



New Leadership.



Labor's New Industrial Umpire: Fair Work Australia

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Overview

A Rudd Labor Government will bring balance and fairness to Australia's workplaces.

Federal Labor will foster a strong productive national economy but one which also protects Australian working families.

Federal Labor will get rid of John Howard's unfair WorkChoices laws and replace them with a fairer and more flexible industrial relations system for all Australians.

Under a Rudd Labor Government Australia can go *Forward with Fairness*.

A new industrial relations system needs a new industrial umpire. A new, genuinely independent umpire called Fair Work Australia will oversee Federal Labor's new industrial relations system.

John Howard's WorkChoices legacy

John Howard has lost touch with Australian working families.

The Howard Government's unfair WorkChoices laws have seen working Australians lose pay and conditions, lose unfair dismissal protection and lose their right to a fair go at work.

WorkChoices has also created a web of red tape, complex rules and regulation for Australia's employers, particularly small business employers.

To make matters worse, John Howard has created a huge and unwieldy industrial relations bureaucracy costing \$1.8 billion. He has also wasted \$121 million of taxpayers' money on advertising to try and sell his extreme laws.

WorkChoices is not a fair or simple system.

An alphabet soup of different agencies has been created to deal with different workplace issues; the Workplace Ombudsman (WO), the Workplace Authority (WA) the Australian Fair Pay Commission (AFPC) and the Australian Industrial Relations Commission (AIRC).

However, the Howard Government has stripped back the role of the independent umpire, the Australian Industrial Relations Commission.

Its Workplace Ombudsman advises callers that they do not have the resources to follow up complaints immediately.

Meanwhile, the Workplace Authority is drowning under a backlog of over 100,000 workplace agreements and can't explain how the so-called 'fairness test' actually works.

The Australian Fair Pay Commission arrives at a minimum wage decision behind closed doors and at different times each year and hasn't even published all minimum wage rates so Australian employers and employees know where they stand.

Despite all of this complexity, bureaucracy and expense, Australian employers and employees know that simple information and real help are impossible to find.

Labor believes Australians deserve better.

A New Industrial Umpire for all Australians: Fair Work Australia

A Rudd Labor Government will introduce a new fair and flexible industrial relations system for the modern Australian economy.

Importantly, Labor's system will be simpler and easier for Australian employers and employees to understand and to follow than John Howard's WorkChoices mess.

A new industrial relations system needs a new industrial umpire to act in the interests of all Australians.

Fair Work Australia will be a new, genuinely independent umpire to oversee Federal Labor's new industrial relations system.

Federal Labor believes Australian employers and employees deserve an industrial umpire that is accessible, can answer questions, can provide important information and is available to assist with workplace issues.

Federal Labor believes Australian small businesses deserve an industrial umpire that will help them understand and comply with workplace laws and which takes into consideration their particular needs.

Federal Labor believes the Australian community deserves an industrial umpire that has the power to set a fair minimum wage which takes account of things like employment and inflation, can assist with dispute settlement and promotes family friendly and flexible work arrangements.

Under a Rudd Labor Government there will no longer be a need to deal with separate agencies or contact different helplines about all these workplace matters.

Instead, Fair Work Australia will be a one stop shop that is independent and accessible:

- Fair Work Australia will have **offices throughout Australia**, including an office in Darwin to service the Northern Territory.
- Staff at the Darwin office of Fair Work Australia will be able to travel to businesses anywhere in the Northern Territory at their request. Businesses and employees won't have to go to a Fair Work Australia office to get help, officers from the Darwin office of Fair Work Australia will come to them.
- Fair Work Australia will have a **telephone information service** which will take responsibility for connecting callers directly to the right person who provide the information or advice that is required. Callers will not have to contact different agencies until they track down someone to take responsibility for their issue.
- Fair Work Australia will have a **website** where workplace information is readily available. The website will contain relevant information like minimum wage rates, information and advice about flexible and family friendly workplace arrangements, collective bargaining opportunities and obligations. Contact details for Fair Work Australia and addresses of local offices will also be listed on the website.
- Fair Work Australia will ensure Australians from non-English speaking backgrounds can also access information easily.

How can Fair Work Australia help?

Fair Work Australia will be responsible for a range of functions to help Australian employers and employees including:

- Providing information about Federal Labor's new industrial relations system, flexible and family friendly work arrangements and our new award system.
- Assisting parties to resolve workplace grievances.
- Resolving unfair and unlawful dismissal claims.
- Providing advice and assistance to young workers.
- Facilitating collective bargaining and enforcing good faith bargaining.
- Reviewing and approving collective agreements.
- Adjusting minimum wages and award conditions.
- Monitoring compliance with and ensuring the application of workplace laws, awards and agreements.
- Regulating registered industrial organisations.

Fair Work Australia will commence operations on 1 January 2010.

Local Fair Work Australia staff will be trained to provide relevant information quickly and easily and to explain Labor's industrial relations system in simple terms.

Fair Work Australia will act informally and efficiently and will use plain language without resorting to technicalities.

Local Fair Work Australia staff will be available to provide employers and employees in the Northern Territory with the following:

1. Information and assistance

Fair Work Australia will provide employers and employees in the Northern Territory with simple and easy to use information and assistance about workplace matters.

Information about things like minimum rates of pay, Federal Labor's 10 National Employment Standards and new, modern award conditions will be available from this local office as well as in hardcopy, online or through the Fair Work Australia telephone information service.

Staff at the Fair Work Australia Darwin office can also provide information to local employers and employees about the flexibilities available under Federal Labor's new industrial relations system. For example, practical information about how to get the most from our new award flexibility clauses or advice about whether an individual flexibility agreement complies with the relevant award.

Fair Work Australia's local staff will also provide information and assistance about how businesses and employees in the Northern Territory can make family friendly and other flexible work arrangements.

Fair Work Australia will develop guidelines about how to implement family friendly work practices. Practical advice to assist employers and employees who are trying to find ways of making their workplaces flexible will also be available from this office.

Case Study 1 – information and assistance

Susan has just started a small business and wants to know what the minimum rate of pay she must pay her employees. Susan also wants to know whether there are other minimum conditions of employment that apply to employees in her business. Susan can visit the Darwin office of Fair Work Australia, call the Fair Work Australia hotline or visit the Fair Work Australia website to get this information quickly and easily.

Ben works in a workplace under an Award. Ben and Ben's employer want to know whether they can make arrangements under the Flexibility Clause in the Award for Ben to work in a way that suits his family, including having time to pick up his kids from school and attending their school sports days. Ben and his employer can talk to Fair Work Australia about which Award covers them and the flexibilities available under Labor's new award system.

2. Bargaining and agreement making

Federal Labor wants employers and employees to work cooperatively in their workplaces to find the terms and conditions and work arrangements that best suit them.

This Fair Work Australia office will be able to provide advice to employers and employees in Darwin and throughout the Northern Territory about how to get the most from collective agreement making.

For example, Fair Work Australia will publish a model flexibility clause for inclusion in collective agreements. Local businesses can then visit or contact this office to get practical advice about how the clause can be tailored to their needs and the needs of their employees to provide genuine flexibilities at their workplace.

When a collective agreement is made it must be lodged with Fair Work Australia for approval. Fair Work Australia will review the agreement within 7 days so employers and employees in the Northern Territory can then have certainty. Fair Work Australia will be required to approve collective agreements 'on the papers', so there will be no need for the employers and employees to attend the Fair Work Australia office for a hearing.

Case Study 2 – bargaining and agreement making

Dom and his colleagues have asked their employer to bargain collectively for their terms and conditions of employment. Dom's employer agrees, but both the employer and employees need more information about how to make a collective agreement. The Darwin office of Fair Work Australia can advise Dom about Labor's new collective bargaining system.

Case Study 3 – bargaining and agreement making

The last time Catherine made a collective agreement was under WorkChoices and the agreement had to be lodged with the Workplace Authority and commenced operation immediately even though it wasn't assessed for months.

Catherine isn't sure which agency she should lodge her new collective agreement with and how long it will take to review. Catherine calls the Darwin office of Fair Work Australia to find out that collective agreements will be assessed on the papers within 7 days of lodgement. If there is any problem with the agreement, it will be resolved before the agreement comes into effect. Catherine's employees will also benefit because they won't end up having to calculate and claim pay back-pay from Catherine if the agreement doesn't leave them better off overall.

3. Compliance and enforcement

Federal Labor's new industrial relations system will be fair and balanced.

Fair Work Australia will have the important role of ensuring compliance with Federal Labor's new industrial relations system. Under a Rudd Labor Government all employers, employees, unions and businesses must comply with the rules.

Fair Work Australia will have an inspectorate to monitor compliance, investigate complaints and prosecute breaches of Labor's industrial relations laws.

Employers and employees can be assured that Fair Work Australia will have the power and resources to investigate complaints quickly because Fair Work Australia inspectors will be based in local offices throughout Australia, including in Darwin.

For businesses and employees in the Northern Territory working in the building and construction industry, there will not be a single moment where their industry is without a strong "cop on the beat".

Under a Rudd Labor Government the current Australian Building and Construction Commission arrangements, personnel and funding will remain in place until January 2010. At that time, those responsibilities will be transferred to a specialist division within the inspectorate of Fair Work Australia.

Case Study 4 – compliance and enforcement

Mai's teenage daughter works for a local fast food outlet. Mai is concerned that her daughter is not being provided with proper pay slips or extra wages for working late on Friday and Saturday nights. Mai visits the Darwin office of Fair Work Australia to check her daughter's correct rate of pay. Fair Work Australia inspectors can also require the employer to produce time and wages records and proper pay slips to demonstrate their compliance with Labor's new industrial relations system.

4. Assistance for small business

Labor understands small businesses are the backbone of our economy and that small businesses have particular needs.

Federal Labor understands that small businesses, including those in the Northern Territory:

- do not have the time, expertise or resources to comprehend pages of industrial legislation and case law;
- are unlikely to have the time, expertise or resources to deal with performance management issues, employee disruption in a small workplace or managing a dismissal in circumstances of suspected theft or fraud; and
- do not have the time, expertise or resources to defend unfair dismissal applications in formal hearings which last for days.

This Fair Work Australia office will provide information to small businesses in Darwin and throughout the Northern Territory about the requirements of Labor's new industrial relations system and how to comply.

This information and advice will be prompt and easy to follow and will help local businesses currently drowning under the burden, expense and complexity of John Howard's WorkChoices laws.

Fair Work Australia will be required to consider the needs of small business when conducting its affairs, particularly setting minimum wages and award conditions and resolving unfair dismissal matters. The local Darwin Fair Work Australia office can provide information on how local businesses can have their views heard in Labor's minimum wage review process.

Small businesses will be able to rely on advice they receive from Fair Work Australia.

The local Darwin Fair Work Australia office will also be available to help small business understand and comply with Labor's Fair Dismissal Code. Where specific advice has been provided to a local employer by Fair Work Australia about a dismissal and the employer complies with that advice, the dismissal will be considered a fair dismissal.

Case Study 5 – small business assistance

Robin runs a small business in Katherine and is having difficulty with an employee who has been turning up to work late for months. Robin isn't sure what her options are. The Katherine office of Fair Work Australia can advise Robin about Labor's Fair Dismissal Code and her rights and obligations under Labor's unfair dismissal system. If Robin complies with the Fair Dismissal Code when dismissing the employee, the dismissal will be a fair dismissal. Or, if an unfair dismissal claim is lodged, Fair Work Australia officers from the Darwin office can come to Robin's workplace to hold a conference to resolve the matter if Robin is concerned about leaving her business.

5. Resolving grievances and disputes

Federal Labor believes Australian employers and employees should to work together to resolve workplace issues at their workplaces.

However there are times where employers and employees may need to access a genuinely independent umpire to help them resolve workplace issues.

Fair Work Australia will be available to assist employers and employees in the Northern Territory to resolve grievances or disputes whether formally or informally, where both parties request, without the need for local businesses and employees to travel outside the local area.

Local Fair Work Australia officers will be able to come to workplaces in the Northern Territory or employers and employees can visit the Darwin Fair Work Australia office if that is more appropriate or convenient and agreed by the parties.

Local Fair Work Australia officers will also be responsible for resolving unfair dismissal matters. Federal Labor will have a new system to resolve unfair dismissal matters quickly, cheaply and with a minimum of fuss.

For example, if an employer doesn't want to leave the workplace, a Fair Work Australia officer from the Darwin office can visit the workplace to hold a conference between the employer and former employee when convenient.

Case Study 6 – dispute resolution

Maria's employees are taking protected industrial action during negotiations for a collective agreement. Maria thought it might be useful to sit down with her employees in a neutral environment to talk more about the situation with an independent third party and asked her employees who agreed. Maria and her employees can ask their local Fair Work Australia office to host and facilitate their discussions to help them try and reach agreement.

Maria and her employees made a collective enterprise agreement that says if a dispute arises, and they are unable to resolve it in the workplace, they will ask one of Fair Work Australia's expert mediators to guide talks between Maria and her employees. Maria is introducing new rosters into the workplace but the employees are not sure how the new rosters will fit in with the terms of their workplace agreement. Maria and her employees are unable to resolve the dispute themselves and ask an expert mediator from the Darwin Fair Work Australia office for assistance. The mediator can visit Maria's workplace during breaks in order to hold the discussions.