of, 284-286
 - function of, 286
 - regulation of, 282, 314
 - role of, 282-283
- Employment contract
 - breach of, 252, 256
 - common law rules, 242-243, 246-250
 - fixed-term 618
 - mutual trust and confidence, 251-258
 - Australia, 256-258
 - United Kingdom, 252-256
 - open-ended, 349
 - protection, 692-693
 - regulatory law, impact of, 242-245, 598-599
 - repudiation of, 252
 - termination of, 246, 256-257
- Enterprise agreement
 - approval of, 227-229, 235
 - certification of, 227, 229, 234-237
 - content, 229-230
 - restrictions on, 230
 - enforcement of, 228
 - legally enforceable, 227
 - single, 228
 - subject matter, 229-230
- Enterprise bargaining
 - bargaining parties, 229
 - bargaining period, 230-231
 - conciliation powers, 231-233
 - directions, 231
 - facilitation of, 228, 231-233
 - federal level, 227
 - informal institutions, reliance on, 227
 - “no disadvantage” test, 228
 - obstruction of, 228
 - powers, 223
 - private basis, 227
 - process, 232-235
 - public basis, 227, 228
 - recommendations, 231
 - regime, 226-227
 - rules for, 234

INDEX

- Equal Opportunity for Women in the Workplace Act 1999 (Cth)
 - scope of, 110
- Equal opportunity regulation, 488-494
- Equality
 - barriers, elimination of, 110
 - employees, of, 615
 - opportunity, of, 110
 - pay, of, 105, 392
 - women, of, 110, 392
 - work, in, 105, 110, 392
 - workplace, 105, 110, 426-429, 615
- Fair dealing
 - obligation of, 579-580, 584-587, 590-591
- Fair Pay Commission
 - minimum wage setting, 89
 - considerations for, 89
- Family
 - breadwinner, 411-413, 458-459, 469
 - composition of, 455
 - immediate, 463, 469
 - normative, 459-460, 465-466
 - nuclear, 456-457
 - participation, 105
 - regulation of, 454-469
 - responsibilities, 389-397, 411, 454-455
- Federal award system
 - award entitlements, 392
- Federal Court
 - discrimination disputes, 112
- Federal Magistrates Court
 - discrimination disputes, 112
- Firm, the
 - constitutive regulation of, 316-321
 - form, 316
 - governance, 316
 - legal norms, 316
 - legal personality, 316
 - liability, 316
 - operation of, 316
 - self-regulation, 317
 - structure, 316
- Forced labour
 - prisoners, 313
- Foreign competition
 - protection from, 326
- Foreign employment schemes, 343
- Foreign students *see* International students
- Franchise
 - control, 564-565
 - dispute resolution, 575-576
 - franchisee, 564
 - franchisor, 564
 - industry code, 570-577
 - enforcement of, 576
 - legal action, standing for, 576-577
 - mandatory code of conduct, 572-578
 - meaning of, 564
 - operations, 564-565
 - regulation, 555-557, 566-572, 577-578, 628-629
 - enforcement, 566
 - objectives, 559
 - occupational health and safety, 628-629
 - statutory remedies, 566-568
 - Trade Practices Act, application of, 566-570
 - statutory requirements, 566-568
 - structure, 564-565
 - termination of, 574-575
 - work relationship, 564-565, 578
- Good faith
 - obligation of, 584-587, 591
- Hierarchically organised industry
 - constitutive private ordering, 521-527
 - decentred regulation, 521-527
- History of labour law, 21-42
- Household
 - labour market
 - decisions, impact on, 313, 379-382
 - inactive segment, 312
 - private, 312
 - public, 312
- Housing policy, 6
- Human capital
 - concepts, 637-640
 - co-ordination, 640-641
 - development of, 637, 643-652
 - education, 643-644, 653-654
 - firm-based learning, 646-652
 - industry training, 644-645, 653-654
 - legal sector, 642-643, 655-656
 - regulation of, 637-656
 - future, 652-655
 - private, 637
 - public, 637, 655
- Human Rights and Equal Opportunity Commission (HREOC)
 - awareness programs, 120-121
 - best practice compliance programs, promotion of, 121-123
 - conciliation
 - conduct of, 111
 - confidential, 111
 - termination of, 112
 - establishment of, 111
 - functions, 117-123
 - performance of, 117-123
 - non-discrimination norms, development of, 118-119
 - powers, 111, 117
 - role of, 111-112
- Immigration
 - application for, 331
 - British, 327
 - business, 330-331
 - probationary visa system, 330
 - constraints, 328
 - contract labour, 326, 327
 - prohibition of, 326
 - control, 322-343
 - decision-making, 336-337
 - management methodologies, 333-334
 - points test, codification of, 335-342
 - pooling system, 335
 - regulation, 337-342
 - deportation, 325, 327
 - detention, 325

LABOUR LAW AND LABOUR MARKET REGULATION

- Immigration (*cont*)
 - eligibility, 328
 - employer nomination scheme, 338
 - family reunion programs, 328, 329
 - illegal, 30, 315
 - independent, 329
 - intakes, 30, 326-329, 678-681
 - international students, 331-332
 - labour market
 - constitution, 325-330
 - control, 322-324
 - effect on, 323, 324, 333
 - law, 322, 325, 326
 - micro-management, 324, 333, 337-342
 - migrant settlement, 332
 - national interest, 328, 342-343, 681-682
 - non-Anglo Saxon background, 328
 - occupational, 333, 338-342
 - permanent, 324, 327, 328, 330, 333
 - programs, 322, 324, 327-330
 - purpose of, 323, 324, 329
 - qualified, 329
 - regional migration programs, 332-333
 - regulation, 322, 323, 325-333, 335-342
 - contemporary developments, 329-333
 - selection criteria, 328, 329, 336
 - points test, 335-342, 337-342
 - skilled migration, 314, 323, 328-333, 336, 338-343, 677
 - control, 324, 336
 - decision-making, 336-337
 - levels, determination of, 330, 338
 - list of occupations, 340
 - overseas qualifications, recognition of, 338-339
 - permanent, 324, 333
 - regulation of, 323, 324, 343
 - selection criteria, 336-337
 - temporary, 330-332
 - sponsored, 326, 331-333, 335, 338, 343
 - temporary foreign workers, 30, 33, 324, 326
 - temporary work visa, 330-331
 - test, 325
 - selective administration, 325
 - unauthorised, 677-695
 - “White Australia” policy, 23
 - decline of, 324, 331
- Immigration policy
 - application of, 330, 336
 - setting of, 343
- Income
 - employees, 378-379
 - independent contractors, 378-379
 - non-working labour market segment, 374-377
 - profit, 315
 - social security, 371-372, 375-377
 - substitution, 372-373
 - support, 374-377
 - taxation, 371-372, 374-377
 - wages *see* Wage
- Independent contractor
 - genuine, 378
 - income, 378-379
 - income tax, 378-379
- Industrial awards
 - labour standards, 223, 227, 326
 - occupational, 326
- Industrial court
 - establishment of, 326
- Industrial law
 - breadwinner family, 458-459
 - emergence of, 456-457
- Industrial relations
 - conciliation and arbitration *see* Conciliation and arbitration
 - legal regulation, 459
- Industrial relations legislation
 - construction of, considerations for, 87-104
 - business size, 87-104
 - focus, 87-89
 - small business exemptions, 92-103
 - Workplace Relations Act 1996 (Cth), 89-91
- Industrial relations system
 - award test case standards, 465-468
 - family-friendly developments, 459-469
- Industrial standards
 - employment patterns, 410
 - working hours, 410
- Industrial tribunals
 - awards, making of, 223
 - dispute resolution, 224
 - enforcement powers, 224
 - focus, 224
 - function of, 224
 - Industrial Relations Commission *see* Australian Industrial Relations Commission
 - labour agreements, facilitation and approval of, 223
 - legal norms, 223
 - mediation, 224
 - orders, compliance with, 224
 - organisational character, 223
 - policy objectives, 223
 - quasi-judicial bodies, 223
 - regulatory agencies, 223-224
- Industrialisation, 456-457
- International movement of workers, 30
- International students, 331-332
 - admission of, 331
 - general skilled migration visas, 332
 - permanent residence, grant of, 332
 - skills, 332
- Job creation
 - private role, 315
 - programs, 320
 - state role, 315
- Job insecurity, 32, 33, 293, 294
 - OHS effects, 34, 618-619
- Job Network agencies
 - contracts, 356, 361
 - evaluation of, 358-359
 - fees structure, 358-359, 361
 - focus, 295, 357

INDEX

- job seeker agreements, 356, 362
 - private sector, 295
 - referrals, 355
 - remunerations, 356
- Job Network scheme, 296
 - administration of, 314
 - job placement, 296-297
 - licensing, 296-297, 301
 - objectives, 298-299
 - role of, 355-356
 - subsidies, 296-298
 - temporary placements, 299
- Job search
 - geographical limitations, 352
 - search for work, 352, 353
 - work "in the trade", 352
- Job security
 - laws, 658-676
 - non-standard work, 671-676
 - standard model of employment, 658-671, 676
 - protection of, 658, 674
 - casual employees, 670-671
 - redundancies, in event of, 659-664
 - termination notice, entitlement to, 664-667
 - unfair dismissal, from, 667-670
- Job seekers, 397-404
 - agreements, 356
 - classification of, 355-356
 - disadvantaged, 295-296
 - empowerment of, 406
 - "good", 357
 - referrals, 356
- Jobs, Education and Training (JET) Scheme
 - activity test, 397
 - mutual obligation, 397
- JobSearch, 297
- Labour
 - commodity, as, 308, 721
 - paid, 313
 - unpaid, 313
- Labour demand
 - control of, 312-316
 - enlargement of, 325
 - foreign workers, 329
 - political representation, by, 277
 - regulation of, 277
 - restructuring, 358
 - skilled workers, 323
 - structure of, 277
 - trade union influence of, 277
- Labour exchanges
 - function of, 348-349
 - institutions *see* Commonwealth Employment Service; Employment agencies
 - national network, 348
- Labour force framework
 - categorisation, 344, 345
 - employed, 344, 345
 - national statistics, 345
 - not in the labour force, 344, 345
 - unemployed, 344, 345
- Labour hire agencies *see* Employment agencies
- Labour law
 - administrative directives, 27
 - comparative perspective, 21-42
 - compartmentalisation of policy, 24-25
 - context, 21-42
 - economic policy changes, 23
 - enforcement, 28
 - focus, 310
 - historical contingency, 7, 22-26
 - inconsistencies in government programs, 28
 - interest groups, 27
 - labour market regulation, as, 3-6
 - legal evolution, 7
 - legal pluralism, 8
 - legislative design, 26
 - limitation, 35-37
 - neo-liberalism, 6, 21, 29
 - objectives, 9-15, 103, 512-514
 - originating circumstances, 8
 - other laws, intersection with, 22-26
 - protective view, 10, 307, 316, 657
 - purpose of, 40
 - recent reforms, 11
 - reform, 188
 - reformulation, 3-9
 - regulatory analysis, 128-138, 148-152
 - regulatory standards, use of, 301
 - regulatory structure, extension of, 598-599
 - role of, 86-104
 - promotion, 86-104
 - protection, 85-104
 - social security law, interaction, 383-389, 404-409
 - traditional, 4
 - trifurcation, 22
 - values and objectives, 9-15
 - workforce changes affecting, 28-40
- Labour market
 - active policies, 353-354, 506
 - behaviour, influences on, 382
 - boundaries, 43
 - casualisation, 292, 301
 - changes, 28-40
 - constitution, 307-321, 325-329
 - immigration and, 325-329
 - regulation, by, 312
 - social and economic purpose, for, 307-321
 - construing, 722-725
 - control, 317, 320, 322-324
 - deconstruction of, 311
 - destabilisation, 301
 - discrimination, 391
 - distortion, 295
 - domestic, 322, 379-382
 - employees, 378-379
 - female participation, 415-419, 435-439
 - flexibility, 353, 410
 - fragmentation, 657
 - general, 309, 312-316

LABOUR LAW AND LABOUR MARKET REGULATION

- Labour market (*cont*)
- identification of, 309-312, 373-374
 - immigration, effect of *see* Immigration
 - independent contractors, 378-379
 - individual firm and employment relation, 309
 - intermediaries, 282
 - internal arrangements, 277-280, 318
 - international, 322
 - laws *see* Labour market law
 - micro-management of, 330
 - nature of, 43, 277
 - non-employee forms, 315-316
 - non-participation, rewarding, 418-420
 - non-working segment, 312, 374-377, 598, 602-603, 615
 - occupational, 277
 - operations, 283
 - organisation, 348-350, 362
 - participation, 313-314, 415-431, 505-512
 - post-war, 349-353
 - pre-war, 346-347
 - programs, 315
 - regulation *see* Labour market regulation
 - restructuring, 293, 303, 356-359
 - segmentation, 286
 - self-constituting, 311
 - social security regime, impact of, 371-382
 - stability, 282, 301, 303
 - standard form employment, 315-316
 - structure, 282-284
 - employment agencies, role of, 282-284, 301
 - government influences, 282-283
 - immigration control, 322-343
 - shaping of, 282, 322-343
 - taxation, impact of, 364-382
 - transformation of, 293
 - types of, 309
 - work restrictions, 678
- Labour market deregulation
- bases for, 147
 - decentred regulation, 150-152
 - demand for, 410
 - ideal, 147
 - legislation, 148
 - neo-liberal focus, 308
 - objectives, 152-158
 - process, 223
 - regulatory analysis, 148-152
 - responsive regulation, 150-152
 - rhetoric, 147-148
- Labour market policy
- households, and, 432-453
 - influences, 320
- Labour market regulation
- BCII legislation, significance of, 163-165
 - carer-workers, recognition of, 450-453
 - coherence, 136-138
 - conceptual framework, 130-136
 - conflict, 320
 - constitutive, 311-312, 483-502
 - compliance, 498-300
 - development of, 129-130
 - direct regulation, 132
 - dismissal, 277, 279
 - effectiveness, 136-138, 220, 717
 - employer contribution, 45-66
 - BCA, 52-54
 - cartelism, 56-59
 - segmentalism, 59-64
 - solidarism, 54-59
 - employment agencies, role of, 282-284, 301
 - external decisions, 319
 - firm, of, 316-321, 483-486
 - form of, 145-146, 321, 717, 719-720
 - function of, 261
 - goals, 321
 - government deployment of wealth, by, 171-186
 - accountability, 185-186
 - purpose of, 183-185
 - impact of, 138-139
 - indirect regulation, 133-135
 - internal arrangements, 277-280, 318
 - intersection of labour law and other laws, 22-26
 - jobs, 277, 279
 - justification, 220
 - labour law as, 3-6
 - labour practices, 174
 - laws, by, 383
 - manner of, 261
 - market-based, 282-283
 - method and style in study of, 15-18
 - national, 319, 352
 - non-state regulation, 135-136
 - objectives, 320-321
 - occupational, 319
 - participation, 138-139, 261
 - private "ordering", 317-318
 - purpose of, 127, 717-718, 720
 - recruitment, 277, 279
 - reform, 145-146
 - regulatory institutions, 144-145
 - regulatory instruments, 168-171, 173-182
 - regulatory mechanisms, 139-145
 - "regulatory trilemma", 136-138, 203
 - responsiveness, 136-138
 - role of, 261, 312
 - self-regulation, 317-318
 - social and economic purpose, for, 307-321, 717-718
 - social policy, 383
 - social welfare, interaction 383-389, 404-409
 - source of, 167, 728-731
 - theory, 262-271
 - trade unions as agents for *see* Trade unions
 - transactions, 261
 - wages, 277, 279
 - welfare reform, 344-363
 - work intensity, 277, 279
 - work relationships, 512-519, 561-563
 - worker, focus on, 16, 17

INDEX

- Labour relations
 - federal system, 162-166
 - effectiveness, 157
 - objectives, 152-158
 - protection under, 157-158
 - government deployment of wealth, 173-182
 - subsidies, 174-180
 - inter-government subsidies, 174-180
 - policies, adoption of, 174, 180-182
 - regulation of, 173-182, 224
- Labour rights
 - contractual regulation, 579, 582-591, 596
 - justice, 579
 - relationship obligations, 594
 - small business approach, 580, 591-594
 - traditional approach, 579-582, 593
- Labour shortages, 293, 326
 - identification of, 333
 - local, 342
 - micro-management, 333
 - skilled, 333, 341
 - definition of, 341
- Labour standards
 - international convention, 303-304
- Labour supply
 - control of, 277, 312-316
 - effects on, 365
 - mobilisation of, 352
 - occupational roles, 277
 - occupational rules, 277
 - preferences, 320
 - regulation, 277
 - trade union influence, 276-277
 - unionisation of, 277
- Legal norms, 223
 - corporate, 316
 - function of, 227
 - industrial, 455
- Legal pluralism, 8
- Luhmann's systems theory, 7
- Mature-aged workers, 32
- Minimum conditions
 - setting of, 223
- Minimum standards
 - branch of labour law, 22
 - enforcement, 28
 - sidestepping legal framework, 31
- Minimum wage
 - determination of, 89
 - setting of, 223
- Mining industry
 - employer association *see* Australian Mines and Metals Association
 - self-regulation, 187-188, 190-199
 - workplace relations, 187-201
- Mutual obligation, 9, 397
- Neo-liberalism, 6, 21, 308
- Networked organisations *see* Franchise; Supply chain outsourcing
- Occupation
 - stable, 352
 - "usual", 347
- Occupational health and safety, 22, 28
 - accountability, 635-636
 - branch of labour law, 22
 - complex work arrangements, 35
 - contingent workers, 35
 - enforcement, 634-635
 - impacts on, 34, 618-619
 - job insecurity, effect of, 34, 618-619
 - networked organisations, 628-635
 - objectives, 635-636
 - protection of workers, 635-636
 - regulation, 494-498, 617-636
 - representatives, 618
 - requirements, compliance, 619
 - work relationships, application to, 620-518, 629-635, 722
 - workers who are not employees, 629-634
 - workplace arrangements, 619, 629-634
- Office of Employment Advocate (OEA)
 - function of, 90
- Outsourcing
 - regulation of, 520-541, 722
 - supply chain, implications of, 538-541
- Population
 - changes, 6, 28-40
 - distribution, 332
 - employed sector, 314
 - immigrant *see* Immigration
 - inactive segment, 312
 - regulation of, 312
 - local, 323
 - metropolitan, 33
- Private law of contract
 - efficiency, 204-206
 - hybridity, 206-215
 - performance of, 204-215
- Productivity
 - bargaining, 423-426
 - increase, 410
 - sustained, 349, 726-727
- Professional bodies, 475
- Professional labour
 - definition, 473-474
 - psychotherapy, 474-477
 - regulation of, 470-473
 - function of, 481-482
 - modes of, 477-481
- Professionals
 - definition, 473-474
- Recruitment agencies *see* Employment agencies
- Redundancy
 - fluctuating demand, management of, 350
 - protection, 659-664
- Regional migration programs
- Regulatory theory
 - alternative sources and techniques, 262
 - application of, 202-215, 261
 - changing state role, 262
 - formal rule-based regulation, 262
 - institutionalist approach, 224-226
 - meta-regulation, 225
 - regulatory arrangements, 262

LABOUR LAW AND LABOUR MARKET REGULATION

- Regulatory theory (*cont*)
 - systematic attempts to affect behaviour
 - according to predetermined aims and desired outcomes, 224
 - taxation, 364-382
- Regulatory instruments
 - corrective taxation, 367
 - tax incentives, 367-368
- Regulatory scholarship, 106-109
 - alternative approaches, 107
 - indirect, 106
 - informal, 106
 - modification of behaviour, 107-108
 - regulation of behaviour, 106-108, 364
 - standards, enforcement of, 108-109
 - structured, 106
 - workplace, 107
- Retailers
 - disclosure requirements, 221-222
- Risk management
 - compliance programs, 114
- Risk minimisation
 - compliance programs, 114
 - non-discrimination programs, 114
 - organisations, by, 114
- Sanctions
 - compensatory, 112
 - financial, 112
 - injunctive, 112
 - publicity, 112
 - punitive, 112
- Segmentalism, 59-64
- Self-regulation
 - mining industry *see* Mining industry
- Sex discrimination
 - direct, 110
 - indirect, 110
 - wages, 391
- Sex Discrimination Act 1984 (Cth)
 - breach of, 112
 - effectiveness, 124
 - enforcement, 111
 - objectives, 105-106, 109
 - standards, 109-11
- Sexual harassment regulation, 488-494
- Small and Medium enterprises
 - characteristics of, 95-97
 - Confederation of Australian Industry, representation of, 53
 - definition of, 95
 - employment, 96
 - legislation, 90-92
 - exemptions, 92-104
 - management practices, 97
 - promotion of, 86-104
 - protection of, 86-104
 - regulation of, 96-97
 - unfair dismissal, 91-95, 97-104
 - workforce, 96
- Small business
 - collective bargaining, 597
 - collective boycotts, 597
 - regulation, 580, 591-594
- Social security
 - activity test, 397
 - incentive structure, 354
 - income, 371-372, 374-377
 - maternity benefits, 396, 419-420
 - means test, 398
 - mutual obligation, 397
 - parenting payment, 394-395
 - regulation, 45-52, 313
 - employer contribution, 45-52
 - labour law, interaction, 383-389, 404-409
 - workers with family responsibilities, 394-397
 - retirements benefits, 280
 - sickness benefits, 280
 - sole parent pensions, 314
 - unemployment benefits *see* Unemployment benefits
 - widows' pension, 394-395
- Social welfare
 - child care, 396
 - effect on labour market, 365
 - eligibility, 336, 414-418
 - functions
 - state, 280
 - trade unions, 280
 - funeral benefits, 280
 - injury compensation, 280
 - reform, 344-363, 417-418
 - regulatory effects, 356-359
 - regulatory "fixes", 359-362
 - regulation, 304
 - welfare state, 398
 - women and, 414-416
 - workers and, 414-418
- Solidarism, 55-59
- Superannuation
 - regulation, impact of, 313
- Supply chain
 - analysis, application of, 526-527
 - control, 545-550, 557-560
 - employees, of, 548-552
 - suppliers, of, 545-550
 - regulation, 552-555
 - protection of employees, 559
 - vertical disintegration, 550-557
- Supply chain outsourcing
 - outworkers, 522, 527
 - regulation of, 520-541, 527-541, 628-629, 722
 - decentralised, 521-526
 - implications for labour markets, 538-541
 - legal entitlements, protection of, 537-538
 - New South Wales, 528-530
 - occupational health and safety, 628-629, 722
 - Queensland, 531-532
 - South Australia, 532-536
 - Victoria, 530-531
- Sweating debates, 22-23

INDEX

- “Sweatshops”
 - outworkers, 320
 - regulation of, 320
- Taxation
 - corrective taxes, 367
 - use of, 369-370
 - employees, 378-378
 - family tax benefit, 395-396, 418-419
 - income, 371-372, 378-379
 - effects of, 372-373
 - independent contractors, 378-379
 - labour market, impact on, 313, 364-382
 - non-working labour market segment, 374-377
 - regime, operation of, 365
 - regulatory analysis, 364-382
 - regulatory instruments, 367-369
 - use of, 368-370
 - regulatory theory, 365-371
 - tax incentives, 367-368
 - use of, 369-370
- Temporary work visas
 - business migration, 330-331
 - probationary visa system, 330
 - skilled migration, 330-331
 - temporary skills transfers, 330
- Termination of employment
 - conduct leading to, 255
 - constraint of, 587-590
 - constructive dismissal, 252
 - damages *see* Damages
 - discriminatory, 461-462
 - employment contract, under, 246, 256-257
 - fair process, 258, 259, 587
 - harsh treatment, protection from, 242, 461
 - manner of, 255, 257
 - notice rule, 258, 259, 350, 664-667
 - contractual, 666-667
 - entitlement to notice, 664-667
 - statutory, 664-666
 - right of employer, 258, 587-590
 - unauthorised workers, 691-692
 - unfair *see* Unfair dismissal
 - wrongful *see* Wrongful termination
- Trade law and labour law, tension between, 24
 - ‘White Australia’ policy, 23
- Trade unions
 - bargaining power, 349
 - “collective voice”, 266-267
 - economic agents, 263-266
 - eligibility rules, 229
 - formation of, 272-275
 - functions of, 274
 - industrial action, 280
 - industrial relations perspective, 269-270
 - influence of, erosion of, 343
 - instability, 274
 - membership, 276-277, 280, 347
 - migrant workers, attitude to, 327
 - out-of-work benefits, 352
 - political action, use of, 276, 281
 - power of, erosion of, 343
 - protection of, 157-158
 - regulators, 261-281
 - agent of, 261
 - empirical perspective, 271-276
 - functions, 261, 262
 - hybrid business organisations, of, 215-220
 - internal labour market arrangements, 277-280
 - jobs, 279
 - labour demand, of, 277, 281
 - labour supply, of, 276-277, 281
 - recruitment and dismissal, 279
 - role of, 261, 262, 269, 276-281
 - social welfare, 280, 281
 - strategies, 276-280
 - theoretical approach, 263-271
 - wages, of, 279
 - role of, 261, 262, 269, 276-281, 330
 - skilled migration levels, determination of, 330
 - sociological and political science theory, 268-269
 - strategies, 275, 281
 - regulatory, 276-280
 - structure of, 275
 - tactics, 276
 - union theory, 270-271
- Unemployment, 32, 294
 - activating the unemployed, 313-314, 351, 353-356, 361-363
 - activity test, 354-355, 359-360
 - administrative category, 346, 362
 - arbitration and managerial practices, 348-350
 - concept of, 344
 - definition of, 346-347, 359, 360
 - forms of, 345
 - “genuine”, 360
 - insurance schemes, 350, 351
 - inventing, 348-350
 - job assistance programs, 357
 - job ready, 357, 358
 - labour exchanges, 348-350
 - labour force framework, under, 344-345, 351
 - levels, 287
 - long-term, 287, 295, 355, 358
 - mobilisation of, 351, 353, 359-360, 362
 - opportunities for work, 356-357
 - out of work, 344, 347
 - involuntary, 350, 352, 360
 - temporary, 350
 - perception of, 348
 - policy, 345-346
 - pre-war, 346-347
 - reduction of, methods of, 353
 - refusal of work, 351, 352
 - regulatory “fixes”, 359-362
 - regulatory reform, 346, 356-359
 - search for work, reasonable steps for, 352
 - seasonal fluctuations, 346

LABOUR LAW AND LABOUR MARKET REGULATION

- Unemployment (*cont*)
 - statistics, 345-347, 359
 - status, 344, 356
 - suitable work, 351-353, 359
 - acceptance of, 351-352, 356
 - underemployment, 346, 357
 - voluntarily out of work, 350, 351
 - welfare relief, 286
 - work test, 350-353
 - administration of, 350, 351
- Unemployment benefits
 - administration of, 286, 345-356, 358
 - application for, 351
 - compensation, 357
 - conditional payments, 314
 - criteria for, 351
 - eligibility for, 351, 353, 360
 - entitlement to, 286, 313, 355
 - incentive structure, 354
 - means test, 355, 359, 398
 - obligations, compliance with, 355
 - payment of
 - cancellation of, 351
 - conditions for, 314
 - part, 357, 362
 - postponement of, 351
 - reduction of, 355
 - preparing for work agreement, 354
 - compliance, 354
 - content, 354
 - provision of, 345
 - registration for, 355
 - requirements for, 354-355
 - suspension of, 355
 - waiting period, 355
 - withdrawal of, 355
 - "work for the dole" scheme, 360-361
 - work test, 350-351, 361
- Unfair dismissal
 - claims, 93-94
 - disputes, 250
 - employment contract, under, 246
 - exemptions, 94-95, 97-104
 - assessment of, 97-103
 - harsh, unjust or unreasonable, 561
 - protection from, 92-93, 102-103, 242, 667-670
 - regime, 242, 256
 - regulation, 486-488
 - small businesses exemptions, 91-95, 97-104
 - statutory protection, 247-251
 - unauthorised workers, 691-692
 - United Kingdom, 252-256
- Vicarious liability
 - employer, of, 114
- Vocational education and training
 - regulation of, 135
- Volunteer work
 - contractual relationship, 697, 703-709
 - creation of, 696-697
 - definition of, 696
 - "genuine", 697-699, 709-710
 - labour market interaction, 696, 699-701
 - legal mechanisms, exclusion from, 696
 - performance of, 696
 - precarious, 697-699, 710-711
 - regulation of, 696-716
 - statutory, 702-703
 - scope of, 696
 - status of, 696-697
 - volunteer labour, use of, 696
- Wage
 - basic *see* Basic wage
 - claims, 280
 - determination, 414
 - equality of, 105, 391
 - fixation, 390, 411-413
 - exclusions, 411-413
 - protection, 411-413
 - foreign workers, 326
 - local, undercutting, 331
 - minimum *see* Minimum wage
 - rates, 326
 - regulation, 279
 - sex discrimination, 391
 - unauthorized workers, 692-693
- Welfare state regime, 43
- Women
 - equal opportunity, 105, 110, 391
 - labour market participation, 415-419, 435-439
 - wage discrimination, 391
- Work
 - discrimination at *see* Discrimination
 - economic citizenship, 105
 - equality in *see* Equality
 - identity, source of, 105
 - "non-standard", 658
 - relationships *see* Work relationships
 - volunteer *see* Volunteer work
- Work Choices legislation, 11
- Work/leisure choice, 372-373
 - income effect, 372-373
 - substitution effect, 372-373
- Work/life boundary, 432-435, 439-450
 - conflict, 452
 - family regulation, 454-469
 - preferences, effect of income on, 443-444
 - sacrifices, 445-446
 - wealth, effect of, 446-450
- Work/life separation, 12
- Work organisation
 - average working hours, 30-31
 - changes affecting labour law, 6, 28-40
 - contingent workers, 35
 - flexible arrangements, 31, 32
 - home-based work, 31, 35
 - OHS issues, 34-35
 - part-time work, 31
 - "remote" work facilities, 31
 - self-employment, 31, 32, 35
- Work organisations
 - anti-discrimination policies, 114
 - risk minimisation, 114
 - vicarious liability, 114
- Work relationships, 308, 512-519
 - contractual, 313

INDEX

- control, 542-550, 560, 564-565
- employer/employee, 323, 542
- franchisor/franchisee, 564-565
- occupational health and safety, application to, 620-628, 635-636
- regulation of, 512-519, 561-563, 727-729
- rights and obligations, 515-519
- unequal, 561-563
- Work visas
 - temporary, 330-331
- Worker-Carers, 432-439
- Workers
 - apprentices, 277
 - breadwinner, 411-413, 458-459, 469
 - domestic, 693
 - family responsibilities, 389-397, 411, 454-455
 - arbitration, 390-393
 - discrimination, 390-393
 - social security laws, 394-397
 - foreign, 30, 33, 315, 323, 325, 326, 329, 330, 343, 677
 - legal controls, 683-685
 - "gainful", 347
 - "ideal", 439-450
 - illegal, 315, 678
 - immigrant, 327
 - "improvers", 277
 - indentured, 325, 327
 - local
 - protection of, 326
 - training of, 343
 - migrant, 322
 - "non-standard", 658
 - occupational health and safety *see* Occupational health and safety
 - outworkers, 320, 522, 527
 - protection of, 316, 582, 635-636
 - recruitment of, 314, 322
 - regulation, 322
 - seasonal, 295
 - semi-skilled, 277
 - skilled, 277, 323
 - social welfare and, 414-418
 - temporary, 30, 33, 294, 295, 324
 - tradesmen, 277
 - unauthorised, 315, 677-695
 - employment rights of, 687-693
 - prohibition of, 685-687
 - protection of, 693-695
 - unemployed, placement of, 321
 - unskilled, 323
 - "white", 326
 - Workers compensation
 - branch of labour law, 22
 - complex work arrangements, 35
 - contingent workers, 35
 - no-fault, 688-691
 - unauthorised workers, 688-691
 - Workforce
 - changes affecting labour law, 6, 28-40
 - child labour, 31, 32, 33
 - creation of, 324
 - female participation, 6, 29, 320
 - female role, 320
 - illegal immigrants, 30
 - immigration intakes, 30
 - international movement of workers, 30
 - local, 322, 323, 330
 - migrant, 322
 - national, 314
 - small and medium enterprises, 96
 - stability, 349
 - temporary foreign workers, 30, 33
 - unionised, 327
 - Working conditions
 - foreign workers, 326
 - regulation of, 349
 - skilled immigration, effect of, 324
 - stable, 349
 - standard, 349
 - unauthorised workers, 692-693
 - undercutting, 331
 - Workplace
 - bargaining, regulation of, 223
 - discrimination *see* Discrimination
 - employer obligations, 331
 - equality *see* Equality
 - family-friendly, 105
 - law reform, 187
 - norms, 455
 - occupational health and safety *see* Occupational health and safety
 - order, 455
 - regulation, 227
 - level, scope and coverage, limitation of, 227
 - relations, 187
 - Workplace agreements *see* Australian workplace agreements; Collective workplace agreements
 - Workplace Relations Act 1996 (Cth)
 - businesses, 89-90
 - "constitution corporation", concept of, 89
 - enterprises, 89-90
 - object of, 89
 - small business, 90-91
 - Wrongful termination
 - employment contract, under, 246
 - protection from, 242

Cases

- ACCC v 4WD Systems Pty Ltd (2003): 570, 577
- ACCC v CG Berbatis Holdings Pty Ltd (2003): 567, 577, 590
- ACCC v Leelee Pty Ltd (2000): 675
- ACCC v Samton Holdings Pty Ltd (2002): 567, 577
- ACCC v Simply No-Knead (Franchising) Pty Ltd (2000): 675, 570, 577
- ACCC v Will Writers Guild Pty Ltd (2003): 576, 577