

[[Previous](#)] [[Major News - Federal Politics - Workplace Issues](#)] [[Next](#)]

Thursday 23 March 2006

THE AGE

No place for unions in the new IR club

Author: KENNETH DAVIDSON

Publication: The Age (13,Thu 23 Mar 2006)

Edition: First

Keywords: **Industrial (9),Workplace (3),Union (7),Kevin (1),Andrews (1),industry (1)**

The Government relishes a fight with the unions in a new class war.

TO MY knowledge, no other advanced **industrial** country has, or is contemplating, **industrial** law as prescriptive and as steeply tilted in favour of employers as the Howard Government's 1392-page **workplace** act, buttressed by 291 pages of regulation, which will take effect from Monday.

The changes are in no sense labour-market deregulation. The legislation is designed to criminalise what has hitherto been legitimate trade **union** activity, while encouraging pattern bargaining by employers. If there are any gaps in the employer/government armoury, they can be plugged by **Workplace** Relations Minister **Kevin Andrews** varying the regulations, which then become law unless they are disallowed by the Senate

This is the new **industrial** relations club. The unions are expelled, the Australian **Industrial** Relations Commission has been allowed to stay on the premises for the time being as the interim cleaner that is expected to report weekly to Andrews, the new club president, on any disputes that might create a blemish in the newly refurbished **union**-free premises.

For form's sake, there will be a minimum wage, the right for unions to collectively bargain and take **industrial** action during the protected bargaining period, but there will be no sanctions against employers who refuse to bargain in good faith and, hence, every incentive for employers to pattern bargain by offering their workers individual agreements mass-produced by their **industrial** relations departments or **industry** associations.

There is not much point to a minimum wage if employers can pay below the minimum wage for part of the year on the assumption that they will pay above the minimum wage later in the year, so that the wage averages out to the minimum.

You don't even have to be an **industrial** lawyer to get around this one. Workers can be taken on at below the minimum wage on the promise that after a three or six-month trial period their wages will be increased to compensate for the lower starting wage.

At the end of three or six months, they can be sacked. Remember, for employers with fewer than 100 workers (the overwhelming majority of private sector employees), there is no unfair dismissal protection. Are they going to employ a lawyer to sue for the few hundred dollars they have been short-changed?

Of course, the majority of employers are ethical. But Gresham's law (counterfeit money drives out good money) operates in the labour market in which wages are the main component of costs. If there is one employer who is prepared to pay below the minimum rate, other employers will be forced to follow suit to remain competitive.

Large employers will be able to avoid the sanctions against unfair dismissals, providing the dismissal can be dressed up as due to changes in technology or economic circumstance, rather than the real reason, which is to eradicate workers who insist on their right to remain members of the relevant trade unions.

Given that employees who feel they have been unfairly dismissed must register their complaint within 21 days of the dismissal, an employer has only to wait 22 days before filling the vacancy that has been created.

There can be no collective bargaining unless both sides are prepared to bargain in good faith, or the parties can back up their position by lockouts, in the case of employers, and strikes or restrictive practices in the case of workers.

Under the act, individual contracts take precedence over collective agreements. There is no incentive for employers to engage in collective bargaining, even if that is the overwhelming preference of the workers concerned.

Unions that want collective bargaining with recalcitrant employers must seek a protected bargaining period with the commission and must then seek approval for a secret ballot to strike that sets out the questions in the ballot and the reasons for the strike and its timing. This information is passed to the minister and employers and third parties who may claim to be harmed by the **industrial** action. The minister has the power to prohibit the strike.

If strike action is approved, the employer has the power to lock out workers and employ strike-breakers and if, after all this, a collective agreement is reached, employers have the right to approach individual employees to move from the collective agreement to individual contracts.

Union officials' rights to enter workplaces are severely constrained and **union** officials can be subject to heavy fines if they attempt to incorporate into collective agreements provisions for redundancy, unfair dismissal, and skill-based, literacy and health and safety training, which unions were in the vanguard of establishing in the 1980s and '90s.

The **workplace** laws are not suitable for an advanced **industrial** state in which productivity depends on skills and an empowered workforce led by a responsible trade **union** leadership.

By criminalising hitherto legitimate trade **union** activity, the danger is that the legislative thuggery of the Government will, pace Gresham, be matched by the equally hard remnants of the trade **union** movement. The pity is, it is becoming apparent that the class warriors in the Government are looking forward with relish to the new class war they are instigating.

Kenneth Davidson is a senior columnist.

Email: kdlv@ozemail.com.au

Headline: No place for unions in the new IR club

Author: KENNETH DAVIDSON

Edition: First

Section: News

[[Previous](#)] [[Major News - Federal Politics - Workplace Issues](#)] [[Next](#)]

Copyright © Fairfax