



2 September 2010, 2010-11

Chronology of Fair Work: background, events and related legislation

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Introduction

Fashioning Fair Work

Many commentators reviewing the genesis of the Fair Work legislation have emphasised the importance of the thorough constitutional break from the conciliation and arbitration power to the corporations power entailed in the Work Choices¹ legislation of 2005; a change placed on the national political agenda by the Hon Peter Reith some years earlier.² The chronology below commences with the Australian Council of Trade Unions' (ACTU) 2006 report of its overseas delegation reviewing international bargaining systems.³ The then ACTU Secretary Greg Combet reflected at the launch of the delegation's report, that a potential endorsement of Work Choices' constitutional basis by the High Court would prompt the national union movement to have an incoming Australian Labor Party (ALP) administration utilise the new constitutional base for its industrial legislation; as he put it:

1. *Workplace Relations Amendment (Work Choices) Act 2005* which significantly amended the *Workplace Relations Act 1996*. The constitutional issues have been reviewed in the Parliamentary Library's bills digests on both the Work Choices and Fair Work Bills; see respectively [Bills Digest No. 66 2005-06](#) and [Bills Digest No. 81 2008-09](#).
2. P Reith, *Breaking the gridlock, towards a simpler national workplace relations system*, (3 volumes) Department of Employment and Workplace Relations, October 2000.
3. For further information on political party and union workplace/industrial relations policies from 2004, see: S O'Neill and I Kuruppu, *Workplace relations reforms: a chronology of business, community and government responses*, Background note, Parliamentary Library, Canberra, 6 December 2007, viewed 21 September 2009, http://www.aph.gov.au/library/pubs/BN/2007-08/Workplace_Relations_chron.htm

If the corporations power is available, I want people to be under no misapprehension at all, we are going to support a future Labor government to use it.⁴

With the states' High Court challenge to the Work Choices legislation proving unsuccessful, commentators such as industrial editor Ralph Grayden observed that the Howard Government's workplace legislation had rewritten the relationship between the Commonwealth and the states. As Grayden put it, the Howard Government reforms put industrial relations 'at the very heart of national debate, and divided a nation in the process'. Nevertheless, with the structural change to the constitutional underpinning of federal labour law upheld, he surmised that a future ALP Government would refashion Work Choices:

What Prime Minister Rudd will attempt to do is to iron out the most draconian and unpalatable aspects of Work Choices while still preserving its underlying assumptions: that industrial relations policy should be used to create a flexible, productive and strike-free workforce ... Perhaps, though, the most important consistency between the Rudd and Howard eras will be the belief that the best place to supervise industrial relations is at the federal level. Although, in 2006, state Labor governments challenged the constitutionality of the federal IR takeover, the new (ALP) government has pledged to keep it the way it is.⁵

Similarly, labour lawyers Peter Punch and Mick Sheils doubted that there would be a reversion to the federal and state systems which had characterised Australian industrial relations for a century or more and that instead Australian employers would benefit from simplification and unification of industrial systems:

The (ALP) government's policy seeks to revert or substantially modify some important aspects of the Work Choices regime, but there is nothing in the policy to suggest that there will be a reversion to the traditional federal and state industrial relations systems that prevailed prior to Work Choices. Importantly, the government intends to build on the 'breakthrough' to a national industrial relations system that forms an essential feature of the Work Choices system ... all employees in the private sector would be embraced by the national system. The establishment of such a structure will require a measure of cooperation from the state governments ... All employers would benefit from a simple structure which is easily understood and applied.⁶

As the first step of bringing such an industrial relations system into place, transitional legislation amending the Workplace Relations Act was introduced to the Parliament in February 2008. It prevented the making of new Australian Workplace Agreements, reintroduced a 'No Disadvantage Test' for the approval of collective workplace agreements

4. Quoted in M Shaw and D Cooke, 'Unions back federal system, wasteful court challenge blasted', *The Age*, 26 October 2006.

5. R Grayden 'Gone but not forgotten R.I.P. Work Choices 26.3.2006-24.11.2007; A brief but spectacular life', *Australian Industrial Law News*, Issue 11, CCH, 6 December 2007.

6. P Punch and M Sheils, 'Labor — "junking" or only "massaging" Work Choices?' *Australian Industrial Law News*, Issue 10, CCH, 5 November 2007.

and set in train under the auspices of the Australian Industrial Relations Commission, the rationalisation and simplification of federal system awards (including state awards now part of the federal system) under the ALP's prescription for 'award modernisation'. This transitional legislation came into effect on 28 March 2008. The bulk of the Fair Work legislation came into effect between April and July 2009, although critical elements such as the National Employment Standards and modern awards do not come into effect until January 2010.

Milestones	Details	Source
13 September 2006	ACTU releases its collective bargaining report by a union delegation visiting overseas countries and indicates a broader legislated safety net should the High Court support the 'Work Choices' legislation. Also proposes majority rights for collective bargaining including the right to union representation in any future ALP Government legislation.	ACTU Secretary's address to the Press Club. (<i>Parlinfo</i>)
25 October 2006	ACTU announces its industrial relations policy, targeting Work Choices provisions. It canvasses ending the distinction between union and non-union agreements but agreements and awards will continue to be made under the Constitution's corporations power.	Unions back federal system (<i>The Age</i>)
14 November 2006	High Court determines that the Workplace Relations Act (amended by 'Work Choices') was valid Commonwealth law and a majority (5-2) rejected the states and union case on all points.	High Court's Work Choices decision
4 December 2006	Kevin Rudd MP and Julia Gillard MP replace Kim Beazley MP and Jenny Macklin MP respectively as leader and deputy leader of the federal ALP parliamentary party.	Rudd & Gillard to take Federal Labor forward (<i>Media release</i>)
25 April 2007	The ALP (K. Rudd and J. Gillard) publishes its workplace relations policy, <i>Forward with Fairness</i> ahead of the 2007 federal election. It proposes: a national workplace regulatory system; 10 national standards (4 weeks annual leave 10 days personal leave, paid public holidays and so on) available to all federal system employees; 10 award matters; to facilitate choice and representation at work and to replace a number agencies established under the Work Choices legislation with 'Fair Work Australia' to administer collective bargaining rules and awards.	Forward with Fairness
28 August 2007	ALP modifies its April workplace relations policy in <i>Forward with Fairness, Policy Implementation Plan</i> . The policy exempts employees earning over \$100 000 from the award system; retains current right of entry and pattern bargaining provisions; keeps secondary boycott laws in the Trade Practices Act; proposes to modernise awards; allows existing Australian Workplace Agreements (AWAs) to run their full five year-terms and allows employers in AWA	Forward with Fairness, Policy Implementation Plan

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	workplaces to offer Individual Transitional Employment Agreements (ITEAs) to new workers during a transition period but not thereafter; retains building industry regulatory arrangements until 31 Jan 2010 and requires awards and agreements to contain individual flexibility arrangements.	
24 November 2007	ALP wins the 2007 federal election. Kevin Rudd becomes Prime Minister and Julia Gillard becomes Deputy Prime Minister and Minister for Education, Employment and Workplace Relations and Minister for Social Inclusion.	Work Choices weighs in as biggest loser (AFR)
29 November 2007	Brendan Nelson MP and Julie Bishop MP are elected as leader and deputy leader respectively of the Federal Parliamentary Liberal Party, with Ms Bishop assuming role of shadow workplace relations minister.	Turnbull vows full Nelson support (Daily Telegraph)
25 January 2008	NSW IR Minister John Della Bosca releases <i>Working Together: Inquiry into Options for a New National Industrial Relations System</i> by Professor George Williams outlining options for state participation in a national industrial relations system.	Williams Report
7 February 2008	Parliamentary Liberal Party considers support for AWAs in the light of incoming legislation to repeal the making of new AWAs. Business was criticised for not more vigorously supporting Work Choices at the 2007 election.	Coalition split over scrapping of AWAs (The Age)
13 February 2008	Workplace Relations Amendment (Transition to Forward with Fairness) Bill 2008 is introduced to the House of Representatives.	Bill as introduced Second Reading Speech
28 March 2008	<i>Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008</i> comes into effect. It prevents new AWAs being made; enables the Australian Industrial Relations Commission to start modernising awards, reintroduces an award-based 'No Disadvantage Test' replacing the 2007 Fairness Test for the approval of workplace agreements and introduces ITEAs. Minister Gillard requests AIRC to modernise awards.	Text of the first award modernisation request at the Appendix to : Bills Digest 72 2007-2008
29 April 2008	AIRC outlines process for modernising awards in four stages.	AIRC Statement
2 June 2008	DEEWR officials report to the Senate Employment Committee that 70-80 staff are engaged in drafting the fair work legislation and it is on track to be introduced to Parliament by the end of the year.	Committee Hansard, p.65
16 June 2008	Minister Gillard varies her award modernisation request to incorporate the National Employment Standards.	Request variation
16 September 2008	Malcolm Turnbull MP assumes leadership of federal Parliamentary Liberal Party. Michael Keenan MP becomes shadow workplace relations minister.	Turnbull takes command, Nelson takes backbench (The Age)

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7 November 2008	Tripartite Committee on Industrial Legislation (COIL) meets for 10 days to review the proposed fair work legislation.	Tightrope act hits the road (AFR)
25 November 2008	Fair Work Bill introduced to the House of Representatives. The Bill introduces 10 National Employment Standards, continues award modernisation, introduces rules for collective agreement-making, discontinues the distinction between union and non-union enterprise agreements, reintroduces protection from unfair dismissal and stiffens the recognition of bargaining representatives.	Bill as introduced Second Reading Speech
18 December 2008	Minister Gillard varies her award modernisation request to require the AIRC to draft a new model award flexibility clause and exempts 'enterprise' NAPSAs from modernisation.	Request variation
19 December 2008	AIRC determines 17 Stage 1 (priority) awards.	Stage 1 awards
27 February 2009	Senate Standing Committee on Education, Employment and Workplace Relations tables report on the Fair Work Bill.	Fair Work Bill 2008 [Provisions]
19 March 2009	The Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009 is introduced to Parliament. Amongst its provisions, the Bill deletes the contents of the Workplace Relations Act but for its schedule dealing with registered organisations and retitles the Act as the Fair Work (Registered Organisations) Act.	Bill as introduced Second Reading Speech
20 March 2009	Fair Work Bill passed by Parliament.	
3 April 2009	AIRC issues 27 Stage 2 modern awards.	Stage 2 awards
7 April 2009	<i>Fair Work Act 2009</i> receives Royal Assent.	Fair Work Act
2 May 2009	Minister Gillard varies her award modernisation request to clarify: the nature of award exempt employees, the definition of enterprise awards, the definition of equal remuneration and changes regarding the operation of the NES.	Request variation
7 May 2009	Senate Standing Committee on Education, Employment and Workplace Relations tables report on the Fair Work (Transitional Provisions and Consequential Amendments) legislation.	Report on the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009
25 May 2009	Regulations for the Fair Work Act commence.	FW Regulations
27 May 2009	The Fair Work (State Referrals of Power and Consequential Amendments to Other Legislation) Bill introduced to Parliament.	Bill as introduced Second Reading Speech
28 May 2009	Minister Gillard varies her modernisation request to remove the restaurant café and catering sector from the hospitality modern award so as to create a separate instrument for restaurants.	Request variation

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10 June 2009	Victorian Parliament passes legislation to refer industrial legislation to the Commonwealth.	Fair Work Commonwealth Powers Bill
17 June 2009	Fair Work (Transitional Provisions and Consequential Amendments) Bill and Fair Work (State Referrals and Consequential and Other Legislation) Bill pass Parliament. Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill introduced to Parliament. Minister Gillard issues directions to Australian Building and Construction Commissioner Lloyd concerning the spread of ABCC resources and the conduct of coercion powers and compulsory interviews.	Bill as introduced Second Reading Speech Coercive power direction
25 June 2009	<i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> and <i>Fair Work (State Referrals and Consequential and Other Legislation) Act 2009</i> receive Royal Assent. The WR Act is retitled as the <i>Fair Work (Registered Organisations) Act 2009</i> . Senate disallows Minister Gillard's directions regarding the ABC Commissioner.	Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 Fair Work (State Referrals and Consequential and Other Legislation) Act 2009 Fair Work (Registered Organisations) Act 2009 Senate Hansard p.4294
26 June 2009	AIRC responds to Minister Gillard's May 2009 variation by asking if the Minister could provide guidance on the setting of hours of work, penalty rates and overtime in a proposed restaurant and catering modern award.	AIRC Statement
1 July 2009	First operational day of Fair Work Australia (FWA) and the Fair Work Ombudsman (FWO), which is noted by FWA President Geoffrey Guidice as being the day which FWA is at the 'height of its popularity'. The Fair Work (Transitional and Consequential) Amendments Regulations commence Fair Work (Registered Organisations) Regulations commence	Curtin up on a new era of industrial relations (The Australian) FW (Transitional and Consequential) Regulations FW (Registered Orgs) Regulations
2 July 2009	Minister Gillard varies her award modernisation request to reflect Victoria's reference of power.	Request variation
29 July 2009	FWA issues its first good faith bargaining order directing the Australian Services Union and the Queensland Tertiary Admissions Centre to confer over enterprise bargaining.	Good faith bargaining order
17 August 2009	Minister Gillard varies her award modernisation request to have awards apply to coastal navigation.	Request variation

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27 August 2009	Minister Gillard varies her award modernisation request to allow flexible hours and casuals' piece rates in the horticultural award; to improve the in-house call centre award safety net, and to have part-time penalty rates in the retail and pharmacy sectors reconsidered.	Request variation
2 September 2009	AIRC Full Bench issues decision as to how award transitional arrangements (higher costs/lower pay depending on state) will be used to mitigate labour cost increases or pay cuts.	AIRC decision on transitional provisions
4 September 2009	AIRC releases 34 'Stage 3' modern awards. PM Rudd claims that the original commitment regarding higher costs/lower pay from award modernisation was an objective not a guarantee, while the Federal Opposition calls for award modernisation to be suspended.	Stage 3 awards Awards promise not a guarantee; Rudd Overhaul in disarray: Opposition (<i>The Age</i>)
9 September 2009	South Australian Parliament introduces legislation to refer private sector industrial relations to the Commonwealth.	Fair Work (Commonwealth Powers) Bill
10 September	Senate Standing Committee on Education, Employment and Workplace Relations tables report on the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2009. AIRC responds to Minister Gillard's request variation regarding the draft horticulture award by inviting award variation/s in 2010.	Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2009 [Provisions] AIRC Statement
13 September 2009	Malcolm Turnbull canvasses the possibility of reintroducing individual contracts after the NSW Liberal Party NSW Council and Convention criticised the FWA system as too inflexible.	Turnbull faces row over backflip (<i>AFR</i>)
16 September 2009	AMWU and Campbell's Australia engage in industrial action over the form of the FW Act's requirement for flexibility provisions in enterprise bargaining negotiations.	Strikes to challenge new IR laws (<i>AFR</i>)
25 September 2009	AIRC publishes exposure drafts of its 'Stage 4' modern awards which included a new miscellaneous award and a restaurant industry award – as directed by a variation to the ministerial request.	AIRC Statement
15 October 2009	Australian Industry Group (AiG) releases a study of bargaining under the first 100 days of the operation of the FW Act. It finds that parties had the right to 'hard bargaining' and could not be forced to make concessions.	Fair Work Act Bargaining Provisions - The First 100 days
21 October 2009	Legislation adding to the state referral provisions in the Fair Work Act is introduced, allowing (non-corporate) state employers referred to the national system a year to remain on their state awards.	Fair Work Amendment (State Referrals and Other Measures) Bill 2009

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23 October 2009	Minister Gillard makes the first declarations under the Fair Work Act to allow multiple employers to bargain for a single enterprise agreement. The declarations applied to Victorian kindergarten employers, Queensland Lutheran schools, Queensland Catholic schools and two New South Wales hospitals.	First single interest bargaining declarations under Fair Work Act
28 October 2009	Senate resolves to require the President of FWA, Giudice J, to appear before Senate Estimates Committee.	Resolution
11 November 2009	Queensland passes its referral bill. It extends the Fair Work Act to the Queensland private sector through a text-based referral.	Fair Work (Commonwealth Powers) and Other Provisions Act 2009
16 November 2009	AIRC removes exemption clauses, in the Clerks – Private Sector Award and Banking, Finance and Insurance Award thus restoring an award safety net in respect of certain provisions	Australian Municipal, Administrative, Clerical and Services Union – Variation [2009] AIRCFB 922 (16 November 2009) Finance Sector Union – Variation [2009] AIRCFB 923 (16 November 2009)
17 November 2009	AIRC releases draft labour hire clauses to be inserted in modern awards in lieu of a stand-alone labour hire award. South Australia passes Fair Work referral legislation. Opposition senators call for the tabling of past and future bilateral intergovernmental agreements concerning the framework of the national workplace relations system.	Labour hire award provisions statement Fair Work (Commonwealth Powers) Act Senate Hansard p. 8001
19 November 2009	Tasmanian Parliament passes its industrial relations referral legislation	Industrial Relations (Commonwealth Powers) Act 2009
30 November 2009	Part-time members of FWA’s Minimum Wage Panel (John Vines, Professor Sue Richardson and Peter Dwyer) were announced. The panel will include the FWA President and three FWA members.	Fair Work Australia’s Minimum Wage Panel appointed
1 December 2009	NSW Parliament passes its industrial relations referral legislation. The Hon Tony Abbott was elected Leader of the Parliamentary Liberal Party, and thus Leader of the Opposition in the Federal Parliament. Senator Eric Abetz is later appointed as Shadow Minister on Employment and Workplace Relations.	Industrial Relations (Commonwealth Powers) Act 2009 Surprise victory for Abbott sets party on new journey. (CT)

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2 December 2009	Federal Parliament passes the Fair Work Amendment (State Referrals and Other Measures) Bill thus facilitating the start-up a national industrial system (excluding Western Australia) from 1 January 2010.	Fair Work Amendment (State Referrals and Other Measures) Act 2009
3 December 2009	Fair Work Ombudsman releases the information statement that national system employers will be required to give to all new employees from 1 January 2010.	Fair Work Information Statement
4 December 2010	AIRC publishes its Stage 4 awards, completing the initial phase of award modernisation and replacing some 1560 state and federal awards covering 93 industries and occupations with 122 modern awards, operative on 1 January 2010.	Decision on award modernisation – Stage Four – [2009] AIRCFB 945 (4 December 2009)
15 December 2009	Six commissioners were appointed to FWA with a further twelve dual appointees as either FWA commissioners or deputy presidents.	Fair Work Australia Commissioners appointed
1 January 2010	The balance of the Fair Work system comes into effect for corporate employers in respect of the National Employment Standards and modern awards, although ‘enterprise’ awards may continue to 31 December 2013 unless application is made to replace an enterprise award with a modern award.	
	The Fair Work (State Referral and Consequential and Other Amendments) Regulations commence. The AIRC concludes its award modernisation task and is replaced by FWA.	FW (State Referral) Regulations
5 January 2010	Fair Work Australia rejects several enterprise agreements that sought to give employees the option of nominating their preferred work hours in exchange for giving up overtime or other penalty rates	Bupa Care Services Pty Ltd [2010] FWA 16 (5 January 2010)
29 January 2010	Business Council of Australia (BCA) releases a paper prepared by Professor Breen Creighton on the FW Act’s good faith bargaining provisions. It argued that FWA should use its discretionary powers to encourage bargaining representatives to try to resolve their differences by direct negotiation rather than by seeking formal orders and judicial intervention.	Good Faith Bargaining Under the Fair Work Act, Striking a Balance
	ACTU urges 1500 construction workers on the Pluto LNG project striking over changes to accommodation arrangements to return to work and for the dispute to be negotiated.	ACTU calls for end to Pluto gas strike
2 February 2010	MUA and Total Marine Services reach an in principle agreement on the operation of oil and gas vessels in WA off shore gas and oil sector, after industrial action.	Union forces \$50,000 pay hike.
4 February 2010	Minister Gillard introduces amendments to the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2009.	Building Inspectorate amendments

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12 February 2010	Rio Tinto Australia advises its rail employees that it will bargain with the CFMEU for a collective agreement. The outcome follows an application made by the CFMEU to FWA for a majority support determination.	Dangers in union power revival
19 February 2010	Reserve Bank Governor Glenn Stevens calls for parties in industrial negotiations to exercise their FWA negotiating powers judiciously.	Senate Economics Committee - Transcript
22 February	Australian Minerals and Mining Association (AMMA) calls for the retention of ITEAs, industrial action restrictions and right of entry restrictions in a 9 page open letter to the Prime Minister and Opposition Leader.	Workplace relations: future policy direction
24 February 2010	Minister Gillard praises the work of FWA in modernising awards and streamlining business compliance costs.	Delivering the Education Revolution
26 February 2010	Woolworths successfully appeals a refusal by an FWA commissioner to approve an enterprise agreement which did not allow for arbitration by FWA over terms of its provisions.	Woolworths Ltd trading as Produce and Recycling Distribution Centre [2010] FWAFB 1464 (26 February 2010)
2 March 2010	FWA makes its first scope (coverage) order	AMWU-Western Australian Branch v Airflite Pty Ltd [2010] FWA 1723 (2 March 2010)
11 March 2010	International Labour Organisation's (ILO) Committee on the Application of Conventions noted the full introduction of the FW Act but raised concerns over the Australian Building and Construction Commission (ABCC), arguing that the ABCC should act more like a labour inspectorate rather than prosecuting workers.	Report of the Committee of Experts on the Application of Conventions and Recommendations – ILC , 99th Session, 2010
25 March 2010	Federal Court finds against plaintiff in the first FW Act adverse action matter brought before it.	Barclay v The Board of Bendigo Regional Institute of Technical and Further Education [2010] FCA 284
31 March 2010	Australian Chamber of Commerce and Industry (ACCI) releases a two-page summary highlighting major aspects of the federal government's Fair Work industrial relations system.	Australia's new IR system
7 April 2010	FWA refuses its first application for a take home pay order due to award modernisation. It pointed the parties to a mechanism to counter the apparent decrease in hours brought about by moving to the new award.	Valmai Archer [2010] FWA 2703
15 April 2010	FWA full bench rules that preferred hours clauses used by aged care and retail employers would have disadvantaged employees, thus depriving employees of overtime or other	Preferred hours decision

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	penalty rates when they volunteer to work additional hours (upholding an earlier FWA approach in <i>Bupa</i>).	
23 April 2010	FWA issues a majority support determination in respect of the computer supplier IBM	Majority Support Determination
28 April 2010	FWO issues a guide of its interpretations of modern award transitional arrangements determined by Fair Work Australia.	Draft guide to award transitional arrangements
29 April 2010	FWA orders members of the AEU not to proceed with a planned boycott of the ‘NAPLAN’ exam.	Australian Capital Territory v Australian Education Union [2010] FWA 3454
6 May 2010	Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulations 2010 expand the circumstances in which Fair Work Australia (FWA) can make orders to ensure that award modernisation does not result in a reduction of workers’ take-home pay by providing for ‘class of employee’ and pre-emptive orders.	Take-home pay regulations
10 May 2010	Liquor, Hospitality and Miscellaneous Workers’ Union (LHMU) make a ‘low paid bargaining’ application with multiple employers on behalf of aged-care non- nursing workforce.	Workers ramp up pay claims (AFR)
12 May 2010	ABS trade union membership data show that union density in Australia increased in the 12 months to August 2009 by 82 200, to 1.83 million (19.7% of the national workforce).	Employee Earnings, Benefits and Trade Union Membership, Australia
13 May 2010	Opposition Leader Tony Abbott foreshadows a return to individual agreements, public sector freeze and small business unfair dismissal exemption in Coalition IR policy, in the run-up to the next federal election.	Budget Reply speech (p.83)
19 May 2010	Private sector rates of pay excluding bonuses fell to 2.5% annually in trend terms in the year to March. Overall, rates of pay excluding bonuses increased by 2.9% annually.	Labour Price Index, Australia, March 2010, 6345.0
19 May 2010	FWA Full Bench grants an appeal by the Workplace Relations Minister and employers over an FWA decision which held that an IFA (Individual Flexibility Agreement) varying the terms of a proposed enterprise agreement could not be valid.	Minister for Employment and Workplace Relations [2010] FWAFB 3552 ‘Trimas’ (19 May 2010)
20 May 2010	AMMA releases a policy paper criticising FW Act obligations to negotiate flexibility terms collectively (in enterprise agreements) with ‘recalcitrant’ unions before Individual Flexibility Agreements (IFAs) can be negotiated	Individual Flexibility Arrangements (under the Fair Work Act 2009), The Great

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	individually with employees.	Illusion
1 June 2010	FWA Full Bench grants an appeal by employers quashing an FWA order granting protected industrial action over a clause of a proposed enterprise agreement which would have required the employer's contractors to employ their staff on union terms, as not being permissible content.	Airport Fuel Services Pty Limited v Transport Workers' Union of Australia PR997607, 1 June 2010 and [2010] FWAFB 4457, 17 June 2010
1 June 2010	President of FWA, Giudice J, argues that the Senate resolution requiring his attendance before the Senate Employment Committee may act to harm the independence and impartiality of FWA and that FWA members enjoy immunity similar to that of High Court judges.	Committee Transcript (pp 85–87)
2 June 2010	ABS National Accounts data show that trend real non-farm unit labour costs fell by 2.8% in the year to March 2010, falling by 2.1% in the March quarter, while GDP per hour worked in the market sector (labour productivity) rose by 1.9% in trend terms in the year to March and 0.3% in the March quarter.	Australian National Accounts: National Income, Expenditure and Product, March Quarter 2010, 5206.0
3 June 2010	FWA Minimum Wage Panel increases award rates by \$26, effective from the first full pay period after 1 July, but also notes that the incremental compression of rates above C14 has been significant.	Annual Wage Review 2009–10 2010 FWAFB 4000
11 June 2010	FWA Full Bench, on appeal from the Minister for Workplace Relations and employers, overturns a right of entry clause of an enterprise agreement, as being not in the terms (ie less prescriptive) than the RoE provisions as set out in the FW Act.	Australian Industry Group [2010] FWAFB 4337 'Dunlop Foams' (11 June 2010)
11 June 2010	The Federal Court finds Queensland Rail had breached consultation provisions of workplace agreements affecting up to 15,000 employees and orders the maximum \$33,000 penalty for 20 separate failures (\$660 000) to consult unions about major change and for the penalty to be paid to the five unions which brought the proceedings.	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v QR Limited [2010] FCA 591
16 June 2010	The Riverina Division of General Practice enterprise agreement is revealed to have been approved by one FWA officer 'on the papers' in March while in a duplicate approval process, a second FWA officer felt that the same document would not pass the NDT, an outcome ridiculed by the Federal Opposition.	Labor's Fair Work Australia - Twice the Confusion

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22 June 2010	Unions representing employees of a Victorian foundry use provisions of the FW Act (rather than the Corporations law) to begin to recover \$2m of accrued entitlements by pursuing the business's director after the business became insolvent in Nov 2009.	New laws used to get entitlements (Age)
23 June 2010	Senate defeats a motion proposing to change an earlier resolution requiring President Giudice's appearance at each Senate Estimates to an 'as requested' basis.	Motion ballot
24 June 2010	The Minister for Education Employment and Workplace Relations, Julia Gillard, becomes Australia's first female Prime Minister replacing Kevin Rudd.	Gillard eyes true mandate (CT)
25 June 2010	FWA Full Bench agreed with employers that overtime is not subject to 'phasing' and clarified that employers are generally permitted to absorb modern award pay increases into employees' over-award payments. The decision requires the FWO to clarify its advice on over-award absorption in its guidance notes.	s158 application by the AMWU to vary or revoke a modern award and s160 application by the AiG to vary a modern award to remove ambiguity or uncertainty or correct error [2010] FWAFB 4488
28 June 2010	Simon Crean is appointed Minister for Education, Employment and Workplace Relations (and Social Inclusion).	A Very Safe Pair of Hands (Age)
30 June 2010	FWA's Minimum Wage and Research Branch publishes a guide to the transition to FW Act awards and agreements from previous federal and state instruments including state referred instruments, which may take up to 4 years.	Minimum wage transitional instruments
1 July 2010	The phasing of award rates of pay over 5 years from previous state and federal awards to modern award rates commences in 20 per cent increments or decrements.	FWO Guidance Note 7
9 July 2010	FWA refuses employer application to reduce the Modern Retail Award's minimum hours for casuals from three to two.	National Retail Association Ltd and Ors [2010] FWA 5068
14 July 2010	AiG releases a review of the first 12 months of the FW system's operation, noting particular FWA cases in which AiG and employers intervened concerning matters such as good faith bargaining, ballots for approving agreements, industrial action ballots and similar.	Fair Work Act - Bargaining Provisions : The First 12 Months
16 July 2010	Australian Retailers Association signals an appeal against FWA's decision to retain the three hour minimum shift for casuals in the Modern Retail Award.	NRA fights for youth jobs in appeal against Fair Work decision

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16 July 2010	AiG releases a paper which argues that the FW Act's transfer of business provisions hamper transfer of employees to acquiring ICT enterprises.	Transfer of Business Provisions of the Fair Work Act - Negative Impacts Upon the ICT and Other Industries.
17 July 2010	Prime Minister Gillard calls a federal election to be held on 21 August 2010, while the Federal Opposition commits to leaving the FW Act, including its unfair dismissal provisions, unchanged in its first term.	Statement on Workplace Relations
18 July 2010	AiG proposes three areas for FW Act reform: transfer of business; discounted FWA safety net increases in light of the ALP's signalled superannuation increases and mandatory individual flexibility provisions in enterprise agreements.	Comment on potential changes to Fair Work Act
20 July 2010	The Government issues a revised preamble to the Small Business Fair Dismissal Code informing employers that the requirements for determining whether a dismissal was a genuine redundancy are contained in section 389 of the FW Act, while a number of employer groups express disappointment at the Opposition's 'no amendments' commitment.	Small business updated dismissal code and checklist Pressure on Liberals for dismissals move
20 July 2010	ACTU proposes \$1 per union member levy to fund a \$1.8m campaign against the reintroduction of Work Choices and itemises provisions of the FW Act which a future Coalition Government might amend via changes to the Act's regulations.	Abbott's "tweaks" leave back door open for worst of WorkChoices to return
20 July 2010	Coalition proposes budget savings in the 2010 federal election campaign which inter alia propose to remove the \$6m pa subsidy from unions for conducting industrial elections raising questions as to whether the relevant FW Acts will need to be amended.	Abbott carves out \$1.2 billion of savings
23 July 2010	AMMA releases a review of the first 12 months operation of the FW Act finding that mining employers have had reduced ability to negotiate directly with their workforces, faced increasing the authority of Fair Work Australia and unnecessary complexity to agreement making.	Finding Fairness: A review of the first 12 months of the Fair Work Act 2009
28 July 2010	CFMEU urges Pluto workers who took industrial action (see entry for 29 January 2010) over accommodation changes to accept out of court settlements or face large penalties for the action.	Union advises workers to settle or face fines
20 August 2010	Computer company IBM agrees to new individual contracts for 80 staff members after the Australian Services Union had earlier won a FWA majority support determination for union representation in the negotiation of the contracts subject to the relevant award and NES safety net.	Union wins deal for IBM workers

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