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The end of the wage-setting world as we know it

By Ross Gittins

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There's a lot of hype and spin in the world, but when the Howard Government claims that its changes to industrial relations are the most significant since 1904, you'd better believe it.

That, of course, was when the federal system of conciliation and arbitration was established. The old system has been heavily modified already, but the latest changes will make it unrecognisable.

They have five main objectives: to get the states out of industrial relations, minimise the role of the Industrial Relations Commission, get people away from awards, weaken the union movement and discourage collective bargaining.

For years, people have dreamt of having a single, national industrial relations system - rather than a federal and (these days) five state systems - without seeing how it could ever be achieved.

Now it's to become a reality because of a highly unusual combination of circumstances: a Coalition federal government led by an unashamed centralist in John Howard, facing six Labor state governments. The Liberals' traditional support for states rights just doesn't get a look in.

The state governments will oppose the takeover of their prerogative, but Mr Howard's undoubted constitutional power to legislate for the affairs of companies seems sure to prevail.

Under Australia's traditional and unique system of determining industrial issues by voluntary conciliation or compulsory arbitration, the Industrial Relations Commission controlled the system.

Not any more. Its power to set minimum wages - both the single national minimum wage and the range of minimums for each job classification set out in every industrial award - will be passed to a new Australian Fair Pay Commission with minimal union representation.

You can be sure the Fair Pay Commission won't cut minimum wages in nominal terms. But you can be equally sure it will cause minimum wages to rise more slowly than they would have under the old commission.

So minimum wage rates will fall *relative* to average earnings and probably fall in *real* terms during recessions.

The Industrial Relations Commission's power to approve collectively bargained enterprise agreements will be passed to the existing Office of the Employment Advocate - which formerly was responsible only for the individual contracts known as Australian Workplace Agreements.

Whereas collective agreements and AWAs have been scrutinised before being approved, it's clear that now they'll be pretty much rubber-stamped.

Next, the Industrial Relations Commission will lose its power to judge cases of unfair dismissal for all but the employees of big companies (those with more than 100 employees).

So the former colossus will be reduced to resolving industrial disputes involving unionised workers and simplifying awards as required by the new legislation.

It will probably also lose its ability to decide test cases, such as for paid maternity leave or redundancy pay. You'll hardly hear of it again.

On the face of it, awards won't be changed much. Under the Howard Government's original changes to "workplace relations" in 1996, the number of issues permitted to be covered in awards was reduced to "20 allowable matters".

Now the 20 matters are to be reduced to 16, with the removal of leave for jury service, long service leave, superannuation and notice of termination. Each of these matters is already covered by state or federal legislation.

No big deal? There's more. The Government will legislate to guarantee four key minimum conditions of employment: annual leave, sick and other personal leave, parental leave and the maximum ordinary hours of work (currently 38 hours a week).

As well, the Government will conduct a review aimed at rationalising the existing "award wage and classification structures". This suggests we'll end up with fewer job classifications set out in awards, each with its own specified minimum pay rate.

But the real blow to the award system - the thing that will end up making it of little relevance to anyone - is the abandonment of the "no-disadvantage test".

Despite the move to collectively and individually bargained agreements at the enterprise level under the changes to wage-fixing begun by the Hawke Government in the early 1990s, the system of awards remained relevant as the safety net that underpinned workers' wages and conditions.

It was the no-disadvantage test that retained the relevant award as a person's safety net. Before the commission could approve a collective agreement, or before the Employment Advocate could approve an AWA, they had to satisfy themselves the deal would leave the workers at no overall disadvantage compared with the provisions of their award.

In other words, you could be better off, but not worse off.

If you gave up some benefit, there had to be an adequate offsetting gain.

Now, however, the no-disadvantage test is to be replaced by an "Australian fair pay and conditions standard". That is, the collective agreement or AWA can't provide for pay rates lower than those set by the Fair Pay Commission or conditions of leave and standard hours worse than those specified in the new legislation.

Get it? The safety net for workers will no longer be their award, but the new minimum wage rate and the four minimum statutory employment conditions.

This won't be a problem for well-unionised workers with collective agreements. But non-unionised workers in smaller firms are now more likely to find themselves pushed on to AWAs that do disadvantage them relative to their award.

The conditions now up for grabs include overtime payments, shift penalties, leave loading, public holiday loading, weekend rates and redundancy pay.

Various aspects of the changes are clearly intended to weaken the union movement (in addition to those contained in the Workplace Relations Act of 1996).

The requirement for secret ballots isn't intended to make unions more democratic but simply to raise the administrative burden and the delay before workers can go on strike or take other industrial action.

The unions' access to workplaces will be restricted to times and places determined by employers.

Unions will be prevented from engaging in "pattern bargaining" - seeking identical collective agreements at a range of enterprises - though there'll be nothing to prevent employers negotiating identical AWAs with each individual.

Put it all together and it's clear the Government is seeking to discourage collective bargaining and hasten the spread of its AWA brand of individual contracts.

The award system and the Industrial Relations Commission worked to strengthen unionised workers, but also to protect workers who weren't in the union. Now only vestiges of that system will be left.

Employers are far more powerful than individual workers. So, for well over a century, workers have formed unions so as to bargain collectively with employers, thereby improving their bargaining power.

The attack on unions and the encouragement of individual contracts is intended to shift bargaining power back to employers.

Ross Gittins is the Herald's Economics Editor.

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