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Labor finds loophole for employers

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The federal government has described as hysterical claims that employers can now pay below minimum rates for part of a year and then sack a worker before bringing his or her average weekly wage up to the legal level.

Rebuffing opposition and union claims that seasonal industries such as tourism and agriculture may be able to evade pay safeguards, the federal government said minimum wage rates were guaranteed.

But **ACTU** secretary **Greg Combet** said provisions in the government's Work Choices act that allow for pay rates to be averaged over a year meant employers could pay below minimum wages on a promise of higher rates later on.

"Your boss will say, 'I'll pay you \$8 an hour in the off-season and double that when business is good', but if you get laid off in the meantime, or business never really picks up, then workers are going to be ripped off," he said.

Labor's industrial relations spokesman, Stephen Smith, said that under government regulations a worker on minimum wage rates could receive "much less" during a particular pay period.

But a spokesman for Workplace Relations Minister Kevin Andrews accused Mr Combet and Mr Smith of making deliberately misleading claims about the regulations.

He said the Workplace Relations Act expressly forbade paying workers below the guaranteed minimum wage. The spokesman said an employer and worker could agree to more flexible pay arrangements but, without such an agreement, employees must be paid their basic wage at the end of each pay period.

The spokesman said that if a worker was sacked when he or she had been paid below minimum rates, they were legally entitled to be paid at minimum wage rates.

University of Sydney's dean of law, Ron McCallum, said any employer who paid less than the minimum - even under an agreement - and then laid off a worker could be taken to the Office of the Employment Advocate, which could force the company to pay a worker what they were owed.

But Professor McCallum said it was an open question as to how many workers would take such action.

Caption :PHOTO: Short-changed workers may not necessarily take their case to an arbiter.

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