

Workers 'can't be forced on to AWAs'

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JOHN Howard has rejected claims existing employees could be sacked for refusing to sign Australian Workplace Agreements under his Government's radical industrial relations changes.

Labor, the ACTU and some industrial lawyers believe that WorkChoices could hand employers additional scope to sack long-serving employees if they refuse to sign individual contracts.

A new section of federal workplace laws says that employers do not apply duress to their employees "merely because the employer requires the employees to make an AWA with the employer as a condition of employment".

But Mr Howard said yesterday the new provision did not mean it would now be legal for bosses to sack long-serving workers for refusing to sign a contract.

"It remains the case that it is unlawful to terminate somebody's employment because they refuse to sign an AWA," Mr Howard told parliament during a fiery debate in question time.

Mr Howard's defence of his controversial reforms came as it was revealed that Australian workers would no longer be asked whether they had genuinely consented to signing an AWA.

The Office of the Employment Advocate told a Senate estimates hearing yesterday that once WorkChoices was passed by the parliament it would no longer write to workers to ask them whether they had consented to signing an individual contract.

"I don't believe I will have that requirement placed on me," the Employment Advocate, Peter McIlwain, told the hearing.

He said the new WorkChoices legislation made it clear that individual contracts would come into force from the moment they were lodged with the OEA.

The OEA would act only as a post box for the agreements, not check their contents to ensure they complied with the requirements set out in WorkChoices.

Employers will have to sign a declaration that the contract complies with federal law, but Mr McIlwain said his office would not check whether the content of the agreements matched the statements made in the declaration.

The new legislation, Mr McIlwain said, established "a lodgement process only".

"The process that is clearly intended is that the (AWA) is operational on lodgment," he said.

Asked by Victorian ALP senator Gavin Marshall whether he would continue to apply a test of genuine consent by writing to workers to check they were happy with their arrangements, Mr McIlwain replied: "I don't think there is that provision."

The changes proposed by the Government are designed to lower the procedural hurdles required to reach an AWA and encourage more businesses to switch from collective agreements to work contracts.

But Labor senators expressed concern that there would be no official way of checking whether or not the parliament's laws were being upheld by Australian employers.

Mr Howard also made it clear that his changes would allow employers to say to new workers they must sign an AWA or not get the job.

"The situation, through a combination of the continuing provisions of the Workplace Relations Act and the amendments, is as follows: as has been the case since 1996, an employer is entitled to say to a new employee, as a condition of your employment, you must sign an AWA," Mr Howard said.