



AUSTRALIAN
INDUSTRIAL
RELATIONS
COMMISSION

CEDA WORKPLACE RELATIONS FORUM SYDNEY 28 MARCH 2006

*“THE FUTURE ROLE OF THE AUSTRALIAN
INDUSTRIAL RELATIONS COMMISSION”*

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*How will the role the AIRC has
been performing since 1997
change?*

Setting minimum pay and conditions

- Minimum wages – to go to the Australian Fair Pay Commission
- Minimum (non pay) conditions. Many conditions set by statutory Australian Fair Pay and Conditions Standard (AFPCS)
- Awards continue to cover conditions such as allowances, penalty rates and working time arrangements – but to be rationalised and further simplified
- Less scope for creation of new standards

Certifying agreements

- gone to the Office of the Employment Advocate (OEA)

Unfair dismissals

- Continue to deal with unfair dismissal claims by conciliation and arbitration
- New exclusions – 100 employees or less, genuine redundancies etc.
- Increased reach – all constitutional corporations with more than 100 employees

Regulating industrial action

- Continue to be able to make orders against unprotected action
- Increased powers to suspend or terminate bargaining periods
- New role issuing orders for secret ballots

Helping resolve industrial disputes

- Core role of AIRC under new system
- Three main types of disputes:
 - matters referred under dispute resolution provisions in agreements,
 - disputes arising in the course of bargaining of new collective agreements, and
 - disputes dealt with under the model disputes procedure.

Disputes procedures in agreements

- Individual and collective agreements must contain disputes procedure
- up to parties to choose their own procedure – though Act contains default “model procedure”
- disputes procedure can provide role for third parties such as AIRC
- AIRC’s role and powers restricted to what is contained in agreement or otherwise agreed by parties (for example, up to parties whether to allow for arbitration if conciliation/mediation fails)

Disputes procedures in agreements cont.

- must act as quickly as possible, avoid unnecessary technicalities and legal forms
- must if practicable conduct the process in any manner agreed by the parties
- dispute resolution process must be conducted in private
- AIRC paper on dispute settlement procedures in workplace agreements
- provides range of suggested procedures for inclusion in agreements

Disputes about new agreements

- AIRC may be asked to assist resolve disputes that arise in course of bargaining for new collective agreement – but only where all parties agree
- no compulsory powers
- may only conciliate or mediate
- may make recommendations if requested

Model disputes procedure

- Act contains model disputes procedure to resolve disputes about:
- AFPCS
- application of awards
- entitlements to meal breaks, public holidays and parental leave
- application of workplace agreements, where agreement lacks own procedure
- dispute goes to the AIRC, unless both parties agree on alternative third party
- no compulsory powers

Why use third party such as AIRC to help resolve disputes?

- Can provide circuit-breaker
- A fresh, dispassionate perspective
- Tap into expertise and skills
- Demonstrate *bona fides* to employees
- Increase chance that agreement will be complied with
- Cheaper, faster, more effective and less adversarial than going to Court

Why use AIRC rather than other third party to help resolve disputes?

- Expertise and skills – capacity to provide advice and guidance
- Responsiveness and flexibility
- Authority
- Cost
- Consensual approach to dispute resolution

AIRC initiatives to enhance client focus

- user briefings
- online information
- client survey
- complaints procedure
- service charter