

WERP

WOMEN'S EMPLOYMENT RIGHTS PROJECT

Funded by the Office for Women, NSW Department of Premier and Cabinet



IMPORTANT NOTE: THIS FACT SHEET ONLY APPLIES TO WOMEN WHO WORK IN NEW SOUTH WALES

WORKING WOMEN: INDUSTRIAL RELATIONS IN 2007 AND BEYOND

AUSTRALIAN STATS, AT A GLANCE

- ❖ 56 per cent of all women are in the labour force (ABS 2004)
- ❖ Women comprise 45 per cent of the labour force in Australia (ABS 2005)
- ❖ 46 per cent of working women work part-time compared to an average 25 per cent in OECD countries (ABS 2005)
- ❖ 31 per cent of women were employed on a casual basis in 2005 (ABS 2005)
- ❖ Low pay for female workers is 41 per cent compared to 29 per cent for all workers (ABS 2004)
- ❖ In 2002-3, 87 per cent of complaints under the Sex Discrimination Act received by the Human Rights and Equal Opportunity Commission were in the area of employment
- ❖ 87 per cent of the complaints made under this Act were made by women
- ❖ Sole mothers are particularly vulnerable to being trapped in a cycle of low pay or no pay
- ❖ Many sole mothers cease working because the low-wage jobs make them worse off financially than they would be if they remained on welfare
- ❖ Some sole mothers will be \$100 per week worse off if they are forced to return to work (under 'Welfare to Work' changes) when their youngest child turns eight
- ❖ A sample of 250 AWAs analysed by the Federal Employment Advocate between March and April 2006 revealed that all agreements removed at least one award condition. Around 64 per cent of the sample removed leave loading; 63 per cent penalty rates and 52 per cent shiftwork loadings.

INTRODUCTION

The workplace has fundamentally changed since the 'WorkChoices' laws came into effect on 27 March 2006.

This fact sheet will look generally at the laws and what they mean for working women. Other fact sheets look at specific issues such as unfair dismissal, wages & conditions and where to get legal help. Although the laws are complex and reduce the rights of workers, women can still get advice about possible remedies.

WHAT ARE THE KEY ISSUES FOR WORKING WOMEN?

- ❖ These Australian workplace laws ('WorkChoices') represent a major shift in the way employment conditions are set in Australia and have significant implications for women's wages, their job security and their work/life balance.
- ❖ Women are clustered in low-paid areas, are award-dependent, often working part-time and tending to trade family-friendly conditions for cash-in-hand jobs.
- ❖ The changes are compounded by changes to the welfare system ('Welfare to Work') introduced in July 2006 where sole parents whose youngest children turn eight will have to find at least 15 hours' paid work per week. *(For more information on the Welfare to Work system, contact [The Welfare Rights Centre](#).)*

ARE ALL WORKERS AFFECTED BY WORKCHOICES?

- ❖ The WorkChoices laws apply to a majority of employees. However, some workers will not be covered by WorkChoices - NSW public servants, employees of sole traders and partnerships and employees of some charitable or not-for-profit organisations.



HOW ARE WORKING WOMEN AFFECTED RIGHT NOW?

- ❖ Unfair dismissal laws have been changed to exclude many workers so it is now much easier for employers to dismiss employees.
- ❖ Minimum pay is set by the Australian Fair Pay and Conditions Commission (AFPC) and considers not only wages but also unemployment. Previously the Australian Industrial Relations Commission (AIRC) set the nation's pay and took into account how much money a person needs to live with dignity.
- ❖ There is a greater emphasis on individual bargaining between the employer and worker using Australian workplace agreements (AWAs) instead of pay and conditions being governed by awards.
- ❖ Workers now have just five minimum working conditions.
- ❖ Once a worker is on a workplace agreement of any type they can never return to an award. This means workers will give up basic award protections like overtime rates or compensation for unsocial working time.
- ❖ There is now an option of 'cashing out' up to two weeks' annual leave under the Australian Fair Pay and Conditions Standard (AFPS). This time is crucial to healthy family relationships.
- ❖ Full-time workers can cash out any amount of sick and/or personal/carer's leave, provided that 15 days remain available.
- ❖ The AFPC allows for a minimum hourly rate, with ordinary hours of work specified at 38 hours per week. These hours can be averaged over 12 months where not otherwise specified. This means for workers where the minimum standard applies, hours can vary widely on a daily or weekly basis. This could play havoc with family life.
- ❖ Workers can be 'stood down' without pay if work is unavailable 'due to factors outside the employer's control'. This could include drought, changes in the exchange rate and competition from other employers.
- ❖ Awards and agreements cannot include provisions relating to a worker shifting from full-time work to part-time work or the reverse.

HOW ARE WOMEN LIKELY TO BE AFFECTED IN THE FUTURE?

- ❖ Under the new system there is a real risk that the gender pay gap will widen. The democratic and egalitarian principle of 'equal pay for equal work' is expected to be significantly undermined.
- ❖ Anticipated growth of Australian workplace agreements (AWAs) could result in more family unfriendly agreements; awards will be minimalist and there is a possibility of lower work and family standards for those in the federal system.
- ❖ Workplace bullying is expected to increase with the shift of the employment relationship to the private sphere, together with reduced access to formal procedures and less accountability and transparency.

CAN WOMEN STILL BELONG TO A TRADE UNION?

- ❖ Workers still have the right to be a union member and can't be lawfully terminated because they are in a union.
- ❖ There are tough new laws for unions who wish to enter workplaces and also new provisions about the content in agreements regarding unions and industrial action.

KEY POINT!

Recent changes to Australian industrial and welfare laws will dramatically affect the workforce participation and financial status of most working women.

Sources:

1. Workchoices and Women Workers (B Pocock and H Masterman-Smith, *Journal of Political Economy* No 56, 2006)
2. The Impact of the Workplace Relations Amendment (Work Choices) Bill on Australian Families, B Pocock, in a paper prepared for Industrial Relations Victoria, 2005
3. Workplace Bullying, Women and WorkChoices (DJ Kelly, National Conference on Women and Industrial Relations, 2006)
4. Women's pay and conditions in an era of changing workplace regulations: towards a 'Women's Employment Status Key Indicators' (WESKI) database, HREOC, 2006
5. Welfare-to-work Reforms: Impact on Sole Parents, A Harding, Quoc Ngu Vu, R Percival and G Beer, *Agenda*, Vol 12, Number 3, 2005
6. [WorkChoices](#)
7. [HREOC](#)

Disclaimer The information contained in this fact sheet is only intended as a guide to the law and should not be used as a substitute for legal advice. If you have any further questions we strongly suggest you seek legal advice.

The views expressed herein do not necessarily reflect the views of the Office for Women, NSW Department of Premier and Cabinet.

Note: This information applies to people who live in, or are affected by, the law as it applies in the State of New South Wales, Australia.

The information contained in this fact sheet is current as at 1 July 2007.