

# Agreement-making under WorkChoices

Peter McIlwain, Employment Advocate



Australian Government  
Office of the Employment Advocate

IMPROVING  
AUSTRALIAN  
WORKPLACES

# What has changed?

- Unitary national system
- Simplified agreement making process- no NDT
- Australian Fair Pay and Conditions Standard
- Prohibited content
- Industrial action
- Responsibilities for compliance

# What hasn't changed?

- Employees right to representation
- Right to lawful industrial action in negotiation
- Right to make a union agreement if the parties wish



# Types of Agreements

- Australian Workplace Agreements
- Employee Collective Agreements
- Union Collective Agreements
- Employer Greenfields Agreements
- Union Greenfields Agreements
- Multiple Business Agreements

# Australian Fair Pay & Conditions Standard

- Statutory guarantees in relation to 5 entitlements:
  1. **Federal minimum wages**, minimum award classification rates of pay, and casual loadings
  2. **4 weeks paid annual leave** per year
  3. **10 days paid personal/carer's leave** and two days compassionate leave per year
  4. **Up to 52 weeks unpaid paternal leave**
  5. **38 hour maximum ordinary hours of work per week** (averaged) and reasonable additional hours.

# Prohibited Content

- Payroll deduction facilities for trade union membership subscriptions or dues
- Leave provisions to attend union training sessions or meetings
- Rights of trade unions or employer associations to be involved in dispute resolution
- Right of entry by unions and employer associations
- Renegotiation of a workplace agreement
- Restrictions on using independent contractors or labour-hire arrangements

# Prohibited Content cont'

- Forgoing annual leave credited to the employee
- Provision of employee information to trade unions unless required by law
- Encouragement of other persons bound by the agreement to become or remain member of an industrial association
- Discouragement of other persons bound by agreement to not become or not remain a member of an industrial association
- Indications of support, or lack of support for persons bound by agreement being members of an industrial association
- Engagement in or organisation of industrial action

# Prohibited Content cont'

- Prohibit or restrict disclosure of an agreement's details by parties to the agreement
- Remedy for dismissal for a reason that is harsh unjust or unreasonable
- Content that is discriminatory
- Provision that requires or permits any conduct that would contravene the freedom of association provisions of the Workplace Relations Act 1996
- Matters not pertaining to the employment relationship
- Directly or indirectly restrict the ability of Australian workplace agreements to be offered, negotiated or entered into





# Responsibilities for Compliance

- The Office of Workplace Services (OWS) will enforce compliance with awards, agreements and WRA
- Penalties apply for breaches of the new legislation
- Wide range of provisions attract penalties



# OEA Priorities

- Accessible, plain English advice
- Simple, client-focused systems
- Commonality of processes
- Targeted assistance for agreement-making
- Better work and management practices

# Accessing OEA services

- A new website with essential information
  - Employee Information Statements
  - How-To Guides
  - Employer Lodgement Declarations
  - Prohibited content
  - Multi-business agreements

# Accessing OEA services

- Online lodgement
  - simple, fast, paperless
  - online user guide
  - virtual filing cabinet
  - instantaneous access to lodgement receipts



# Further information

- [www.oea.gov.au](http://www.oea.gov.au)
- OEA 1300 366 632
- [www.workchoices.gov.au](http://www.workchoices.gov.au)