

WHERE AUSTRALIA'S MAJOR POLITICAL PARTIES STAND ON IR ISSUES

IR ISSUE	COALITION	AUSTRALIAN LABOR PARTY
National v State System	<ul style="list-style-type: none"> • Introduced WorkChoices to attempt to achieve its goal of a national system 	<ul style="list-style-type: none"> • Uniform national system requiring the States to either refer their powers or introduce mirror or complimentary legislation
Minimum Conditions	<ul style="list-style-type: none"> • Under WorkChoices statutory minimum conditions apply (AFPC + nominated "protected" award conditions) • AFPC includes: <ul style="list-style-type: none"> ◇ 10 days personal leave, plus 2 days paid compassionate leave and a further 2 unpaid personal leave days for emergencies; ◇ 4 weeks annual leave (plus an additional week for shift workers); ◇ 12 months unpaid parental leave; ◇ a 38-hour week, with reasonable additional hours; and ◇ the Federal minimum wage. • "Protected" award conditions are: <ul style="list-style-type: none"> ◇ penalty rates; ◇ shift and overtime loadings; 	<ul style="list-style-type: none"> • <i>Forward with Fairness</i> policy guarantees 10 statutory minimum conditions, with a further 10 conditions enshrined in awards • The statutory minimums are: <ul style="list-style-type: none"> ◇ a 38-hour week (with reasonable additional hours); ◇ parental leave, which parents can take separately as 12 months unpaid leave, or with one parent requesting an additional 12 months, to total 24 months either way; ◇ a right for parents to request flexible work arrangements until their child reaches school age; ◇ 4 weeks annual leave (plus an additional week for shift workers); ◇ 10 days personal and carer's leave, plus 2 days paid compassionate leave and an additional 2 days of unpaid personal leave for emergencies; ◇ public holidays;

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	<ul style="list-style-type: none"> ◇ monetary allowances; ◇ annual leave loading; ◇ public holidays; ◇ rest breaks; and ◇ incentive-based payments 	<ul style="list-style-type: none"> ◇ a <i>Fair Work Information Statement</i> containing details of employees' rights and entitlements; ◇ notice of termination and, for workplaces with 15 or more employees, redundancy pay; and ◇ long service leave
Awards	<ul style="list-style-type: none"> • Awards less relevant • Reducing allowable matters, including: <ul style="list-style-type: none"> ◇ removing union picnic days; ◇ trade union training leave; and ◇ restrictions on engaging independent contractors and labour hire workers 	<ul style="list-style-type: none"> • Simplifying and reducing the number of awards • Simplified awards will contain a further 10 minimum employment standards. These include: <ul style="list-style-type: none"> ◇ minimum wages; ◇ the type of work performed; ◇ arrangements for when work is performed; ◇ overtime rates; ◇ penalty rates; ◇ minimum annualised wage or salary arrangements; ◇ allowances including reimbursement of expenses and disability based payments; ◇ leave and leave loadings;

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		<ul style="list-style-type: none"> ◇ superannuation; and ◇ dispute settling procedures • Employees earning \$100,000 a year or more will be award free
Minimum Wages	<ul style="list-style-type: none"> • AFPC's determinations are based on submissions and consultation • AFPC determines the timing, scope and frequency of wage reviews • Removed fairness from the wage setting objectives 	<ul style="list-style-type: none"> • Fair Work Australia will determine the minimum wage every year • Submissions from all Australians will be invited and encouraged • Fair Work Australia's determination will have to be fair to Australian working families, promote employment growth, productivity, low inflation and downward pressure on interest rates
Work/Life Balance	<ul style="list-style-type: none"> • Work Choices has given employees greater flexibility to balance work/life issues • Initiatives to be introduced to allow employees, with the agreement of their employer, to take double their annual leave at half pay • Initiatives to be introduced to enable both parents to take up to 52 weeks unpaid parental simultaneously after the birth of a child • Initiatives to be introduced to give all working grandparents 1 week's unpaid leave after a grandchild is born 	<ul style="list-style-type: none"> • Work/life provisions in minimum conditions and awards • Promised \$12 million to encourage small businesses - via grants of between \$5,000 and \$15,000 - to pursue practices that help employees balance their family obligations

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	<ul style="list-style-type: none"> Initiatives to be introduced to provide 52 weeks unpaid leave for grandparents working in businesses with more than 100 employees after the birth of a grandchild 	
AWAs	<ul style="list-style-type: none"> Promotes AWAs over all other forms of agreement-making Introduction of the fairness test significantly reinstated protection for employees who earn less than \$75,000 	<ul style="list-style-type: none"> Eventually abolish AWAs Will allow existing deals (including pre-fairness test agreements) to run their full terms, and allow businesses currently using AWAs to introduce new ones (Individual Transitional Employment Agreements) for a 2 year period, expiring December 31, 2009 Provide for individual employment arrangements - such as on rostering, and start and finish times - via flexibility clauses to be included in each award and agreement
Collective Bargaining	<ul style="list-style-type: none"> An employer can refuse to bargain for a collective deal even if the overwhelming majority of employees want one Employers choose what agreement operates at their workplaces No obligation to bargain in good faith 	<ul style="list-style-type: none"> If an employer refuses to bargain for a collective deal, Fair Work Australia will determine the level of support for it among the workforce, and if a majority of employees want to bargain collectively, the employer will be required to do so in good faith Obligation on all parties to bargain in good faith, with Fair Work Australia to assist them to do so, and to have the power to make orders when they are not
Pattern Bargaining	<ul style="list-style-type: none"> Unlawful 	<ul style="list-style-type: none"> Pattern bargaining prohibited Will allow multi-employer collective bargaining for low paid employees or those who have not historically had access to

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		collective bargaining, such as employees in the community services sector, cleaning and child care industries
Other Agreement Types	<ul style="list-style-type: none"> • Employer greenfields agreements • Union greenfields agreements 	<ul style="list-style-type: none"> • Abolish employer greenfields agreements • Allow non-union collective bargaining, with no union input at all if that is what employees want
No-Disadvantage Test	<ul style="list-style-type: none"> • New fairness test effectively a no-disadvantage test, but takes into account both monetary and non-monetary compensation; provides for fair rather than "full" compensation; allows the Workplace Authority to consider an employee's personal circumstances; and does not apply to AWAs where an employee is earning more than \$75,000 	<ul style="list-style-type: none"> • Fair Work Australia will assess an agreement against the relevant award before it approves a deal, with employees having to be better off overall against the safety net. • Fair Work Australia to approve deals "on the papers" and within 7 days
Prohibited Content	<ul style="list-style-type: none"> • Prohibited content under Work Choices, includes those that: <ul style="list-style-type: none"> ◇ prohibit AWAs; ◇ restrict the use of independent contractors or labour-hire arrangements; ◇ allow for industrial action during the term of an agreement; ◇ provide for trade union training leave, bargaining fees to unions or paid union meetings; 	<ul style="list-style-type: none"> • Remove the prohibited content rules

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	<ul style="list-style-type: none"> ◇ provide that any future agreement must be a union collective agreement; ◇ mandate union involvement in dispute resolution; and ◇ provide a remedy for unfair dismissal 	
Compulsory Bargaining Agents' Fees	<ul style="list-style-type: none"> • Prohibited 	<ul style="list-style-type: none"> • Prohibited
Life of Agreements	<ul style="list-style-type: none"> • Deals can have terms of up to 5 years 	<ul style="list-style-type: none"> • Deals can operate for up to 4 years
Industrial Action	<ul style="list-style-type: none"> • WorkChoices introduced the outlawing of industrial action during the term of an agreement; requiring secret ballots before industrial action; and requiring that workers are docked for a minimum of 4 hours if they take industrial action • Employers can lock employees out in a dispute • Employers no longer have to wait for a s166A certificate for access to common law remedies for unprotected action 	<ul style="list-style-type: none"> • Retaining key provisions of WorkChoices, including the outlawing all industrial action other than protected action; the requirement for secret ballots (which Fair Work Australia will conduct) before protected action; the ban on protected industrial action during the life of an agreement; the ban on strike pay; and employers' entitlement to lock out employees • Parties affected by unlawful industrial action will be able to go straight to court to seek orders - including interim orders - without the need for an equivalent to a s166A certificate
Suspending or termination the bargaining period, compulsory arbitration	<ul style="list-style-type: none"> • AIRC can still suspend or terminate a bargaining period for a raft of reasons, including if pattern bargaining is taking place; if people's health and safety or the economy are threatened, and if third parties are threatened with significant harm 	<ul style="list-style-type: none"> • Where industrial action is causing or threatening significant hardship to the wider economy or to the safety or welfare of the community, Fair Work Australia will have the power to end the industrial action and determine a settlement between the parties

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	<ul style="list-style-type: none"> • AIRC can order a cooling-off suspension where this would assist the parties to resolve the matters at issue 	
Right of Entry	<ul style="list-style-type: none"> • Unions have no right of entry for discussion/ recruitments purposes at AWA workplaces or those covered by collective non-union agreements • To investigate a breach at any workplace, officials have to give 24 hours notice • Unions can only access the records of union members when investigating a breach, unless they have an AIRC order to investigate a non-member, and they have to comply with employers' requests on where they can meet with the workers 	<ul style="list-style-type: none"> • Same as Work Choices
Secondary Boycotts	<ul style="list-style-type: none"> • Unlawful and subject to the Trade Practices Act 	<ul style="list-style-type: none"> • Same as WorkChoices
Freedom of Association	<ul style="list-style-type: none"> • Watered down the provision unions relied on in the waterfront dispute - that sacked workers were being injured in their employment because of their entitlement to an industrial instrument • Now has to be the sole or dominant reason for dismissal 	<ul style="list-style-type: none"> • Recognise freedom of association as vital and that it would be unlawful for anyone to try to stop a person exercising this free choice by threats, pressure, discrimination or victimisation
Transmission of Business	<ul style="list-style-type: none"> • Agreements and awards transmitted to a new employer 	<ul style="list-style-type: none"> • Policy not detailed

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	<p>survive only 12 months</p> <ul style="list-style-type: none"> Employees' redundancy entitlements last 2 years after a transmission of business, though they could still be lost if employees signed a new agreement as redundancy pay is not a "protected" award condition 	
Termination of Agreements	<ul style="list-style-type: none"> Agreements made under Work Choices that have passed their nominal expiry date can be terminated by any party by giving 90 days notice 	<ul style="list-style-type: none"> Current rules apply to terminating AWAs No mention of the rules that apply to terminating collective agreements
Dispute Resolution	<ul style="list-style-type: none"> AIRC no longer exercises compulsory powers of conciliation and arbitration, instead providing voluntary dispute resolution services 	<ul style="list-style-type: none"> Consultation, representation and dispute settling processes constitute one of the 10 allowable award matters
Unfair Dismissal	<ul style="list-style-type: none"> Employees at workplaces with fewer than 100 workers have no entitlement to make unfair dismissal claims Employers whose workplaces employ more than 100 employees are also exempt from unfair dismissal claims if they can show the dismissal was for a reason including operational reasons 	<ul style="list-style-type: none"> Reinstate unfair dismissal protection for all employees, with a remedy based on a "fair go all round" Particular measures for small business Employees at workplaces with fewer than 15 workers can claim unfair dismissal if employed for at least 12 months Employees at workplaces with greater than 15 workers can claim unfair dismissal if employed for at least 6 months Employees cannot bring a claim within the first 6 months of their employment
Unlawful	<ul style="list-style-type: none"> Termination for discriminatory reasons, including union 	<ul style="list-style-type: none"> Unlawful dismissal claims heard and determined by Fair

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Termination	<p>membership, sex, race and pregnancy, and refusing to sign or vary an AWA is unlawful</p> <ul style="list-style-type: none"> • Claims heard in the Federal Court or Federal Magistrates' Court 	Work Australia
Paid Maternity Leave	<ul style="list-style-type: none"> • Introduced its baby bonus • Does not support a paid maternity leave scheme 	<ul style="list-style-type: none"> • 16 weeks paid maternity leave
Institutions	<ul style="list-style-type: none"> • AIRC retained for unfair dismissal, bargaining, and dispute resolution purposes • Established the Fair Pay Commission, Workplace Authority, the Workplace Ombudsman and the ABCC 	<ul style="list-style-type: none"> • Establish Fair Work Australia • Fair Work Australia will have an independent judicial division and its inspectorate will have specialist divisions that can focus on persistent or pervasive unlawful behaviour
Building and Construction	<ul style="list-style-type: none"> • Retain industry specific construction legislation • Retain the ABCC, which has far-reaching investigative powers • Retain the building code of conduct and guidelines 	<ul style="list-style-type: none"> • Retain the BCII legislation • Retain the ABCC until 2010, thereafter transfer to a specialist division of Fair Work Australia.
Independent Contractors	<ul style="list-style-type: none"> • Independent contractors out of federal industrial regulation • Independent contractors are defined via the common law 	<ul style="list-style-type: none"> • No plans to depart from the common law definition