

SUMMARY OF RECOMMENDATIONS

1. INTRODUCTION

1.1 WHY WE NEED WORKPLACE CHANGE

1.2 EMPLOYER AND EMPLOYEE RELATIONSHIPS

Objective 1.2.1: Maintain and increase awareness within industry and the workforce of options for employer/employee relationships to be formalised through workplace agreements recognised by the workplace relations system.

Objective 1.2.2: Build a stronger community understanding of and commitment to the characteristics and positive contribution of the private sector and private workplaces to our economy and society.

1.3 PROMOTING REFORM

Objective 1.3.1: ACCI, as the peak body representing the interests of private employers in Australia will foster public debate about the ongoing direction of future reform, and prepare and distribute information of an educational and analytical nature which promotes the benefits of workplace reform.

2. THE SYSTEM

2.1 PURPOSE OF THE SYSTEM

- Objective 2.1.1:** Further develop the transition from the centralised system to a decentralised system of workplace relations.
- Objective 2.1.2:** Make the transition to a decentralised system of workplace relations practical and effective.
- Objective 2.1.3:** Changes to workplace regulation during this transition period must be consistent with the objective of a decentralised system of workplace relations.
- Objective 2.1.4:** Review the statutory objects of the *Workplace Relations Act 1996*.

2.2 SCOPE OF REGULATION

- Objective 2.2.1:** The scope of all industrial regulation must be designed to further the principal objects of the decentralised system envisaged by the 1993 and 1996 federal reforms.
- Objective 2.2.2:** A three-step mechanism of regulatory accountability, the Employment Regulation Standard (ERS) should be created as a Charter of Mutual Regulatory Responsibility. It should be adopted by policy makers and introduced to counteract the continuing ad-hoc build-up of employment regulation, and preferably reduce the level of employment regulation. The ERS involves:
- pre decision regulatory impact assessments.
 - measures to counterbalance any regulatory impost.
 - reviews of regulatory impact and objectives after set periods.
- Objective 2.2.3:** The regulation of workplace agreements should support – not hinder – effective low cost agreement making.

2.3 DUTIES TO USERS OF THE SYSTEM

- Objective 2.3.1:** The Employment Regulation Standard (ERS) should, in principle and with some modifications, apply to employment regulation through multi-employer or industry wide awards.

Objective 2.3.2: The ERS should expressly recognise the responsibility of industrial tribunals and other regulatory bodies to better account for the impact of their decisions on:

- Labour costs
- Capacity to employ
- Small business.

Objective 2.3.3: Whilst awards are made and exist in their current form, there should also be duties on unions using the system to create awards to properly meet their responsibilities by maintaining them. In addition to proposals to reconsider the period of operation of awards more generally, where an award is obsolete or defunct there should be scope for either:

- The Commission to automatically cease operation of the award.
- The Commission to, of its own motion, convene a hearing to consider the deletion of the award.
- A party to apply to the Commission to delete the award on the basis that its non-maintenance is evidence that the original dispute has ceased to exist/ threaten.

Objective 2.3.4: The system should make available means to better inform employers and employees of changes in their regulatory obligations before those obligations come into effect.

Objective 2.3.5: Implicit in the preceding objectives is a reduction, over time, in the number of regulatory instruments/awards, and their content.

2.4 STATUTORY MINIMUM CONDITIONS

Objective 2.4.1: A dedicated federal *Minimum Conditions Act* should be created to more sensibly codify core minimum standards (as per ACCI policy), and to create an alternative basis for underpinning agreement making to the existing award approach. It must not however be used as a basis for centrally re-regulating employment arrangements beyond those core minimum standards or undermining the objectives of the reformed workplace relations system.

Objective 2.4.2: The imposition of any new minimum standard should be subject to the three-step Employment Regulation Standard (ERS).

Objective 2.4.3: Minimum standards should only apply where essential and necessary to be prescribed as a minimum right or obligation.

Objective 2.4.4: Some award standards should, over time, become statutory minimum standards in lieu of award standards.

Objective 2.4.5: Minimum standards should not be developed or prescribed on the assumption that all employers should be regulated by standards designed to protect against the isolated conduct of a minority of employers.

Objective 2.4.6: The Federal Government and each state government should jointly review those common standards that each jurisdiction regulates with a view to agreeing upon common content of the minimum standard for each existing subject matter (eg long service leave, sick leave).

2.5 IMPACT OF OTHER REGULATION

Objective 2.5.1: Federal Parliament should consider, at least as an over-riding principle, simplified and common drafting approaches in workplace relations legislation and in related legislation and regulation.

Objective 2.5.2: There should be legislative barriers to forum shopping or the awarding of dual remedies arising from the same conduct.

Objective 2.5.3: Information about rights and obligations of employers and employees published by governments or government agencies should be comprehensive, and take into account the existence of all relevant legislative or regulatory instruments that affect the employment relationship – whether or not they are contained within single or multiple laws or enactments.

2.6 HARMONISED NATIONAL SYSTEM

Objective 2.6.1: The case for moving towards a harmonised national workplace relations system should be assessed in a nine-step orderly development phase that involves a national summit, a national taskforce and, if proceeded with, a special meeting of the Council of Australian Governments.

Objective 2.6.2: The scope to move towards a harmonised national system could be tested by creating, in the interim, a more uniform national system covering issue specific subject matters in appropriate areas as and when they come before the Parliament.

Objective 2.6.3: There should be no net increase in the regulatory burden created by a harmonised national system, and the move towards such a system should be designed to reduce regulatory burdens created by duplication and compliance with existing multiple systems.

3. INSTRUMENTS/STANDARDS

3.1 AGREEMENTS

- Objective 3.1.1:** In order to promote and simplify agreement making, a dedicated federal *Workplace Agreements Act* should be established, incorporating collective and individual agreement making options.
- Objective 3.1.2:** Agreement making requirements should be subjected to an analysis of their regulatory impact, and the extent to which they represent sound public administration. The basis for and form of regulation should be closely examined.
- Objective 3.1.3:** The *Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002* should be enacted.
- Objective 3.1.4:** Minimising paperwork obligations in entering agreements is imperative. Agreement approval must be further simplified, including a single administrative agreement approval authority.
- Objective 3.1.5:** Employers and employees that have negotiated multiple generations of agreements should be able to use a fast track option for agreement making and approval.
- Objective 3.1.6:** The full range of agreement options under the *Workplace Relations Act 1996* must continue to be promoted and supported by industry and governments as legitimate bargaining options. The legitimate right of individuals to enter both individual and collective agreements should continue to be fundamental to Australian workplace bargaining.
- Objective 3.1.7:** The interaction of bargaining with freedom of association (FOA) laws should be examined. Any genuinely supported shift in bargaining approaches by employers or employees (eg collective to individual) should not be found to be contrary to freedom of association based on its effect on union members or union membership.
- Objective 3.1.8:** Agreements purporting to contain provisions contrary to law (eg preference, union encouragement or compulsory membership) should not be able to be approved.
- Objective 3.1.9:** Best practice approaches in agreement making should be identified and promoted by industry and governments.
- Objective 3.1.10:** The level of the NDT, and the requirement for agreements to operate over and above awards remains a fundamental issue for discussion, and a source of inflexibility in many workplaces. More flexible options for the NDT should be actively pursued.

3.2 AWARDS – ROLE & FORM

- Objective 3.2.1:** Options should be considered by industry, unions and governments to continue to reduce the number of federal awards. A more focused safety net will be an important step on the path to a more concise and minimal safety net that better supports bargaining.
- Objective 3.2.2:** Where awards are made in response to particular circumstances, industry, unions and governments should develop options to review or limit award standards in response to changes in circumstances.
- Objective 3.2.3:** Best practice examples of simplified award provisions should be published by industry, unions and governments as an aid to the simplification process.

3.3 AWARDS – EMPLOYMENT STANDARDS

- Objective 3.3.1:** Award provisions should be designed to enhance, not inhibit, workplace flexibility, efficiency and productivity.
- Objective 3.3.2:** As a general principle, awards should prescribe a relevant minimum standard only, and leave the detail of how the standard is to be implemented to individual workplaces.

3.4 INTERNAL REGULATION

- Objective 3.4.1:** The system should better recognise the considerable differences between employers and workplaces in human resources policy and practice. Given that ‘best practice’ employers and employees have passed beyond the lowest common denominator regulatory approach, there should be mechanisms which exclude such workplaces from many of the regulatory, procedural and bureaucratic requirements which do not reflect their consensual circumstances.
- Objective 3.4.2:** Charters of workplace relations practice, developed within workplaces and given standing by the system, could play an important role in the administration of workplace relations, and may be a useful measure to facilitate workplace change and the genuine simplification of awards and other instruments, by providing support and guidance to best practice employers.

3.5 WAGES AND INCOMES

- Objective 3.5.1:** Given the objects of the system that wages be primarily varied through workplace bargaining, a revised approach to wages policy is needed so that there is a better focus on award rates of pay as a genuine safety net for the lowest paid.
- Objective 3.5.2:** An analysis of the history and rationale of Australian wage fixation should be prepared by representatives of industry, and be made available to unions and governments, in order to assist the assessment of the need for new approaches to minimum wage fixation.
- Objective 3.5.3:** The Australian system for setting minimum wages should be consistent with the need for the Australian workplace relations system to be internationally competitive in form and operation.

3.6 LABOUR ON-COSTS

- Objective 3.6.1:** Governments and policy makers must strive to moderate, if not reduce, non-wage labour costs as an essential element in a broad suite of policies designed to encourage employment growth and reduce unemployment.
- Objective 3.6.2:** There should be no mandatory increases in superannuation/retirement incomes costs on Australian employers.
- Objective 3.6.3:** The effect of labour on costs should be better taken into account in minimum wage fixation.

4. INSTITUTIONS

4.1 INDUSTRIAL TRIBUNALS

- Objective 4.1.1:** If its terms are acceptable, there should be an orderly and structured implementation of a harmonised national workplace relations system bringing together under the one jurisdiction the multiple federal and state industrial tribunals that currently exist (see section 2).
- Objective 4.1.2:** The AIRC should have, so far as practicable, members exercising powers suited to their particular skills and capacities.
- Objective 4.1.3:** Appointments to the AIRC would usually be full time, but not exclusively so. They could be on a part time or seconded basis so long as no conflict of interest exists and appropriate independence can be brought to judgement on issues. The objective should be to get the best persons for the task, irrespective of term or tenure.
- Objective 4.1.4:** Options should be available for appointment of new commissioners of the AIRC for specified terms (not less than eight years).
- Objective 4.1.5:** The internal processes of the AIRC should be as transparent and accountable as possible, and members should be encouraged to visit individual workplaces, and undertake ongoing professional development in their areas of work. Information on process improvement and professional development in other tribunals and quasi-judicial bodies should be examined.
- Objective 4.1.6:** The AIRC should operate less like a court and more like a body conducting inquiries into issues and advising upon them. There should be a less adversarial and a more inquisitorial and/or facilitative approach to the determination of issues.
- Objective 4.1.7:** A number of courts and tribunals have undertaken considerable modernisation and reform, including through the use of less adversarial alternative dispute resolution (ADR) style approaches. There appears to be scope for less adversarial approaches to many areas of the work of industrial tribunals, and for these tribunals to learn from the experiences of other jurisdictions. This should be pursued on an ongoing basis, including through statutory reform where appropriate.

4.2 COURTS

- Objective 4.2.1:** The operation of the judicial aspects of the current federal workplace relations system ought to be kept under ongoing review to assess ongoing consistency with the core public policy purposes of the system.

- Objective 4.2.2:** Legislative measures should be taken to minimise delays in accessing remedies by enabling a wider array of civil courts, including state courts and the federal magistrates court to exercise certain prescribed jurisdictions.
- Objective 4.2.3:** Given the damage to the interests of employers and employees and third parties created by unlawful industrial action, proceedings in the courts for relief from such action ought to be given listing priority.
- Objective 4.2.4:** The *Acts Interpretation Act* should be amended to provide that in the interpretation of workplace relations legislation, the courts ought to have primary regard to the policy intention of the Parliament.
- Objective 4.2.5:** Consideration should be given to the establishment of a small claims jurisdiction to deal with recovery of monies due.

4.3 EMPLOYMENT ADVOCATE

- Objective 4.3.1:** The federal Office of the Employment Advocate should continue to build working relationships with industry, industry representatives and trade unions for the purposes of assisting employers and employees in the making of workplace agreements and the promotion of best practice.
- Objective 4.3.2:** Data and analysis on the compliance activities of the federal Office of the Employment Advocate should be published on an annual basis in an information digest separate from the OEA's annual report to educate employers and employees on rights and obligations in agreement making and freedom of association.
- Objective 4.3.3:** The OEA should have jurisdiction to certify both individual and collective agreements, at least: (a) in workplaces where both individual AWAs and collective agreements co-exist, (b) more generally in workplaces where employers and employees elect to have their collective agreements approved by the OEA rather than the AIRC. The OEA should also have sole responsibility for the approval of AWAs.
- Objective 4.3.4:** Over time, there should be a single administrative approval authority solely responsible for the approval of collective agreements and individual agreements on an administrative basis.

4.4 NATIONAL LABOUR CONSULTATIVE COUNCIL (NLCC)

- Objective 4.4.1:** The NLCC's Committee on Industrial Legislation (COIL) should meet on a quarterly basis over the next two years to oversee the redrafting of the federal *Workplace Relations Act 1996* into a simplified form.

- Objective 4.4.2:** Should the concept of a harmonised national workplace relations system be adopted, the membership of the NLCC ought to be extended to include a representative of state governments participating in the system.
- Objective 4.4.3:** Individual members of the Federal Parliament introducing private members Bills on workplace relations matters should be given the opportunity (if they so wish) of first submitting their legislative proposals to the NLCC's Committee on Industrial Legislation (COIL) for analysis and comment.
- Objective 4.4.4:** A representative of the WRMC (a State Minister) should be invited to attend NLCC, particularly to support the proper discussion of options for harmonisation.

4.5 WORKPLACE RELATIONS MINISTERS COUNCIL (WRMC)

- Objective 4.5.1:** The WRMC should continue to meet on matters of mutual interest with a view to practical decision making on harmonisation of federal and state systems (at least on those non contentious areas of industrial administration and resource sharing between jurisdictions).
- Objective 4.5.2:** The WRMC should make its agenda publicly available prior to each meeting, at least to peak employer and trade union councils, and continue to publicly distribute a report on its meetings, discussions and outcomes.
- Objective 4.5.3:** The WRMC should adopt the principles and policy directions outlined in *Modern Workplace: Modern Future* as the blueprint for future policy development in federal, state and territory jurisdictions.
- Objective 4.5.4:** The WRMC should provide a report to the Council of Australian Governments (COAG) on the recommendations of the Taskforce of Inquiry into a national harmonised system prior to the proposed consideration of the issue by COAG.
- Objective 4.5.5:** Employer and employee representatives of the NLCC should be invited to attend the WRMC as observers.

4.6 INTERNATIONAL LABOUR RELATIONS

- Objective 4.6.1:** Australia should maintain, and in appropriate circumstances, increase its participation in international labour relations forums, including in the work of the ILO both globally and in our region.
- Objective 4.6.2:** The Australian Government should seek election to the Governing Body of the ILO at the next available opportunity.
- Objective 4.6.3:** Australian employers, through their peak council, should continue to actively participate in the International Labour Affairs Committee established by the National Labour Consultative Council and report to the NLCC on its activities.
- Objective 4.6.4:** Australian interests (government, employers and trade unions) should support and promote further reform of the ILO and international labour relations, including the modernisation, simplification, and consolidation of standards, and exercise appropriate caution in adoption or ratification of standards.
- Objective 4.6.5:** The views of relevant international bodies on labour market and workplace policy including the OECD, the ILO and the IMF be widely distributed within government, industry and the broader community.

5. ORGANISATIONS

5.1 INDUSTRIAL ORGANISATIONS

- Objective 5.1.1:** Without interfering with the principles of freedom of association, the system should support organisations in adapting to the changing needs of members in the workplace. Industrial organisations that offer services relevant to employees and employers in the workplace should prosper and maintain an important role recognised by the system.
- Objective 5.1.2:** Indirect denial of freedom of association, such as through compulsory non-consensual fees payable to industrial organisations by a non-member should be rendered unlawful.
- Objective 5.1.3:** Measures which could further minimise demarcation disputes between industrial organisations should be considered.

5.2 NON-INDUSTRIAL ORGANISATIONS

- Objective 5.2.1:** The contributions and submissions of non-industrial organisations should be given the same level of detailed scrutiny that industrial organisations face.
- Objective 5.2.2:** Government agencies should express views consistent with their statutory and policy functions, and which have regard to a proper balance of policy interests, including the role, function and interests of commerce and industry.
- Objective 5.2.3:** In order to gain a balanced understanding of workplace relations matters, government agencies should consult with representatives of industry prior to becoming actively involved in workplace policy.

6. CONDUCT

6.1 CONSULTATION

- Objective 6.1.1:** The bargaining system needs to be reformed to limit opportunities for unwanted third-party intervention, subject to the principles of freedom of association.
- Objective 6.1.2:** Genuine workplace bargaining conducted on a consensual and participative basis should be promoted by governments, industry and trade unions as an effective way of producing mutually beneficial workplace outcomes.

6.2 DISPUTE SETTLEMENT

- Objective 6.2.1:** The system should provide greater options to deal with intractable disputes.
- Objective 6.2.2:** Paper disputes should be removed from the system.
- Objective 6.2.3:** Greater scope should be made within the system for voluntary mediation and other forms of alternative dispute resolution.

6.3 INDUSTRIAL ACTION

- Objective 6.3.1:** Industrial action should be minimised, and the “right to strike” limited to negotiating new agreements and access to protected action limited within clearly defined boundaries.
- Objective 6.3.2:** Remedies for unlawful industrial action must be readily accessible and effective.
- Objective 6.3.3:** Agreements, when struck, must be adhered to. Once made, agreement parties must forgo access to protected industrial action during the life of agreements.

6.4 FREEDOM OF ASSOCIATION

- Objective 6.4.1:** A genuine freedom of association framework needs to be maintained, which includes measures prohibiting compulsory union bargaining fees and union encouragement requirements. Section 298V should be amended to provide a burden of proof that is consistent with other breaches of the Act.
- Objective 6.4.2:** Workplace restructuring should not be impeded by the freedom of association provisions, except where a clear breach of the law is found to have existed.
- Objective 6.4.3:** The approach taken to freedom of association in Part XA of the *Workplace Relations Act 1996* has proved to be complex. There is a need for redrafting and simplification of these provisions.

6.5 VICARIOUS LIABILITY

- Objective 6.5.1:** Employer liability for the actions of employees must be kept within reasonable limits and should not impose unreasonable obligations on a business.

7. PROTECTION

7.1 HIRING

- Objective 7.1.1:** The workplace relations system should facilitate job creation and the hiring of employees.
- Objective 7.1.2:** The decision to hire should always be the decision of the employer.
- Objective 7.1.3:** The award system must support probationary employment, junior employment and trainees.

7.2 UNFAIR DISMISSAL

- Objective 7.2.1:** The burden of unfair dismissal legislation on employers must be eased as a matter of urgency. The unfair dismissal provisions of the *Workplace Relations Act 1996* must then be periodically reviewed.
- Objective 7.2.2:** The unfair dismissal system should actively discourage a litigation mentality.
- Objective 7.2.3:** Subject to improvements being made easing the burden on employers, harmonisation of unfair dismissal laws should be progressed.

7.3 TERMINATION OF EMPLOYMENT

- Objective 7.3.1:** The costs of termination ought not be so great that employees seek termination or employers retain non-performing staff.
- Objective 7.3.2:** There should be a high degree of certainty for employers when they seek to terminate staff in accordance with the law.

7.4 REDUNDANCY

- Objective 7.4.1:** The workplace relations system should give full recognition to the fundamental right of an employer to restructure their business as necessary to meet commercial requirements and on-going business viability. Third parties should not be empowered to interfere in the making of genuine and lawful business decisions.
- Objective 7.4.2:** Redundancy costs should be minimised in order to not penalise the legitimacy of business restructuring nor compromise ongoing business viability.

7.5 EMPLOYEE ENTITLEMENTS

Objective 7.5.1: A more balanced and informed public debate on the issue of employee entitlements must be encouraged.

Objective 7.5.2: The GEERS scheme is a proportionate and appropriate policy response at a national level. It must be understood that the so-called guaranteeing of entitlements to employee creditors reduces the funds available to other creditors.

8. WORKFORCE

8.1 RETIREMENT INCOMES/AGEING POPULATIONS

- Objective 8.1.1:** The power of the Australian Industrial Relations Commission to create dual award and legislative obligations on employers in the area of occupational superannuation be reviewed.
- Objective 8.1.2:** Superannuation should cease to be an 'allowable award matter' and should be addressed solely by statute.
- Objective 8.1.3:** There should be no further increases in the level of compulsory employer contribution to occupational superannuation of employees.
- Objective 8.1.4:** Measures to introduce or encourage employee co-contributions to superannuation should be pursued.
- Objective 8.1.5:** At least whilst superannuation is an 'allowable award matter', the legislative discretion given to the AIRC to decide how it takes into account the compulsory employer superannuation payments in wage decisions should be tightened to ensure that superannuation imposts on employers act to reduce the quantum of wage increases that employers would otherwise be required to pay.
- Objective 8.1.6:** Legislation giving effect to employee choice of superannuation fund should be enacted only where the administrative costs to employers are minimised and do not outweigh the broader economic and social benefits of such a policy.

8.2 CASUAL/PART TIME EMPLOYMENT

- Objective 8.2.1:** The fundamental right of freedom to contract must be respected.
- Objective 8.2.2:** The federal workplace relations system should be amended to prevent arbitral decisions giving employees unilateral rights to change the nature of their contracts of employment.
- Objective 8.2.3:** Industry and governments should assess and produce, for the purposes of promoting a more informed community understanding of these issues, an analysis of the role that casual employment and part time employment has in the modern workplace.

8.3 CONTRACTORS

Objective 8.3.1: That the federal workplace relations system be amended to prevent agreements made by one employer becoming binding obligations on independent contractors to whom work is contracted out and who employ staff in their own right.

Objective 8.3.2: That industry and governments prepare an analysis of the constructive role independent contractors have in the modern workplace and labour market.

8.4 JUNIORS, TRAINEES AND APPRENTICES

Objective 8.4.1: The workplace relations system should strongly support employers in their efforts to provide training and employment for young people, including providing current minimum wages and conditions for trainees and apprentices which properly reflect their age, work and education balance, and experience. Policies to promote education and training should be pursued in an endeavour to achieve maximum political and industrial consensus between employers, employees, trade unions and governments.

8.5 EMPLOYEE SHARE OWNERSHIP

Objective 8.5.1: Government, through appropriately supportive regulatory arrangements, should encourage employee share ownership in Australia.

Objective 8.5.2: The benefits of employee share ownership should be promoted by governments, industry and trade unions, and there should be further consideration by all parties of these benefits on an ongoing basis.

Objective 8.5.3: The workplace relations system should support, and not hinder, employee financial participation/employee share ownership. Where employers and employees wish to address their financial arrangements in agreements, there should be scope to do so. However, there should be no attempt to regulate or control employee share ownership through industrial instruments.

9. EQUITY

9.1 DISCRIMINATION

- Objective 9.1.1:** Discrimination law should be clearly expressed so that employers can readily identify their obligations, whether under one or multiple regulatory systems.
- Objective 9.1.2:** Employers should be protected from ‘double jeopardy’. Discrimination law should not permit multiple claims in different jurisdictions based on the same conduct. Discrimination law should not permit claims in discrimination tribunals which are within the lawful jurisdiction of industrial tribunals.
- Objective 9.1.3:** Discrimination law should not, other than in limited circumstances, apply the concept of ‘indirect discrimination’ to employment and workplace policy and practices. The concept of indirect discrimination does not provide the regulatory certainty required by employers, especially small business.
- Objective 9.1.4:** Any proposed extensions of discrimination law to include new grounds, or to extend/vary the application of existing law, should be examined under the principles of the proposed Employment Regulation Standard (ERS).
- Objective 9.1.5:** Discrimination law should not impede necessary business decisions, such as decisions to employ, to not employ, to advertise for employment, to discipline or terminate employment on lawful grounds, to undertake redundancies and restructuring, and to measure or reward employee productivity or performance.
- Objective 9.1.6:** There should be a greater emphasis on education, promotion, and problem solving, and less on sanctions in the implementation of discrimination law in employment.

9.2 SUPPORTED WAGES

- Objective 9.2.1:** Employers should have the maximum possible support in the employment of persons with disabilities. Regulatory impediments to such employment should be eliminated wherever possible.
- Objective 9.2.2:** Minimum wages for the employment of persons with a disability should, where appropriate, continue to reflect the unique circumstances that often attach to this employment, including through special wages structures.
- Objective 9.2.3:** Workplace bargaining for persons with a disability should be examined and if appropriate allowed for, taking into account the special circumstances of the relevant employer and employees.

9.3 GENDER PAY DISPARITY

- Objective 9.3.1:** Equal minimum conditions for men and women should continue to be the primary regulatory measure to further gender pay parity.
- Objective 9.3.2:** Workplace bargaining has the scope to improve earnings in female dominated enterprises. An increased emphasis on bargaining and greater options for employees and employers particularly in female dominated industries, are necessary to deliver the flexibility required to address gender pay issues.

9.4 WORK AND FAMILY

- Objective 9.4.1:** Agreements (both registered and unregistered) are the appropriate avenues for employers and employees to pursue work and family balance initiatives. Encouraging and supporting options for effective and accessible workplace and individual agreement making are the primary supports the system can offer employees in balancing work and family.
- Objective 9.4.2:** Industry and governments should continue to promote consensual, non-prescriptive approaches to work and family. Best practice and information sharing should continue to be emphasised. Policy makers and arbitrators should not adopt 'one-size-fits-all' approaches.
- Objective 9.4.3:** Recognition should continue to be given to best practice work and family initiatives through annual Work and Family Awards.

9.5 MATERNITY BENEFITS

- Objective 9.5.1:** The debate on a paid maternity benefit should not lead to any compulsory change in the period for unpaid leave or the conditions that attach to it.
- Objective 9.5.2:** There is an ongoing debate regarding paid maternity leave in Australia. Under no circumstances should employers have imposed upon them any mandatory burden to fund paid maternity leave.
- Objective 9.5.3:** Any government response to the issue of paid maternity leave must recognise that under Australia's unique workplace relations system employers remain at risk of funding compulsory paid maternity leave via compulsory arbitration of union top-up claims in industrial tribunals. Government policy must, at a minimum, quarantine employers from the risk of compulsory paid maternity leave – whether directly imposed by governments or indirectly imposed by union claims in industrial tribunals.