

## **'Exit Stage Left', now 'Centre Stage': Collective Bargaining under Work Choices and Fair Work**

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This chapter examines the changing fortunes of collective bargaining under Australian labour law, focusing primarily on the period since Work Choices. In the early 1990s, enterprise-level bargaining emerged from the shadows of Australia's traditional conciliation and arbitration system, as an important component of the labour market reforms of the Keating Government. While retaining the essence of Labor's bargaining system, the Howard Coalition Government's 1996 legislative changes challenged the primacy of *collective* bargaining, primarily through the introduction of statutory *individual* agreements - but also through the removal of the 'good faith bargaining' (GFB) obligations introduced only three years earlier. The 2005 Work Choices legislation further downgraded collective bargaining at the expense of individualised agreement-making, leading Forsyth and Sutherland to express the view that: 'the prospects for longevity of a robust system of collective determination of workers' wages and employment conditions have never been more bleak'.<sup>1</sup>

However, the election of the Rudd Government in November 2007 means that collective bargaining is set to return to 'centre stage' - at least, on the statute books. The introduction of a collective bargaining framework based on the principles of 'majority employee support' and GFB formed a central plank of Labor's 'Forward with Fairness' policy. It is also a key component of the Fair Work Bill 2008 (FW Bill). The government had already taken some steps, in its transitional legislation passed in March 2008, to restore the primacy of collective bargaining - including, most importantly, by prohibiting the making of new

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<sup>1</sup> A Forsyth and C Sutherland, 'Collective Labour Relations under Siege: The Work Choices Legislation and Collective Bargaining' (2006) 19 *AJLL* 183 at 197.

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