



By Ben Cochrane

Press coverage of unfair employment practices since the introduction of *Work Choices*, the union

campaign against the changes and even our cover headline on this edition – ‘Choices or chains’ – all encourage a pessimistic view of the federal government’s new IR laws. As the various analyses and the state-by-state review in this edition confirm, there is much to lament in the new laws. However, while we of course present some trenchant criticisms of *Work Choices*’ failings, we are also pleased to be able to present some positive news on the IR front.

The case notes prepared by Rita Mallia of the CFMEU demonstrate that, at least in NSW, state OH&S laws still have teeth and can be relied on to authorise union action where federal laws would not. Federal IR laws may not succeed in wiping out continued union involvement in OH&S.

The two articles by Joellen Riley and Tim Davey canvass remaining remedies for unfair dismissal, on contractual bases

and pursuant to s52 of the *TPA* respectively. The suggested approaches are realistic and not necessarily limited to high-income employees.

Also, as a number of authors contributing to the state-by-state review indicate, the High Court challenge to the federal laws awaits judgment. Further mitigation on that front remains a possibility.

Looking beyond IR, we also welcome David Hirsch’s article in this edition. David writes on the absence of evidence, where that absence is itself caused by the negligence of the defendant. This is David’s first contribution commencing his regular column on medical law.

Last, we farewell Richard Faulks, who is coming to the end of his tenure as president of the Australian Lawyers Alliance. This is his last President’s Page. We thank him for his efforts and wish him well. ■

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This issue of Precedent is cited as (2006) 74 PRECEDENT. ISSN 1449-7719 © 2005 APLA Ltd, ABN 96 086 880 499
 Trading as the Australian Lawyers Alliance, GPO Box 7052, Sydney 2001, DX 10126, Sydney Stock Exchange Phone: (02) 9258 7700 Fax: (02) 9258 7777
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