Changes to employment conditions

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After almost a year of wondering, ALIA members can now at last get to grips with Australia's new industrial relations system. The long-debated, and oft-amended, *Workplace Relations Bill* has finally received Royal Assent and all its provisions are expected to be operative within the next few weeks. Many, in fact, took effect as soon as the Bill was passed.

Employees will be relieved to note that the new Act is not the massive overhaul of established arrangements which was originally threatened. The reality of Senate numbers has seen some of the more contentious proposals removed or modified. As a result, the Australian Industrial Relations Commission (AIRC) will retain a major role, agreements will still be required to meet an award-based 'no disadvantage test' and the new non-union Australian Workplace Agreements (AWAs) will be subject to independent scrutiny and vetting *before* they come into effect. In all these areas the new Act is more favourable to employees than initial proposals.

But many employers may welcome the remaining significant changes to previous practices. The federal award system will be simplified to operate as a safety net of enforceable *minimum* employment conditions. New *paid rates* awards, which specify all conditions, will not be permitted. The AIRC will only be able to include twenty nominated 'allowable' matters in new awards. These are set out in the Act. All other conditions will be negotiated through enterprise agreements or will be defined by statute. Existing paid rates awards will be converted to minimum awards over the next eighteen months, after which award provisions beyond the allowable items will not be enforceable.

Agreements will replace awards as the principle method for determining working conditions. And the form of agreement-making will change substantially. It will still, of course, be possible to develop collective certified agreements between employers and unions. But, in future, employers will also be able to negotiate a certified agreement directly with their employees, without union involvement.

AWAs will make formalised *individual agreements* possible for the first time. While they can be negotiated collectively with a group of employees, AWAs must be signed individually. To assist them develop an AWA, employees may appoint their own bargaining agent, which need not be a union. Employers are legally required to recognise a bargaining agent. This represents the end of long-standing trade union monopoly on representation of employees in Australian industrial negotiations. As such, it is a change of potentially great significance for some employees and their organisations. Among ALIA's membership, it is of greatest relevance to librarians in special libraries in non-unionised parts of the private sector.

AWAs, among other things, will attract the jurisdiction of the Act's other major creation, the Office of the *Employment Advocate*. This is an entirely new statutory body which is empowered to provide advice and assistance to employers and employees on their rights and obligations under the Act. In particular, the Advocate will receive, review and, where appropriate, approve all AWAs, after checking them against legal requirements. This will be done administratively, rather than via formal hearings. Any alleged breaches of AWAs will also be investigated and the Advocate will assist workers to prosecute breaches where that is appropriate.

The new Act also brings change in several areas affecting trade union membership and activity. So-called compulsory unionism will be unlawful and the AIRC will be unable to grant *preference to unionists* in any award or agreement. Discrimination against, or victimisation of, any person on the grounds of membership or non-membership of a trade union is now prohibited at law. It will be easier to register new trade unions and the Act makes provision for creation of new *enterprise unions*. The disamalgamation of so-called 'super unions' will also be possible by ballot. However, proposals to prevent a union right of entry to workplaces (included in the original version) have been omitted from the Act.

Protected industrial action provides a limited right to strike for employees negotiating an agreement. At that stage, employers are also permitted a right of lock out. But industrial action is prohibited during the life of a resulting agreement. And payment or receipt of strike pay will now be strictly illegal. The AIRC has been given stronger powers to make orders directing that industrial action stop or that it not be taken, and these will be enforceable by injunctions from the Federal Court. Secondary boycott provisions have been removed from the Act and will now revert to the *Trade Practices Act*.

At its next meeting, the Association's General Council will be considering implications arising from the new Act for ALIA's industrial services and activities. And the National Office will be producing information and assistance products in the near future. In the meantime, members who wish to discuss the new system may telephone me on (06) 285 1877, fax (06) 282 2249 or contact me by e-mail at phil.teece@alia.org.au. ■

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