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# THE AGE

## **AWAs are only part of the problem**

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Is the new **industrial** relations system too broken to be repaired?

IN HIS speech to the NSW ALP conference, **Kim Beazley** has homed in on Australian **Workplace** Agreements as "the poison tip of **John Howard's industrial** relations arrow".

Beazley's plan is to scrap these individual agreements in favour of collective agreements underpinned by minimum standards. Beazley maintains that "when they bargain collectively, working Australians would never accept having their pay slashed and conditions stripped bare". The problem is that the present system under WorkChoices permits employers to place workers on collective agreements that cut back their conditions of **employment**. More importantly, the new system has few, if any, effective mechanisms to ensure employees genuinely consent to these agreements. Collective agreements have a greater impact on employees than AWAs - about 40 per cent of workers rely on collective agreements, while only 2.5 per cent to 5 per cent rely on AWAs.

The Labor Party needs to spell out how it will ensure that, having removed the poison tip of the **industrial** relations arrow, the remaining system will adequately protect employees. For example, under WorkChoices, an employer in a new business can put in place a "greenfields" agreement that excludes overtime loadings, standard hours of work and so on, without obtaining the consent of the intended employees of that business.

Other types of **union** and non-**union** collective agreements can be made only by approval of a majority of employees, but the mechanisms to ensure that employees have seen and approved the agreement are extremely weak.

Last week, the **Employment** Advocate revealed before Senate estimates hearings how this mechanism works. The employer lodges the agreement (usually electronically) with the Office of the **Employment** Advocate. The employer must also tick a few boxes on a form to declare that the procedural requirements have been met. Provided the relevant boxes have

been ticked, the agreement immediately comes into effect when it is lodged.

But the statements that must be ticked obscure the process followed by the employer. For example, the employer may tick just one box to confirm that they have either provided employees with ready access to the agreement or that this right to access has been waived in writing by the employees. This form reveals nothing about whether employees have actually seen the agreement.

Further, the OEA does not require the employer to submit any evidence that employees have waived their right to see a copy of the agreement. Similarly, the employer may tick a box saying that a majority of employees have approved the agreement. However, again, the employer is not required to submit any evidence that employees have actually approved the agreement by a vote or otherwise.

The OEA's computer accepts the agreement when all the boxes on the form have been ticked. Any employees who find that they are subject to a collective agreement that they have neither seen nor voted on may bring an action in the Federal Court or federal Magistrates Court at their own expense.

This is a far cry from the former process in which applications to certify collective agreements were subject to the Australian **Industrial** Relations Commission's scrutiny. This process involved a public hearing where the employers (and any relevant unions) were required to demonstrate to the AIRC that the procedural safeguards had been met before the commission would agree to certify the agreement.

Given that the new process does not guarantee that employees actually agree to changes made by a collective agreement, it is important that agreements are reviewed to ensure compliance with the bare minimum standards put in place by WorkChoices (relating to wages, leave and hours of work).

Again, the evidence before Senate estimates hearings last week was worrying. The **Employment** Advocate testified that "the act requires me not to check anything in regard to agreements lodged". Instead, these minimum standards must be enforced through the courts, relying on individuals, unions, or the Office of **Workplace** Services to pursue the issue.

The system appears designed to allow non-compliance, with the few remaining safeguards relating to **workplace** agreements. Beazley has decided that AWAs cannot be fixed and must therefore be abolished. The challenge is for the Labor Party to produce a policy that tackles the broader issue of appropriate scrutiny of all agreements under WorkChoices.

Caption :PHOTO

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