

Sackings may have been within law

Adrian Rollins

The abattoir that controversially sacked 29 workers and offered to re-employ them on less pay may have been acting within the federal government's new industrial relations laws, according to a leading labour law expert.

University of Sydney dean of law Ron McCallum said that, on the face of it, Cowra Abattoir did not seem to have breached Work Choices' laws allowing workers to be dismissed for operational reasons.

Professor McCallum's comments lend support to union claims that the IR laws allow employers to sack workers and re-employ them on lower pay and reduced conditions.

"It is difficult, on the facts that have been made public so far, to see any form of illegality jump out at one," Professor McCallum said.

"There's nothing that the abattoir seems to have done that is unfair in relation to the law."

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Holding Redlich partner Stephen Trew said much would turn on how broadly "operational reasons" were interpreted as a justification for declaring positions redundant.

Mr Trew said the traditional understanding was that a position was redundant when it was no longer required by an employer. But under Work Choices employers may push for a broader interpretation that would allow a position to be declared redundant based on a range of operational reasons, including changes in technology, economic position or even employment conditions.

The 29 workers were reinstated on Tuesday, following talks between the abattoir and the Office of Workplace Services.

Because the dispute was resolved without reaching the courts, experts said uncertainty about the legal standing and interpretation of many Work Choices laws remained.

A spokesman for Workplace Relations Minister Kevin Andrews said any comment about the legality or otherwise of the abattoir's actions was premature.

"We can't say whether it was legal or illegal. That must be tested by the courts," he said.

"This company clearly needs to undertake some restructure, but the way they went about it appeared to be wrong."