

Workplace Relations

**Edited by Margaret Lee and Peter Sheldon
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The *Workplace Relations Act* 1996 (Cth) is the product of the Federal Government's attempt to introduce flexibility, simplicity and greater choice into Australian workplaces. Not surprisingly, this legislation is proving highly controversial. Industrial disputes are likely to increase as unions, employers and employees attempt to attain the maximum benefit under the new industrial relations framework. It is of great importance for these key stakeholders, as well as practitioners, academics and students, to gain a detailed understanding of the legislation. Unfortunately, the full effect of the new Act is unlikely to be known for several years.

In the years immediately following the enactment of a new piece of significant legislation, before it has been tested in the courts or been the subject of numerous texts, there is an absence of material for those involved or interested in that legislation. This is what makes a book such as *Workplace Relations* an extremely valuable resource.

Workplace Relations is not a text, but rather a collection of the edited papers from the conference held by Griffith University's Centre for Research on Employment and Work in Brisbane on 14 March 1997. Contributors to the conference included ministers, the Chief Justice of the Industrial Relations Court, academics, and others involved in industrial relations in Australia. The book is not aimed at providing a comprehensive review of the Coalition Government's new industrial relations system. Instead, it focuses on a few key areas of interest.

It should be noted that the conference was called with the intention of discussing the impact on Queensland of both the Commonwealth legislation, and the recently enacted equivalent in that State, the *Workplace Relations Act* 1997 (Qld). However, the diversity of the contributors, in geographic and political terms, combined with the similarity of the legislation in the two jurisdictions, ensures that the book is relevant on the broader, national scale. Indeed, the complementary nature of the Queensland legislation is another major feature of industrial relations in Australia, and one which is likely to be mirrored in other jurisdictions.

Workplace Relations is divided into four sections. The first of these sections contains the speeches delivered to the conference by the Federal Minister for Industrial Relations, the Hon Peter Reith MP,

and the Queensland Minister for Training and Industrial Relations, the Hon Santo Santoro MLA. Both speeches highlight the rationales for the respective legislation, pointing to increased levels of employment as one of the projected outcomes.

Peter Reith stresses that the Coalition's version of enterprise bargaining will result in better pay for better work, and points to the failure of the recent Labor Governments to deliver substantial benefits to the community through their industrial relations policies. Santo Santoro comments on how the closely linked Federal and State legislation has led to an increased choice being available to parties to choose the jurisdiction which best suits their needs. He also notes that the new reforms should facilitate negotiation, whilst encouraging unions to become internally stronger.

The second section of the book, which comprises three chapters, looks at the bargaining structure under the new legislation. The first paper in this section is by one of the editors of *Workplace Relations*, Margaret Lee. She looks at the relative bargaining power of the parties under the Acts, and concludes that the system will work to the benefit of all concerned when employees are represented by unions, but will lead to a decline in the wages and conditions of those employees who do not have union support in the bargaining process. In the second paper of the section, Malcolm Rimmer suggests that the new legislation may not have such a dramatic effect, and that it remains to be seen how the stakeholders, employers in particular, use the Acts to shape the future of industrial relations. In the next chapter, Paul Ronfeldt comments that the Acts are a continuation of the decentralisation of labour regulation initiated by the previous Labor Governments, but that they adopt a pro-employer stance, similar to that found in Western Australia. He concludes that if high-trust employment relations are to be maintained, it is up to employers not to misuse the non-union arrangements allowed by the legislation.

The third section of *Workplace Relations* looks at the area of dismissals. Chief Justice Wilcox heads the discussion by analysing the provisions relating to termination of employment, and notes the reduced role of the courts. He is critical of the fact that the legislation may reduce the protection for employees against unfair dismissal, and is sceptical of claims that any community benefit will outweigh this failing. Graham Smith then gives a practical guide to the operation of the Act in this area, from the viewpoint of a practitioner. Comparisons are drawn between the old and new provisions, pointing out the complexity of the choices available to those applying for dismissal remedies. In the third paper on the area of dismissals, the Western

Australian Commissioner Sally Cawley questions whether the new legislation represents an improvement in the law. Noting the concerns over recent changes in the Western Australian law, Cawley submits that the operation of the unfair dismissal laws will prove a key indication of the success of the Commonwealth legislation.

The final section of the book looks at the future of unions under the new legislation. Mark Mourell is critical of the Coalition's attack on employees, embodied in attempts to weaken the unions. Mourell raises concerns about the internal destruction of unions, but does note the potential for unions to become more focused on employees and the workplace. Nevertheless, he concludes that the Act will fail to provide the framework for cooperative workplace relations. In Chapter 10, Phillipa Weeks then attacks the legislation, commenting on the difficulties it creates for unions in recruiting members, rather than actually providing employees with a genuine choice regarding whether to join a union or not. The final chapter continues the trend, with Andrew Vickers sharply criticising the impact on unions and employees, and foreshadowing a decline in wages and conditions, with major amendments to the Act being made in the next few years.

Overall, *Workplace Relations* is a thought-provoking collection of papers on one of the most important issues facing Australia today. Whilst aimed at practitioners and students, this book, with concise and diverse coverage of key areas, is likely to be of great assistance to all those with an interest in industrial relations.

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