

# Workplace Relations: Balance and Fairness

---

AUSTRALIAN DEMOCRATS ACTION PLAN  
A MORE BALANCED AND FAIRER WORKPLACE RELATIONS SYSTEM  
WORKPLACE RELATIONS

## A More Balanced and Fairer Workplace Relations System

*With Labor representing the interests of unions and the Coalition the interests of big business, the Democrats play a crucial part in ensuring that industrial laws are fair to all sides.*

*“We take the view that there is no evidence that the state of Australian society and economy warranted the further radical change of WorkChoices.”*

**Senator Andrew Murray  
Democrats Workplace  
Relations Spokesperson**

For political reasons the Coalition like to paint themselves as the only reformers in industrial relations. This is just not true. The Democrats recognised and supported the important advances made by the first wave of the Keating Labor industrial relations reforms in 1993, and supported many of the second wave initiatives in the Howard Coalition reforms of 1996. (Please see The Democrats Record on Workplace Relations on our website [www.democrats.org.au/policies](http://www.democrats.org.au/policies))

Long before the federal Coalition got up the courage to call for a single national unitary system for IR, the Democrats were actively campaigning for that policy.

We take the view that there is no evidence that the state of Australian society and economy warranted the further radical change of WorkChoices. That being said, the Democrats are not opposed to IR reform so long as it is moderate, steady, considered and fair; and that it delivers productivity, efficiency, jobs growth and competitive gains that accord with the values and goals of a civilised first-world society - fair and just pay and conditions and treatment. Our record proves this. However WorkChoices went too far and must be moderated.

## Our Action Plan

- Restore the essential features of the pre-WorkChoices regime;
- National Unitary System: Legislate a genuine single national system negotiated with the states and territories;
- Introduce a National Regulator negotiated with the states and territories, which would absorb the functions of the OWS, the Employment Ombudsman and ABCC on a revised basis, and take over state inspectorates;
- Restore a strong independent but faster and lower cost AIRC;
- Provide for a genuine safety net, and a mix of statutory individual and collective agreements;
- Make the AFPC more responsive to mechanisms to improve the disposable income of the working poor;



Other ACTION PLANS are available online at  
[www.democrats.org.au](http://www.democrats.org.au)

Last updated 25/09/2007

# Workplace Relations: Balance and Fairness

---

- Introduce a definition of employment;
- Re-introduce unfair dismissal laws with low cost, non-legalistic and prompt resolution of disputes, including a process to weed out vexatious and frivolous claims;
- Address issues concerning secret ballot provisions; freedom of association; the legitimate role of unions; a fairer balance between work and family; reasonable hours; work of equal value; and a non-discriminatory skills-based wage system.

## Issue: WorkChoices needs replacement with fairer Act

In 1996 the Democrats negotiated fair and balanced changes to the Workplace Relations Act, which then contributed materially to our economic success, jobs growth and productivity.

In contrast, the Coalition Government's WorkChoices Bill has resulted in a national system forced onto resistant states; the individual to be fostered over the collective; individual wage and conditions fostered over family-oriented wage and conditions; disputes going to the courts instead of the tribunals; capital and corporate interests dominating; greater ministerial intervention; and labour and unions' rights and freedoms being heavily restricted.

The Coalition Governments 2005 WorkChoices legislation took away the fairness and balance. Our aim is to restore that balance.

While not all employees are detrimentally effected by WorkChoices, a large number of workers are, and will have their wages and conditions reduced. Increased exploitation will occur for women, youth, the low skilled, low income earners, those who have English as a second language, people with disabilities, and carers.

The Democrats would bring back fairness and balance, while not jeopardising productivity competition and growth, based on the following principles:

**Unitary single national IR System** –The Democrats long advocated one industrial relations system not six. The Democrats have supported a national unitary IR system to provide simplicity and common rights and obligations, to reduce costs and to improve efficiency, domestic and international competitiveness, and productivity. The current WorkChoices IR system is not a truly national system with broad acceptance because the federal Coalition Government made a hostile takeover from the states, and up to 25% of the workforce is still left under state systems.

The Democrats would support a unitary single national IR system that is negotiated between the states and federal government and that is based on fairer legislation (please see Unitary System action plan on our website [www.democrats.org.au/policies](http://www.democrats.org.au/policies)).



### CONTACT US

(03) 9416 1880

Lv 1, 62 Wellington Parade, East Melbourne VIC 3002  
[inquiries@democrats.org.au](mailto:inquiries@democrats.org.au)

Authorised by Jack Evans, 5 Poinciana Place, Wanneroo WA 6065  
Printed by Senator Lyn Allison, Parliament House, Canberra ACT 2600

# Workplace Relations: Balance and Fairness

---

**Strong and Independent AIRC** – WorkChoices weakened the capacity of the AIRC. The Democrats would strengthen the AIRC, specifically:

- Provide the AIRC with powers to make ‘good faith’ or genuine bargaining orders.
- Reinstate and increase its capacity to resolve disputes, including on its own motion; and increase resources to ensure timely resolution of disputes.
- Remove limits on some of the subject matters on which the AIRC can make determinations.
- Reinstate and improve the capacity of AIRC to hear test cases and alter awards.
- Ensure the AIRC is faster and lower cost.

**A National Regulator** – A national IR regulator must be created, negotiated with the states and territories. With greater emphasis on the court system as a result of WorkChoices, now more than ever a National Regulator is needed to help unions and employers ensure that people do not defy the law or defy court and commission orders, and ignore awards and agreements. Without an effective independent regulator employees and employers are forced to the industrial relations commission or the courts, which means time and money, and it is the employee and small employer that is often disadvantaged. Like competition law, tax law, finance law, and corporations law that each have their own national regulator - IR should too. Such a regulator should take over state departmental inspectorates too. The new regulator would absorb (under revised functions) the Office of Workplace Services and the Australian Building and Construction Commission. The Democrats would abolish the Employment Ombudsman and give its regulatory powers to the National Regulator. The Democrats would claw back the federal Minister’s discretionary and interventionist powers.

**Genuine Safety Net** – WorkChoices severely undermined any notion of a genuine safety net. The Democrats believe that one of the worst changes was the abolition of the no disadvantage test applicable to Australian Workplace Agreements, which the Democrats insisted be put in when negotiating the 1996 Workplace Relations Act. The Democrats would:

- Reinstate the no-disadvantage test underpinned by the award system.
- Make the award the default when an agreement is terminated.
- Prevent employers making agreements with themselves.
- Expand the 5 minimum standards so that a safety net of at least 8 minimum standards will apply. Minimum standards will apply only in the absence of an applicable award.

**Mix of Industrial Agreements** – (see Industrial Agreements action plan on our website [www.democrats.org.au/policies](http://www.democrats.org.au/policies))

- An Awards system that is national or industry based, not state-based, with as few awards as possible within the bounds of flexibility and adequate coverage.



## CONTACT US

(03) 9416 1880

Lv 1, 62 Wellington Parade, East Melbourne VIC 3002  
[inquiries@democrats.org.au](mailto:inquiries@democrats.org.au)

Authorised by Jack Evans, 5 Poinciana Place, Wanneroo WA 6065  
Printed by Senator Lyn Allison, Parliament House, Canberra ACT 2600

# Workplace Relations: Balance and Fairness

---

- An Awards system that is comprehensive, up to date, simplified and useable.
- Reinstate Awards as the minimum safety net that operates in the absence of a collective enterprise agreement, or that underpins collective or individual agreements.
- Awards to be based on up to 16 allowable matters governing conditions of employment, to be negotiated between representative employer and employee groups, with the AIRC as the final arbiter.
- Collective bargaining and the right to collectively bargain, including the legitimate role of unions in protecting the interests of workers who wish to be represented by them.
- *Collective Agreements*: Continue both a non-union and union enterprise collective agreement system, negotiated between employer and employees, with certification by the AIRC. Provide a right to collectively bargain genuinely and in good faith.
- *Individual Agreements*: Statutory individual agreements must be available as an alternative to common law individual agreements, underpinned by the applicable award and minimum conditions, and subject to a global no-disadvantage test. Negotiations must be genuine, and there should be mechanisms to ensure that employees are not coerced.

## **Fair and Balanced Minimum wage** – The Democrats would

- Place the Australian Fair Pay Commission into the AIRC as a division of the AIRC.
- Amend the guidelines of the AFPC so that decisions are annual; decisions take into account Australian living standards, skills, training arrangements, people with disabilities, and anti-discrimination provisions; provide for pay equity; and have regard to relevant taxation and government transfer payments.
- Ensure the AFPC has regard to other efforts to improve the disposable income of the working poor. Advocate for non AFPC efforts to do this, such as by amending the tax system to index the tax thresholds, increasing the tax-free threshold to \$10 000 in the first instance, and then phasing it to \$20 000, as a fairer and more effective way to increase the disposable income of the working poor.

**Definition of Employee** - A clear and single national definition of employee must be legislated to ensure employers, employees and the self-employed are in no doubt as to when a person is legally an employee. We also believe it is in the national interest for the self-employed to be required to make provision for superannuation, workers compensation and income insurance, as if they were employees. (see Independent Contractors action plan on our website [www.democrats.org.au/policies](http://www.democrats.org.au/policies))

**Protection from unfair dismissals** – Thanks to WorkChoices, 4 million people no longer have access to protection from unfair dismissals. The Democrats would re-introduce unfair dismissal provisions for all sizes of business, subject to



## **CONTACT US**

(03) 9416 1880

Lv 1, 62 Wellington Parade, East Melbourne VIC 3002  
[inquiries@democrats.org.au](mailto:inquiries@democrats.org.au)

Authorised by Jack Evans, 5 Poinciana Place, Wanneroo WA 6065  
Printed by Senator Lyn Allison, Parliament House, Canberra ACT 2600

# Workplace Relations: Balance and Fairness

---

probationary periods and sensible exclusions as in pre-WorkChoices federal law, with low cost, non-legalistic and prompt resolution of disputes, and including a process to weed out vexatious and frivolous claims. (see Unfair Dismissal action plan on our website [www.democrats.org.au/policies](http://www.democrats.org.au/policies))

**Reform of Secret ballot provisions** – The Democrats would delete the Governments onerous and costly secret ballot provisions in WorkChoices and replace it with a secret ballot rule provision for unions.

**Freedom of Association** – The Democrats would continue to uphold the right to join a union or employers' organisation, without duress or compulsion. We believe a strong case can be made out for non-members paying 'fee for service' in specific circumstances if they wish to work under conditions negotiated by a union or employers' organisation.

**Legitimate role of Unions** – WorkChoices made it harder for unions to protect and represent employees. The Democrats would amend the law to ensure that unions are better able to protect the interests of workers who wish to be represented by them, without undue interference by employers, and would move to improve the internal democracy and accountability of unions.

**Fairer balance between work and family** – WorkChoices has made it harder for families to access family friendly work practices. The Democrats would introduce a federally funded 14 week maternity leave system. Based on AIRC test cases, and other investigations into family-friendly workplaces, the Democrats would initiate legislation to improve family-friendly work places (except where it will cause small employers economic hardship). (see Work and Family action plan on our website [www.democrats.org.au/policies](http://www.democrats.org.au/policies))

**Reasonable hours** – The Democrats will initiate measures that prevent employees working consistently and exceptionally long or unreasonable hours, except in emergency situations.

**Work of equal value** – The Democrats would support Commonwealth funded test cases through the AIRC to identify means of closing the male/female wage gap;

**Non-discriminatory skills based wage system** – The Democrats would work to ensure that wages are based on skills and do not discriminate against youth.

**Protected industrial action** – The Democrats would reinstate pre-WorkChoices protected industrial action concepts, which allowed strikes and other industrial action within a bargaining period.