

CHAPTER 2

TRENDS IN THE WORLD OF WORK

FOCUS TOPICS

- 2.1 INTRODUCTION
- 2.2 A FLEXIBLE WORKPLACE RELATIONS SYSTEM-THE LEGAL FRAMEWORK
- 2.3 A LEGAL RESPONSE TO STRUCTURAL CHANGE
- 2.4 UNEMPLOYMENT
- 2.5 WORKER PARTICIPATION
- 2.6 CONCLUSIONS

FOCUS OBJECTIVES

To understand and appreciate:

- ▶ the nature of the legal framework applying to the workplace relations system under the *Fair Work Act 2009* (Cth);
- ▶ the nature and significance of the structural changes to the Australian workforce in the last 10 years;
- ▶ the recent laws passed in the last four years allowing overseas workers to work in Australia on a temporary basis;
- ▶ the special position of the unemployed worker;
- ▶ that despite the long-term trend, participation by women in the workforce and pay rates for women are not yet equal to those of men; and
- ▶ the hidden social costs of certain work practices introduced in response to structural changes in the workforce.

2.1 INTRODUCTION

Philip Lowe, Deputy Governor of the Reserve Bank of Australia gave a speech to the Financial Services Institute of Australia in Hobart on 9 October 2012 entitled “**The Labour Market, Structural Change and Recent Economic Developments**” (the Lowe speech). Mr Lowe commented that today’s “*industrial relations system is more flexible than it was two decades ago*”.

In this chapter we will briefly outline the laws which apply to the workplace relations system. We will look at the structural changes to the labour force in the Australian economy and the response of the legal system to these changes. We will also look at how the law deals with unemployment and with the issues that arise with worker participation, in particular, the participation of women in the workforce. Finally, we will attempt to draw some conclusions about workplace relations as they presently stand, and give some consideration to the social and personal consequences of the changes that have occurred and are continuing in the workplace.

2.2 A FLEXIBLE WORKPLACE RELATIONS SYSTEM -THE LEGAL FRAMEWORK

JURISDICTION

Most workers in Queensland are now covered by Commonwealth laws. The main Commonwealth law regulating workplace relations is the *Fair Work Act 2009* (Cth) formerly the *Workplace Relations Act 1996* (Cth). In 1996 the federal government used the corporations power under the Australian Constitution to extend its jurisdiction in the workplace to all corporations in Australia. This was contested in the High Court which dismissed the challenge by the states.

The corporations power usually applies only to incorporated companies throughout Australia but the High Court has ruled that public hospitals and educational institutions are “**constitutional corporations**” which means federal workplace laws apply to them as well. However in 2010, all states except Western Australia extended the jurisdiction of the *Fair Work Act* to sole traders, partnerships and other non corporate employer businesses. Each state in Australia has its own workplace laws to cover those workers who are not covered under the *Fair Work Act*. In Queensland the relevant act is the *Industrial Relations Act 1999* (Qld).

There are many other acts both state and federal which apply to employees and employers, in Queensland. Most of these are set out in the table below.

| COMMONWEALTH LAWS RELATING TO WORK: | QUEENSLAND LAWS RELATING TO WORK: |
|---|--|
| <i>Fair Work Act 2009</i> (Cth) | <i>Industrial Relations Act 1999</i> (Qld) |
| <i>Sex Discrimination Act 1984</i> (Cth) | <i>Anti-Discrimination Act 1991</i> (Qld) |
| <i>Racial Discrimination Act 1975</i> (Cth) | <i>Holidays Act 1983</i> (Qld) |
| <i>Disability Discrimination Act 1992</i> (Cth) | <i>Child Employment Act 2006</i> (Qld) |
| <i>Human Rights and Equal Opportunity Commission Act 1986</i> (Cth) | <i>Pastoral Workers’ Accommodation Act 1980</i> (Qld) |
| <i>Workplace Gender Equality Act 2012</i> (Cth) | <i>Workers’ Compensation and Rehabilitation Act 2003</i> (Qld) |
| <i>Work Health and Safety Act 2011</i> (Cth) | <i>Private Employment Agents Act 2005</i> (Qld) |
| | <i>Work Health and Safety Act 2011</i> (Qld) |
| | <i>Workers Accommodation Act 1952</i> (Qld) |



▶ WHAT DO YOU THINK?

The Australian system of employment law regulation has often been criticised for being overly complex. This is largely the result of the Constitutional division of powers between the Commonwealth and States. Do you think it would be simpler to have one national system of workplace laws, rather than a division of responsibilities between States and the Commonwealth? [E]

FAIR WORK ACT 2009 (CTH) (THE ACT)

Section 4 sets out an overview of the Act.



- (1) This Act is about workplace relations. It:
 - (a) provides for terms and conditions of employment (Chapter 2); and
 - (b) sets out rights and responsibilities of employees, employers, and organisations in relation to that employment (Chapter 3); and
 - (c) provides for compliance with, and enforcement of, this Act (Chapter 4); and
 - (d) provides for the administration of this Act by establishing Fair Work Commission and the Office of the Fair Work Ombudsman (Chapter 5); and
 - (e) deals with other matters relating to the above (Chapter 6).

Overview of the rest of this Chapter

- (2) The rest of this Chapter deals with:
 - (a) definitions that are used in this Act (Part 1-2); and
 - (b) the application of this Act (Part 1-3), including how this Act interacts with certain State and Territory laws and its geographical application.

APPLICATION OF THE ACT

The Act applies to employees, employers, organisations of employees, and organisations of employers, that come under its jurisdiction. These are referred to in the Act as national system employees, national system employers, national system employee organisations and national system employer organisations. The Act states that employee and employer have their ordinary meanings (s 11). The *Concise Oxford Dictionary* defines 'employ' as 'use services of (person); keep (person) in one's service'.

The basis of the legal relationship of employment is that a person (the employee) is engaged in or agrees to perform work for another (the employer). This is usually known as a contract of service.

OPERATION OF THE ACT

The Act allows employees, employers, employee organisations (trade unions), and employer organisations (**the stakeholders**) to choose between negotiating a **modern award** or an **enterprise agreement**. The Act sets out National Employment Standards, which are minimum terms and conditions that apply to all national system employees. There are also mandatory terms which must be included and excluded from each award and agreement. However, the fact that different types of arrangements can be negotiated by the stakeholders in good faith, has given considerable flexibility to the workplace relations system.

NATIONAL EMPLOYMENT STANDARDS

These cover the essential terms and conditions such as wages, hours of work, leave. They are set out in detail in chapter 3 of the book.



CH 3

MODERN AWARDS

A modern award is made for a particular industry or occupation and provides additional minimum terms and conditions for those national system employees to whom it applies. A modern award can have terms that are ancillary or supplementary to the National Employment Standards.

Here are some modern awards made under the Act.

- ▶ Aged Care Award 2010
- ▶ Air Pilots Award 2010
- ▶ Aircraft Cabin Crew Award 2010
- ▶ Architects Award 2010
- ▶ Black Coal Mining Industry Award 2010
- ▶ Car Parking Award 2010
- ▶ Educational Services (Teachers) Award 2010
- ▶ Fast Food Industry Award 2010
- ▶ Gas Industry Award 2010
- ▶ Legal Services Award 2010
- ▶ Nurses Award 2010
- ▶ Pastoral Award 2010
- ▶ Supporting Organisations Award 2010
- ▶ Waste Management Award 2010

ENTERPRISE AGREEMENTS

An enterprise agreement is made by the stakeholders at the enterprise level and provides terms and conditions for those national system employees to whom it applies. An enterprise agreement can have terms that are in addition to ancillary or supplementary to the National Employment Standards.

Before an enterprise agreement is validly made it is checked against the National Employment Standards and against any award to ensure that its terms and conditions are not detrimental to the national system employees to which it applies. Hundreds of enterprise agreements have been made under the Act.

2.3 A LEGAL RESPONSE TO STRUCTURAL CHANGE

STRUCTURAL CHANGE

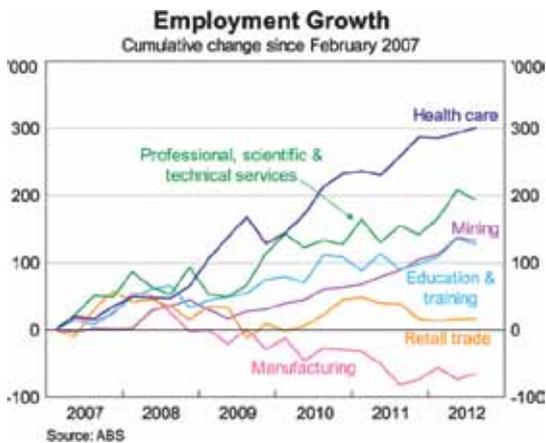
The industrialisation and growth of Asia has been the cause of much of the structural change in Australia's workforce. For some years there has been a rapid expansion of our resources sector. Imports of manufactured goods from Asia are cheaper than the same Australian products, resulting in a decline in manufacturing. Some Australian enterprises have moved to Asia to manufacture their products.

Since 2007, around 300,000 net new jobs have been created in the healthcare sector, 200,000 jobs in professional and scientific services, and around 130,000 jobs in each of the mining and education sectors. In contrast, the number of manufacturing jobs has declined by around 70,000, and the number of jobs in retailing is largely unchanged.

(Source: the Lowe speech)

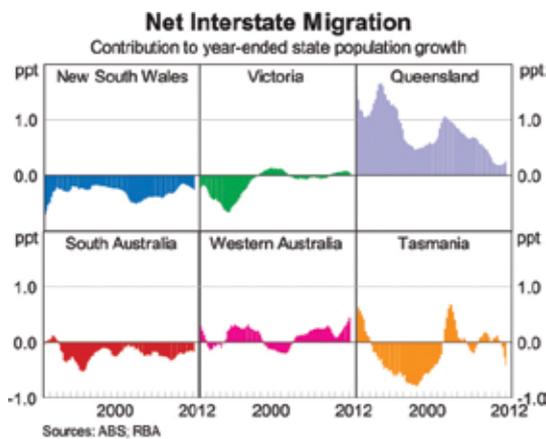
Study the graphs below and answer the questions about each one.

GRAPH 1



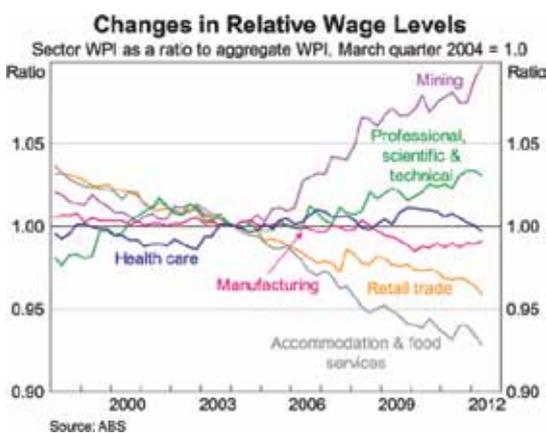
1. In which sectors have the number of jobs increased since 2007? [K]
2. In which sector has the number of jobs decreased since 2007? [K]
3. Is the number of new jobs created greater than the number of jobs lost since 2007? [K] [I]
4. What effects do you think these changes would have on where people live, the wages they are paid to work, and unemployment? [I] [E]

GRAPH 2



1. Describe the net inflows/outflows for each state in the period 2007 to 2012. [K][I]
2. In respect of the states of Western Australia and Queensland can you explain the factors which may have led to the net inflow of population to each? [K][I]

GRAPH 3



1. Describe trends in wage levels in each of the sectors of the graph. [K]
2. What economic conditions do you think have been faced by each of the sectors in recent times? [K] [I]
3. Do you think there could be a correlation between the increase in relative wage levels in the mining and the professional, scientific, and technical sectors? [K] [I]

GRAPH 1, 2 and 3

1. Describe the correlation between the trends shown on each graph for each sector. [K] [I]
2. What factors do you think may have contributed to the correlations you have described? [K] [I]
3. Assume that the Australian labour force has responded extremely well to the needs of the sectors which are growing but that you want to ensure there is no shortfall in labour supply. What laws might you need to introduce to ensure this is the case? Give your reasons. [I] [E]

THE LEGAL RESPONSE

Australian governments have responded to the recent structural changes caused by the resources boom in a positive way by passing laws which have enabled temporary overseas workers to support the shortfall in the Australian workforce in that sector. There are other sectors such as seasonal workers and skilled migrants which have also been the subject of recent additions to the law. These are all outside the Australian workplace relations system in the *Fair Work Act*. Despite these additional laws, the *Fair Work Act* has been praised in the Lowe speech for its flexibility, enabling the modern economy to meet the needs of the Australian labour market.

The following schemes have been implemented by the Australian Government.



457 VISAS

This is a temporary work visa introduced around 2000 under which an employer can sponsor overseas workers in occupations deemed by the Department of Immigration and Citizenship (DIAC) to be in demand, for up to 4 years. It is an uncapped temporary visa program entirely driven by employer demand.

There was criticism of the 457 visa program by the Australian Council of Trade Unions (ACTU).

The 457 visa program saw a significant increase in temporary workers from developing countries. Workers from these countries, according to the ACTU, tend to be at a greater risk of being exploited by unscrupulous recruitment and migration agents and employers through:

- ▶ the potential for recruitment and/or migration agents to provide misinformation during the recruitment process;
- ▶ language barriers;
- ▶ a lack of traditional support and family networks in Australia;
- ▶ unfamiliarity with the way the Australian legal and administrative system works; and
- ▶ a lack of knowledge of their rights under Australian law and low rates of union membership.

Some workers on 457 visas were underpaid, abused, and subjected to substandard conditions of work. Many of these had little or no English and lacked the technical skills that they were supposed to have to be eligible for the 457 visa. Some employers used the 457 scheme to underpay workers and to avoid the responsibility for training workers in areas of skills needs.

As a result of the ACTU criticisms and other media exposure, there was a review conducted of the 457 visa process (The Deegan Review). The Australian Government, as a result of that review, introduced the *Workers Protection Act 2009* (Cth). This introduced reforms, including

- ▶ the requirement to pay market rates to 457 visa holders;

- ▶ the right for 457 visa holders to change jobs without applying for a new visa; and
- ▶ the requirement that all new 457 visa holders be responsible for all health costs for themselves and their family.

The 457 visa program - the latest figures from DIAC show that

- ▶ the total number of 457 visa workers in Australia at 31 March 2012 was at an all-time high of 88,590, an increase of 22% over the prior 12 month period;
- ▶ applications granted from July 2011 to 31 March 2012 were 50,960, up 49.2% in 12 months;
- ▶ visas granted to trade workers were up 140% in 12 months.



▶ RESEARCH

Contact the ACTU and/or visit their website at www.org.actu.org.au and investigate the ongoing use of the 457 visa program. Write a short report setting out the main features of the program and evaluating its success or otherwise. In your answer consider the role played by the Australian Government and the ACTU. [K] [I] [E]

OTHER AUSTRALIAN GOVERNMENT INITIATIVES

ENTERPRISE MIGRATION AGREEMENTS

EMAs are agreements between the project owners of major resource construction projects and the Australian Government to provide upfront approval for an agreed number of temporary overseas workers to be employed during the life of the project. It is not a new visa. Overseas workers sponsored under such an EMA will automatically hold 457 visas and are subject to the *Workers Protection Act 2009* (Cth). Employers of the 457 workers under an EMA must comply with sponsorship obligations, including paying Australian market salary rates. Sanctions apply for non-compliance.

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Practical application

Why 1700 skilled migrants is good news for the Australian jobseeker

29 May, 2012 AMMA Mining Oil and Gas Jobs

Last week the first enterprise migration agreement (EMA) was signed between the Australian government and Roy Hill iron ore project operated by Gina Rinehart.

It was widely reported more than 1700 skilled migrants will be brought into Australia over the next three years to work on that project.

What didn't get as much column space was just how many Australian workers are going to benefit from the same project.

The facts about EMAs

Lots of misinformation has been floating around about the EMA program along with an awful lot of hype.

Here are some facts not often discussed:

- ▶ An EMA can only be granted to projects where capital expenditure is in excess of \$2billion.
- ▶ The workforce for a project awarded an EMA must be greater than 1500 workers.
- ▶ Migrant workers brought in under an EMA must be paid Australian wages and provided the same working conditions as any other Australian worker.
- ▶ An employer bringing in migrant workers has an obligation to train at least an equal number of Australian workers.
- ▶ Skilled migrants are coming in on temporary work visas, not permanent residency visas.

Practical application continued...**P**

The Australian government has constructed these agreements to benefit the Australian workforce for the long term, while ensuring the short-term needs of the construction projects will be filled.

How Australians benefit from the Roy Hill project

While 1,700-1,800 skilled migrant workers will be brought into Australia during the construction phase of Roy Hill, the project will employ 8,000 people in total.

This means the vast majority of the workforce will be Australian.

In addition, Hancock Prospecting is obligated to train 2000 Australian workers in exchange for the short-term migration visas.

About 83% of the \$10 billion budget for Roy Hill will be spent on Australian workers on Australian manufactured, constructed or assembled goods.

The takeaway for Australian jobseekers

Australia is suffering from a significant skills shortage at the very moment massive projects are ready for construction.

10,000 people in the country are currently in apprenticeship programs but these take four years to complete.



Skilled migrants are required as a temporary skills injection for the short term to ensure jobs for 8,000 skilled Australians.

Don't forget:

Subscribe to our blog and never miss a single post.

If you're interested in a job in mining, energy, or oil and gas, browse our industry jobs board to find out what's currently available.

*This post originally featured on the **Mining Oil and Gas Jobs** blog.*

1. How many temporary overseas workers can Roy Hill employ under the EMA? [K]
2. Identify and set out in your own words the conditions which apply to the EMA. [K] [I]
3. What reasons does the author of the article say make the Roy Hill EMA good for Australian workers? Do you agree with all of them? Can you think of any reason why the Roy Hill EMA may not be good for Australian workers? [K] [I] [E]

REGIONAL MIGRATION AGREEMENTS (RMA)

An RMA is designed to cover a number of employers in a region. An RMA will allow a certain number of overseas workers to be sponsored by participating employers in a defined region over the duration of the agreement.

Practical application**P**

New agreement to meet Darwin's growth challenges

16 February 2012

Joint media release with Chris Bowen MP – *Minister for Immigration and Citizenship* and Delia Lawrie MLA – *Northern Territory Deputy Chief Minister*.

The Minister for Immigration and Citizenship, Chris Bowen MP, and Northern Territory Deputy Chief Minister, Delia Lawrie MLA, today announced a new migration program for the Darwin region to help employers fill skills and labour shortages associated with major projects.

P

Practical application continued...

'The Federal Government has commenced negotiating Australia's first Regional Migration Agreement (RMA) for the Top End of the Northern Territory, which is designed to help regions hire overseas workers where there is a genuine need to do so,' Mr Bowen said.

'Darwin is set to experience huge growth, with demand for workers expected to outstrip local and national supply.

'This RMA will act as a pressure valve for the local economy, helping businesses experiencing a shortage of staff to find workers when none can be sourced locally.'

The RMA program, which is expected to be in place in the first half of this year, aims to assist small businesses which may find it difficult to use standard migration programs while ensuring Australians remain the first choice for employers.

'The NT Government is focused on seeing Territorians benefit from major projects such as Ichthys. While we are investing heavily in local training, it is still not enough to meet demand in a competitive Australian labour market,' Ms Lawrie said.

'Major projects will draw local workers away from smaller employers, and this RMA will assist those businesses to backfill these gaps in their workforce.

'After consulting with employers, community groups and unions about how labour shortages are impacting them, we will now be conducting targeted stakeholder consultations to ensure community views are taken into account in finalising the RMA program.'

The RMA program was announced in the 2011–12 Budget to offer a coordinated, localised response to labour needs. Darwin has been chosen as the first RMA location due to current labour shortages which are expected to be further exacerbated by several major resource projects.

Other regional areas experiencing skills and labour shortages will be eligible for RMAs in the coming months, with guidelines on the application process to be published by the end of March.

1. What reason is given for the new migration program for the Darwin region? [K]
2. Why is an RMA proposed for the Darwin region? [K] [I]
3. Who is expected to benefit from the RMA? [K] [I]
4. Find out the guidelines on the application process and the eligibility criteria to apply for an RMA. What are the similarities and differences between the Roy Hill EMA and the proposed Darwin RMA? In what ways do they compete with each other, if any, and in what ways could they complement each other? [K] [I] [E]

PACIFIC SEASONAL WORKER PILOT SCHEME

In late 2007 the Australian Government announced that up to 2500 visas would be granted over three years providing workers from the Pacific Islands with the opportunity to work in the horticultural industry in regional Australia for up to 7 months every 12 month period, where there is a demonstrated unmet demand for labour.





Pacific and East Timor workers helping Australian farmers and tourism industry

Sunday 18 December 2011

Joint Media Release

The Hon Bill Shorten MP

Minister for Employment and Workplace Relations, Financial Services and Superannuation

The Hon Kevin Rudd MP

Minister for Foreign Affairs

The Hon Martin Ferguson AM MP

Minister for Resources and Energy and Minister for Tourism

Australian farmers will be able to employ workers from the Pacific Region and East Timor under a permanent Seasonal Worker Program announced by Minister for Employment, Workplace Relations, Financial Services and Superannuation, Bill Shorten MP, Minister for Tourism, Martin Ferguson AM MP, and Foreign Minister, Kevin Rudd, today.

The \$21.7 million Seasonal Worker Program will begin on 1 July 2012 and builds on the success of the Pacific Seasonal Worker Pilot Scheme.

"Australian employers in the horticulture sector unable to source enough local Australian workers will now be able to access a reliable, returning seasonal workforce," Minister Shorten said.

"This valuable program contributes to economic development in participating countries, while offering Australian employers seasonal staffing help when needed.

"Employers will now have certainty at harvest time and seasonal workers will be able to

improve their skills and have a level of financial security."

Foreign Minister Rudd said the decision to fund a permanent program provides a clear indication of Australia's commitment to development and engagement with the Pacific region and East Timor.

"This program will provide valuable economic opportunities for workers from the Pacific region and East Timor and will make a real difference for them and their communities," said Mr Rudd.

"Today's announcement is an important signal to our regional neighbours East Timor, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu of Australia's commitment to their economic development."

Minister Ferguson said the Australian Government will also carry out a small-scale, three-year trial with accommodation providers in the tourism industry.

"The tourism industry currently has around 36,000 vacancies. Severe labour shortages are more pronounced in regional areas where the sector is competing for workers with the booming resources sector," Minister Ferguson said.

"This three year trial will make a real difference for the tourism industry, both here in Australia and in the region as tourism is a primary source of employment and economic development.

P Practical application continued...

"It is a win-win outcome that will allow Australian tourism operators to help meet labour requirements particularly in peak seasons, while also improving workforce skills through education and training for workers from Pacific countries and East Timor, which in turn helps them to compete globally.

"The Seasonal Worker Program extends the wider program of engagement and co-operation between Australia, the Pacific and East Timor to promote economic growth."

Cotton and cane growers as well as fishing operators will also be included in the small scale trial.

Australian employers will be required to demonstrate they have a commitment to employing Australian job seekers as a first priority, employ seasonal workers in accordance with Australian work standards, and contribute to their travel costs.

Approved employers will manage the recruitment and placement of seasonal workers with the businesses unable to find Australian labour.

Further information about the pilot and the new program is available at www.deewr.gov.au/pswps

1. What has the Pacific seasonal worker pilot scheme become? [K]
2. What benefit will this program have for Australian employers? [K] [I]
3. To which industry in Australia has the program been extended as a trial? How is that being justified by the Australian Government? [K] [I]
4. Of what benefit is the program to the participating overseas countries? [K] [I]
5. You have been asked to make a submission to the leader of the opposition in Federal Parliament in support of, or against this program. Prepare your submission, making any further enquiries that you consider are necessary before doing so. [I] [E]

SKILLSELECT

This is an online system that enables skilled workers interested in migrating to Australia to record their details to be considered for a skilled visa. Intending migrants may be identified and nominated by Australian employers or state and territory governments, or invited by the Australian Government to lodge a visa application. The system started on 1 July 2012.

P Practical application

SkillSelect Invitations to apply to migrate - Round 1 August 2012 Results

On 1 August 2012 the first automated round of invitations to apply to migrate under the skilled independent and skilled family sponsored visas was completed under SkillSelect.

As SkillSelect is a new system, the first run of invitations was reduced in size, to allow us to ensure that all elements of the SkillSelect and electronic lodgement system are working smoothly. While this first round of invitations was small, we expect to be increasing the number of invitations issued in future invitation rounds, so that Australia can benefit from the high quality client submitting Expressions of Interest through SkillSelect. It is anticipated that the next run of invitations will occur on 1 September 2012.

Automated rounds of invitations to apply to migrate result in invitations for the following visas:

Skilled Independent (subclass 189) visa; and
Skilled – Nominated or Sponsored (Provisional) (subclass 489) visa (Family Sponsored)

This process does not include nominations by state and territory governments, which also result in invitations being issued. State and territory governments have been nominating clients since 1 July 2012 and data on outcomes is provided on the next page.

Practical application continued...

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1 August results

The number of invitations to apply to migrate issued under the August 2012 round was 100 places. This is a significantly lower number than the numbers that will be invited for future rounds. The table below shows the allocation of places by the subclass of visa:

| VISA SUBCLASS | INVITATIONS FOR 1 AUGUST |
|--|--------------------------|
| Skilled - Independent (Subclass 189) (Permanent) | 90 |
| Skilled - Regional (Subclass 489) (Provisional) - Family Sponsored | 10 |
| Total | 100 |

1. What is SkillSelect? [K]
2. What was the size of the first run of invitations? [K]
3. What advantages do you think the online system of selection has? What disadvantages? [K] [I] [E]
4. Do you think round one has been successful? [I] [E]

▶ **WHAT DO YOU THINK?**

Conduct a class debate on the topic

“Australian governments have made appropriate and flexible legal arrangements to meet the challenges of structural change and labour shortages caused by the resources boom”.

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2.4 UNEMPLOYMENT**WHAT IS UNEMPLOYMENT?**

The Australian Bureau of Statistics defines an unemployed person as someone who is not currently employed and is actively looking and available for work (or waiting to start a job within four weeks, but was unavailable until that time).

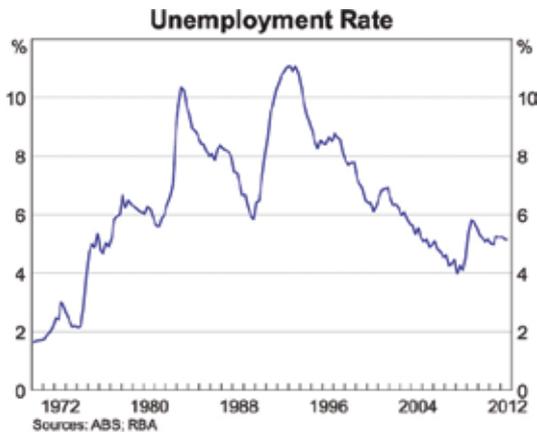
The unemployment rate is the percentage of people in the labour force who are unemployed.

A high unemployment rate can cause serious social and economic problems. When this happens, governments have passed laws to establish programs that complement social and economic policy designed to help people get jobs. Even in good times, there are groups of people that get special assistance from programs set up by governments, both state and federal. Through a complex system of laws the Australian Government provides benefits to the unemployed and their families. We will not be addressing this system of laws in this textbook. If you are particularly interested in this topic you could set up your own enquiry as an independent study to consider the adequacy of the legal response to those in our community who are less fortunate because they are unable to find work. A short description of some of the programs legislated by the Australian Government follows.



P Practical application

AUSTRALIA'S CURRENT UNEMPLOYMENT RATE



1. For how many years in recent times has the unemployment rate been less than 6%? [K] [I]
2. How would you describe the recent unemployment rate? [K] [I]
3. Research the unemployment rates of other comparable countries to that of Australia. Why is the current low and steady unemployment rate in Australia important to the Australian Government? [K] [I] [E]

CENTRELINK

'Delivering a range of payments and services for people at times of major change'



Centrelink is the Australian Government organisation set up under Commonwealth law to pay unemployment benefits and other financial benefits which are part of the social security legislation system. Unemployed persons must provide proper identification and a separation certificate completed by the employer. There are many other benefits administered by Centrelink, for example, family and disability payments and the youth allowance.

JOB SERVICES AUSTRALIA (JSA)

JSA is an organisation set up by Australian Government legislation and funded through that legislation. It aims to provide appropriate support to help job seekers find a job. Employers are also able to use JSA to find staff to meet their recruitment needs. Essentially, JSA is delivered by a network of organisations funded by the Australian Government to provide employment services to job seekers and employers.



The core group of job seekers eligible to use JSA services are:

- ▶ recipients of Newstart Allowance and Youth Allowance, including parents and people with a disability who have part-time participation requirements;
- ▶ recipients of another form of qualifying government income support, such as Disability Support Pension or Parenting Payment (Partnered or Single), who volunteer;
- ▶ young people (those who are aged 15 to 20 years, not employed for more than 15 hours a week or in full-time education and not in receipt of income support);



- ▶ vulnerable young people who are full-time students (those who are aged 15 to 20 years who present in crisis and have at least one serious nonvocational barrier)-they are only eligible for certain services; and
- ▶ Indigenous Australians participating in Community Development Employment Projects.

WORK FOR THE DOLE

This is an important program legislated for and funded by the Australian government which is administered through JSA. Work for the Dole activities are available through not-for-profit organisations, or with local, state, territory or federal government agencies. Participation is voluntary, designed to give participants work experience.



Australian Government

▶ RESEARCH

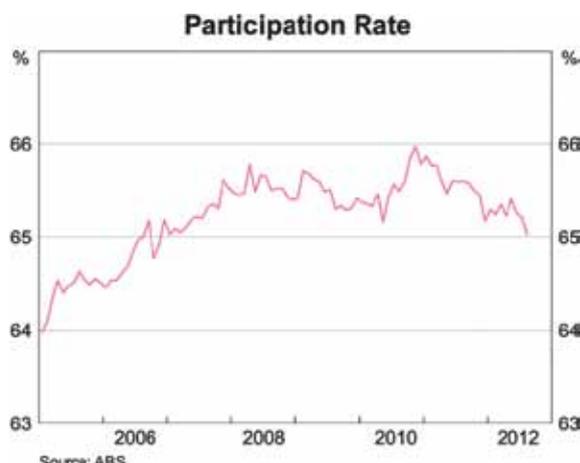
Contact your local Council or any of the local charities. Find one which offers the opportunity for a job seeker to work for the dole. Prepare a set of questions and get permission to ask the selected organisation to allow you to use information if it participates in your school project. Your questions should include at least the following.

1. What is the range of activities in which a job seeker can participate?
2. What arrangements can be made about the hours job seeker's can work?
3. Does the employer offer training to the job seeker?
4. Will the work enhance the job seeker's ability to work as part of a team, be guided by a supervisor, to work independently, to communicate effectively, and to improve the job seekers motivation and dependability?
5. Are the activities in which the job seeker will be engaged designed to generate outcomes to benefit the community?
6. Does the employer comply with State and Territory legislation?
7. Based on the information you receive, write a detailed report about the work for the dole scheme operated by the employer you choose. Set out the advantages and disadvantages of this particular example of the scheme and conclude if it is effective or not. [K] [I] [E]



2.5 WORKER PARTICIPATION

Worker participation is the share of the working age population either with a job or looking for a job.



1. What is the recent trend of the participation rate? [K] [I]
2. Describe the general trend in the participation rate since the mid-2000's [K] [I]
3. The Australian population is ageing. What effect do you think this might have on labour force participation? What other factors might have influenced the recent decline in the participation rate? [I]



Workplace Gender Equality Act 2012 (Cth) (WGEA)

The WGEA complements the provisions in the *Fair Work Act* which entitle employees to make an application to the Fair Work Commission for orders where the employee considers discrimination has occurred on the basis of gender. It also contains important reporting provisions which will assist in the collation of data to improve policy considerations.

The principal objects of the WGEA are

2A Objects of the Act

- (a) to promote and improve gender equality (including equal remuneration between women and men) in employment and in the workplace; and
- (b) to support employers to remove barriers to the full and equal participation of women in the workforce, in recognition of the disadvantaged position of women in relation to employment matters; and
- (c) to promote, amongst employers, the elimination of discrimination on the basis of gender in relation to employment matters (including in relation to family and caring responsibilities); and
- (d) to foster workplace consultation between employers and employees on issues concerning gender equality in employment and in the workplace; and
- (e) to improve the productivity and competitiveness of Australian business through the advancement of gender equality in employment and in the workplace.

The operative parts of the Act are summarised in two simplified outlines at s 2B and 18. These are set out below.



Workplace Gender Equality Act 2012 (Cth) s 28

2B Simplified outline

The following is a simplified outline of this Act:

- ▶ This Act requires various employers (**relevant employers**) to lodge reports each year containing information relating to various gender equality indicators (for example, equal remuneration between women and men).
- ▶ Those reports are available to the public, subject to some exceptions for information that is personal information, information relating to remuneration and information of a kind specified by the Minister.
- ▶ There is a Workplace Gender Equality Agency. Its functions include advising and assisting employers in promoting and improving gender equality in the workplace and undertaking research and programs for the purpose of promoting and improving gender equality in the workplace.
- ▶ There is a Director of Workplace Gender Equality, who manages the Agency.
- ▶ The Agency may review a relevant employer's compliance with this Act by seeking further information from the employer.
- ▶ If a relevant employer fails to comply with this Act, the Agency may name the employer in a report given to the Minister or by electronic or other means (for example, on the Agency's website or in a newspaper).

Workplace Gender Equality Act 2012 (Cth) s 18

18 Simplified outline

The following is a simplified outline of this Part:

- ▶ The Minister will set minimum standards in relation to gender equality indicators, relevant employers and reporting periods.
- ▶ The Agency may review a relevant employer's compliance with this Act by seeking further information from the employer. The Agency may do this on a random basis.
- ▶ If a relevant employer fails to comply with this Act, the Agency may name the employer in a report given to the Minister or by electronic or other means (for example, on the Agency's website or in a newspaper).
- ▶ Examples of a failure to comply with this Act are a failure by a relevant employer to lodge a public report on time or to give the Agency information under s 19A.
- ▶ If the Agency proposes to name a relevant employer, the Agency must give the employer notice in writing of the proposal and the reasons for the proposal.
- ▶ Relevant employers failing to comply with this Act may not be eligible to compete for contracts under the Commonwealth procurement framework and may not be eligible for Commonwealth grants or other financial assistance.

▶ **RESEARCH**

The WGEA replaced the *Equal Opportunity for Women in the Workplace Act 1999* (Cth). Under the WGEA the Australian Government established the Workplace Gender Equality Agency. This agency has a website at www.wgea.gov.au which provides excellent information. Use this and any other sources you think are appropriate including the two acts, to provide the information to enable you to prepare a report on the following topic:

"the passing of the WGEA is an appropriate legal response to the legitimate aspirations of the Australian community for a fair and transparent workplace relations system" [1] [E]



Gender pay gap still a disgrace

January 5, 2013

Dr Anne Summers AO

Author, Journalist & Former Advisor to Prime Minister Paul Keating & Prime Minister Bob Hawke

In the early 1980s when I headed the Office of the Status of Women during the Hawke government I used to travel the country giving speeches about how women were faring. One of the positive trends I liked to identify was the significant increase in women's earnings in relation to men's.

Sure, women still earned only 80.1¢ for every dollar men got but, I argued, given the trend in recent years we were speeding towards parity. No question about it. Just 14 years earlier, in 1970, women earned only 59.1¢ but that had risen to 70.4¢ by 1973 and to 77.4¢ in 1975. In 1979 the figure was 80.6¢. OK, in 1984 it was down a bit but, I used to confidently assert, this is just a temporary blip. There was no way the gender pay gap was not going to be banished from the Australian economy.

Back then I was certainly not pessimistic enough to envisage a scenario in which, almost 30 years later, in 2013, I would be trying to explain why women today earn only 83.5¢. Nor could I have foreseen that this gap is not merely persistent but that it is actually widening. Nine years ago, in August 2004, women almost hit the 85¢ mark, equalling a previous high. But it didn't last and the gender pay gap now seems to be permanently stuck around 17.5 per cent. (This is according to ABS average weekly ordinary full-time earnings; on some other measures the gap is considerably wider.)

And these are just the averages. If you probe a bit, into occupation or location, you will find disparities in pay that are positively Dickensian. Women in Western Australia, for instance, earn 25 per cent less than their male colleagues, considerably less again in the mining regions. Women in the finance sector suffer the worst pay discrimination, with a gender pay gap of 32.7 per cent in May 2012 - a bigger gap than a year earlier.

These statistics, released in August 2012 by the Workplace Gender Equality Agency (WGEA, formerly known as EOWA, the Equal Opportunity for Women in the Workplace Agency), make for grim reading. There is barely an occupation, a job, a sector or an age group where women do not earn less, often hugely less, than men. Young women (aged 15-19) and women working part-time in clerical, services, sales or labouring jobs



earned more than men. But it is difficult to find a statistical example of women and men being paid the same.

So much for equality.

And despite these few examples of a few categories of women earning more than men, the overall earnings outlook for Australian women is outrageously unequal.

In 2009 a report by the AMP and the National Centre for Social and Economic Modelling, based at the University of Canberra, made the shocking finding that Australian men with a bachelors degree or higher and with children could expect to earn \$3.3 million over their working life: "Nearly double the amount for women in the same category at \$1.8 million," the report states.

A 25-year-old woman starting her working life was likely to earn \$1.5 million over the next 40 years, but a man the same age would haul in \$2.4 million. That's almost a million-dollar difference, a finding that led me at the time to assert that there was a million-dollar penalty to being a woman in Australia today.

Now, we find that women's earnings prospects have deteriorated further.

Last October AMP/NATSEM released a new report that showed a 25-year-old woman with

post-graduate qualifications would, over her lifetime, earn \$2.49 million. The 25-year-old man who had sat beside her in class would, by contrast, accumulate \$3.78 million.

This is bad enough but what enraged me about these findings is the fact that the 25-year-old woman with a post-graduate degree, earning her \$2.49 million for her years of study, would take home less than a man with just a Year 12 credential who will earn \$2.55 million.

What kind of incentive is that for women to study and gain qualifications?

Those who don't want to face up to the brutal facts of sex discrimination against women in Australia in 2013 usually argue that these discrepancies can be accounted for in women's interrupted workforce patterns (due to taking time out to have children) and their greater propensity to work part-time.

That proposition has been knocked on the head by this week's release of figures showing a large increase in the past year of the gender pay gap in graduate starting salaries.

This has been a huge wake-up call.

WGEA has done us a great service in compiling and publishing these figures. In the past, we only knew of these discrepancies when individual professions publicised them. For instance, a few years ago the Law Council of Australia revealed that in NSW male law graduates were paid \$70,300 in 2007 while women received only \$63,500.

Now we know that law is one of the better professions when it comes to pay equity. As reported this week by WGEA, female law graduates suffer only a 7.8 per cent gender penalty. Women architects face a 17.3 per cent discrepancy while dentists' pay lags behind men's by 15.7 per cent.

You would never know that under Australian law women and men are meant to receive equal pay.

As Justice Mary Gaudron, the first woman to be appointed to the High Court, famously said in 1979: "Equal pay was 'won' in 1969 and again in 1972 and yet again in 1974." And, she added, "We still don't have it".

In 2009 Julia Gillard, then minister for employment and workplace relations, included provisions for gender pay equity in her Fair Work legislation. But this law does not mandate equal pay, it merely provides that Fair Work Australia can make an order for equal remuneration after an application by an individual, a union or by the Sex Discrimination Commissioner.

There has been one spectacularly successful application to date, that by the Australian Services Union on behalf of low-paid workers, mostly women, in the community and services sector. The resulting order from FWA means these workers will receive pay rises of up to 40 per cent, phased in over several years, starting last December.

Such cases are valuable and there needs to be more of them but they can't cover women in the professions or other non-award covered occupations. Something needs to be done that addresses this inequity in a systemic fashion.

As the figures make clear, the gender pay gap is a national scandal. It amounts to a gender tax, with women making a disproportionate contribution to the national economy. (And that's on top of having the kids and doing most of the housework!)

It is often pointed out that if Australian women's workforce participation was at the same level as men's (79.7 per cent instead of 65.3 per cent) it would add around 13 per cent to GDP. Much government policy, including the cruel pushing single mothers off the parenting payment on to Newstart, is designed to increase women's workforce participation rate.

But women are entitled to question why they should bother working harder, or at all, when the lifetime penalty for doing so is well over \$1 million.

The Prime Minister might want to add this one to her list of examples of sexism and misogyny at work in Australia today.



P

Practical application

1. Set out the statistics referred to in the article showing the number of cents women earned for every dollar men earned. [K] [I]
2. What conclusion does the author draw from the statistics you have set out in response to question 1? [K] [I]
3. The author refers to a report by the AMP and the National Centre for Social and Economic Modelling. Summarise the facts set out by the author from the report in the article. [K] [I]
4. What conclusions does the author draw from the facts contained in the AMP report? [K] [I]
5. What benefits does the author attribute to the WGEA? [K] [I]
6. What does the author say is 'a national scandal'? Does the author make any suggestions about what could be done to address the issue? Investigate the role played by the Workplace Gender Equality Agency in the administration of the WGEA. Does it do a good job, particularly in relation to ensuring gender equity? Set out any further proposals you have which might assist in achieving the objects of the WGEA? [K] [I] [E]

2.6 CONCLUSIONS

It would appear that the current workplace relations laws, complemented by other specific legislation, meet the needs of employees and employers and have contributed to an effective system because the structural changes in the labour market have not led to high levels of unemployment.

In other words,

- (a) the legal framework under the *Fair Work Act* has met the needs of employees and employers as changes have occurred to the labour market because of the resources boom;
- (b) specific laws for temporary overseas workers have made it possible for seasonal workers and workers in remote communities to be available under protected conditions to employers; and
- (c) there is increasing awareness of the needs of particular categories of employees and employers when considering changes to the law.

These conclusions are general ones. They do not mean that every employee and employer is happy with the current laws and coping with changes that have been outlined in this chapter. So far as the jobs of people are concerned, the reality is that the human story does not always get told about

- (a) the nature of people's jobs;
- (b) the industries in which they are employed;
- (c) if their jobs are secure and the terms and conditions satisfactory;
- (d) if they have good career opportunities;
- (e) the wages they are paid;
- (f) the personal, social, and economic consequences of their working lives; and
- (g) the demands on community resources.



The laws which govern workplace relations can inhibit or facilitate the flexibility of the labour market. Essentially, in recent times, an important factor in the ability of the labour market to meet the needs of employers in the modern economy of Australia has been the willingness of people to travel to where the jobs are. We have already seen that new laws have been introduced to facilitate the use of temporary overseas workers. Frequently discussed in the media in the last few years has been the prevalence of fly-in fly-out (FIFO) and drive-in drive-out (DIDO) workers going to remote industry locations. Because of the potential personal, family, and social and economic consequences, funding has been available to universities to conduct research into the impact of these arrangements between employees and employers.

FIFO AND DIDO

Practical application

P

Fly-in, fly-out jobs strain families and work loyalty

Date: January 05 2013

Clay Lucas

Workplace Editor at The Age.
Former State Politics Reporter,
Transport Reporter & City Reporter

AUSTRALIA'S growing army of fly-in, fly-out workers - which now numbers around 200,000 people in the mining sector - suffer from severe stress on their family relationships, and many believe their companies don't care about them, new research has found.

Mining is the main employer of fly-in, fly-out workers in remote locations around the nation, many of whom work up to four weeks away from home, for pay rates usually at least double those in the big cities.

But while the pay is better, there is high turnover - one in three mine workers don't last a year in the job, a parliamentary inquiry was told last year - and a growing body of evidence on the social impacts.

Libby Brook is a researcher at Murdoch University's school of psychology and is looking at the effects of fly-in work on families. "Fly-in fly-out workers don't feel very much emotional attachment to their employers," she said, citing results from research released before Christmas.

A concurrent study on partner satisfaction found that while workers were generally happy being away for extended periods of work, their spouses - particularly those with children aged between six and 12 - suffered.

"Partners in couples with no children [also] had high levels of dissatisfaction, higher overall in fact

than those with children," Ms Brook said. "This may be because they are lonelier when their partners are away."

A federal parliamentary inquiry will early this year release its report on fly-in, fly-out workforces. Among those to make submissions was the Australian Mines and Metals Association. The chief executive, Steve Knott, said 80 per cent of mining workers were employed on a fly-in, fly-out basis, and the workforce of about 200,000 was only going to get bigger.

There was demand for another 100,000 workers, Mr Knott said, pointing to huge skills shortages, particularly for engineers and geologists prepared to fly into remote areas. He said the big mining firms were "very much alive" to the issues that made fly-in, fly-out work potentially tough on workers and their families.

"The jobs are not in Chapel Street in Melbourne, or Martin Place in Sydney. They are in the Pilbara, or offshore in gas [fields]," where working conditions were often tough, he said.

Federal Department of Infrastructure and Transport figures given to Parliament last year show flights from Brisbane to mining towns jumped 582 per cent from 2001 to 2011, and from Perth grew by 713 per cent.

Nicole Ashby runs a website supporting families of fly-in, fly-out workers. She and her husband have three small children and live in Perth. He has spent more than four years working at an oil and gas field near Karratha in Western Australia's Pilbara region, working four weeks on, then four weeks off.

P

Practical application

"We got into it purely for the financial gain," Ms Ashby said. "He was working as a truck driver in the city, and we were going backwards with our mortgage and two young boys."

When the couple had a third child, the pressure on Ms Ashby as a solo mum for 28 days at a time was immense. "I don't have a lot of extended family here [in Perth], so I found it very challenging."

Ms Ashby said companies employing large fly-in workforces were slowly recognising they needed to do more to support workers and their families.

The initial adjustment period, when workers returned home after up to 35 straight days' work, was particularly hard, she said.

"When you are on a rig it's like a foreign environment where the focus is on safety - so to come back to a non-fly-in, fly-out environment, you have to make a physical and psychological shift," she said.



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1. What are FIFO and DIDO workers? [K] [I]
2. Why did Nicole Ashby and her husband agree for her husband to travel to Karratha to work? [K] [I]
3. Outline the information provided to the Federal Parliamentary enquiry by the Australian Mines and Metals Association chief executive Steve Knott about fly-in fly-out workforces. [K] [I]
4. What has been the percentage increase in flights from Brisbane to mining towns and from Perth to mining towns from 2001 to 2011? [K] [I]
5. What are the results of the research conducted by Libby Brook at Murdoch University into the effects of fly-in work on families? [K] [I]
6. As a result of reading this article set out what you consider are the relevant issues the Australian Government needs to look at to decide appropriate policies to make laws to facilitate this type of employment relationship in a fair and realistic manner. [I] [E]

THE SOCIAL AND ECONOMIC EFFECTS OF FIFO AND DIDO

Some research has been conducted by Libby Brook at Murdoch University into the effects of fly-in, fly-out work on families. There is also research being conducted at the University of Queensland and what follows is an article which has been provided by Dr Jo-Anne Everingham who is working in the area. We are grateful for Dr Everingham's contribution and hope that if you are interested in this area you might consider doing your own enquiry into the broader issue of what it means not only for the workers who fly in but also for the existing communities into which they make their temporary incursions. Policymakers in the Queensland Government and in other states where this happens clearly need to consider the terms and conditions on which corporations are allowed to mine and export mineral resources.

INTERVIEW WITH DR JO-ANNE EVERINGHAM



Dr Jo-Anne Everingham is a Senior Research Fellow at the Centre for Social Responsibility in Mining. She investigates the social, economic and political challenges for Australian communities

experiencing the changes brought about by resource extraction with the aim of improving social performance in the resources sector and the management and governance of mining, oil and gas industries.

1. You are involved in research conducted by the
 - Centre for Social Responsibility in Mining
 - Mineral Industry Safety and Health Centre at the University of Queensland. What aspects of working in the resources sector led to the research?

Work in the contemporary Australian resources sector has a number of interrelated characteristics: 12-hour shifts are common and normal weekly hours are above the 38 hours per week (technically the national standard). As well, a substantial proportion of the workforce (likely to be around 50%) is involved in long-distance commuting (FIFO) and hence spending one half to three quarters of their time away from home.

These FIFO workers are particularly interesting. They work at resource extraction operations where transport to and from work, as well as food and accommodation at the mine site, are all provided while they are rostered for work. This is known collectively as **long-distance commuting**, but FIFO is the term commonly used to describe such non-resident workers. In everyday usage, FIFO covers a variety of travel (commute) arrangements for workers, as well as varied accommodation arrangements (including single-persons quarters in camps or villages, commercial transient accommodation, and share houses). It therefore captures those who fly in and out (FIFO) but also those who drive in and out (DIDO), and/or are bussed in and out (BIBO) of the work site. FIFO jobs are often financially lucrative, but anecdotal reports suggest that the work takes a toll on physical, emotional and mental health and on social relationships of workers and their families.

2. What actual research is being undertaken?

One line of research being undertaken at the University of Queensland by the Centre for Social Responsibility in Mining and the Minerals Industry Safety and Health Centre investigates factors affecting the health, well-being and job satisfaction of FIFO employees. The aim is to identify any changes in policies, company practices or coping and support mechanisms for workers and their

families that could alleviate pressures associated with these working conditions.

3. Are you able to share some of the research results to date with us?

Our research shows that salaries, career opportunities, work roster and accommodation arrangements, are all important considerations for employees in the mining industry. Many employees tell us there are advantages to their FIFO work arrangements in terms of both job satisfaction and the needs of their family situation, including:

- ▶ significant financial rewards with a considerable proportion of their high wages able to be saved since they are provided with fully equipped accommodation, food and transport;
- ▶ job flexibility and the ability to change jobs regularly depending upon which company offers the best roster arrangements, wages, advancement opportunities and other conditions without disrupting one's 'home-base'
- ▶ the opportunity, when at home during extended periods of leisure (i.e. when rostered off), to be involved in all aspects of family life and other pursuits in ways not always possible with a 9-5 residential job and suburban lifestyle; and
- ▶ freedom for the remainder of their family (spouse/partner and children) to establish a stable home base in a large regional or metropolitan centre that is close to social support networks (e.g. family and friends) and has facilities to suit lifestyle needs (including health, educational, recreational and employment/ career options) despite one wage earner being employed in short-term situations and a changing work location. This is particularly cited by exploration and construction workers whose employment at any one site is usually for only a few years as a project is established after which they move on to another emerging development.

However our research has also found there is high turnover among FIFO employees (around 20% a year) suggesting a level of dissatisfaction. Aspects of FIFO arrangements that employees report as less satisfactory and impacting negatively on their well-being include:

- ▶ disruption to personal and family arrangements such that two-thirds of mining professionals report they cannot adequately attend to their affairs;
- ▶ adjustment to constant switching between two very different environments with contrasting roles, responsibilities, lifestyles and demands and each largely unaware of the other;

- ▶ feelings of isolation, loneliness, homesickness, guilt associated with 'missing out' on quality family time, and anxiety at being distant from home especially in times of potential crisis;
- ▶ long working hours in a demanding occupation creating job-stress and fatigue;
- ▶ limited opportunities for social interaction and variety in recreational activities;
- ▶ adoption of unhealthy eating, drinking and exercise habits, and disrupted sleep patterns; and
- ▶ reliance on the high income and associated lifestyle (sometimes described as creating 'golden handcuffs').

Our most recent survey of some 400 FIFO workers also investigates the factors most likely to be associated with high degrees of job satisfaction plus low levels of stress. Analysis is not finalised but preliminary results suggest there is a positive association with factors including: shorter roster cycles, accommodation quarters and villages designed for comfort and privacy, access to good communication when on site (internet access and mobile phone coverage), high standards of catering in the wet and dry 'messes', provision of recreation amenities (swimming pools, gyms, games rooms), training and professional development opportunities.

4. Are there other issues or information that would be helpful to students studying this topic?

Students could discuss whether they think the FIFO option is exploitative by considering this quote:

"In crude terms, the resources sector has been at the forefront of a trend to encourage the trading of rights, security and conditions for high wages." (Carrington and Pereira, 2011 Social Impact of Mining Survey: Aggregate Results Queensland Communities).

Under what conditions could the FIFO option allow workers to satisfy their career goals while developing and maintaining a way of life that is fulfilling in other ways so that the advantages outweigh the disadvantages for them, their families and the communities where they live and where they work?

Students might also be interested to find out about the Parliamentary Inquiry into 'fly-in, fly-out' (FIFO) workforce practices in regional Australia conducted by the House of Representatives Standing Committee on Regional Australia.

The Inquiry home page provides links to submissions and the Committee's report. www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=/ra/fifodido/tor.htm

Submissions came from local governments, unions, community organisations in source and host communities, industry associations, welfare associations, companies using a FIFO workforce, companies opposed to the use of FIFO practices etc. Though the issues raised related to a multitude of dimensions, some of the submissions addressed issues that are pertinent to employer-employee relations, workers' employment conditions and the well-being of the workforce.

Students could find some submissions focusing on employment conditions or workforce issues and describe common themes or divergent claims in these submissions. They could consider whether the Federal government should change any of its employment-related provisions to regulate these workforce practices.

There have been calls for governments to use licence operating conditions to impose ceilings on the number of FIFO employees or requirements for mining companies to employ residential workers. What do students consider to be the advantages and disadvantages of this as an alternative means of regulating working conditions in the mining industry?

Another mining employment-related issue:

The mining industry has been a particular focus of attention regarding a related matter of working hours. Mining was the first industry to achieve a 35-hour week (in 1970) but by the mid-1990s, roughly one-third of mining workplaces had at least some employees on 12-hour shifts. Now, mining is characterized by long hours – indeed, almost the longest of any industry (averaging 43-46 hours per week according to the Australian Bureau of Statistics [ABS, 2007]). A recent case – the first in which an employee sought to prevent his employer from requiring him to work 'unreasonable' additional hours. *MacPherson v Coal & Allied Mining Services Pty Ltd (No.2)* [2009] FMCA 881 – related to the mining industry (though this was not a FIFO worker, but a residential one).

Finally there are broader social considerations. For instance, there is other research that has linked FIFO populations with high incidence of violent crime, alcohol and drug abuse and prostitution (Carrington, McIntosh and Scott, 2010) and with 'FIFO divorces' (Keenan 2005). It is difficult to confirm that these social and personal problems are causally related to this demanding work practice. However, to the extent that is the case and national prosperity benefits from this workforce, what do you think are the responsibilities of industry, government, unions and others for ensuring better outcomes and mitigating such problems?



REVIEW

1. Outline the main features of the *Fair Work Act*.
2. Set out the structural changes which have occurred to the Australian workforce in recent years. What issues do you think this has raised for employers and employees seeking to use the Fair Work Act to meet their needs for workplace agreements?
3. What legal arrangements have been put in place to allow Australian employers to use the services of temporary overseas workers? Explain the issues that the 457 visas initially created for organised labour (ACTU) and how the Australian Government dealt with these.
4. What arrangements does the Australian Government make to assist the unemployed?
5. Write a brief history of women in the Australian workforce since 1970. Make appropriate investigations and enquiries and decide for yourself if sufficient progress has been made towards gender equity in the Australian workforce. As part of your answer consider whether the present laws are adequate.
6. What are the main features associated with the fly-in fly-out and drive-in drive-out workforce phenomena? Summarise the arguments for and against the use of such workers.

CHAPTER 3

MODERN AWARDS AND ENTERPRISE AGREEMENTS

FOCUS TOPICS

- 3.1 INTRODUCTION
- 3.2 WHAT ARE NATIONAL EMPLOYMENT STANDARDS?
- 3.3 MODERN AWARDS
- 3.4 WHO CAN MAKE AN ENTERPRISE AGREEMENT?
- 3.5 TYPES OF ENTERPRISE AGREEMENTS
- 3.6 MODERN AWARDS OR ENTERPRISE AGREEMENTS: WHY CHOOSE ENTERPRISE AGREEMENTS?
- 3.7 TERMS AND CONDITIONS OF ENTERPRISE AGREEMENTS
- 3.8 THE PROCEDURE FROM BARGAINING TO APPROVAL
- 3.9 WORKPLACE DETERMINATIONS AND ENTERPRISE AGREEMENTS

FOCUS OBJECTIVES

To understand and appreciate:

- ▶ National Employment Standards set out comprehensive minimum terms and conditions to which every worker is entitled;
- ▶ Modern awards are subject to an important statutory requirements to be made under the *Fair Work Act*;
- ▶ Enterprise agreements are made in the context of a wider framework under the *Fair Work Act*;
- ▶ There are different enterprise agreements depending on the mix of employers involved;
- ▶ Enterprise agreements can be tailored to meet the needs of employers and employees, modern awards cannot;
- ▶ Enterprise agreements must meet certain requirements under the *Fair Work Act* before they are approved; and
- ▶ Enterprise agreements can be the subject of an application for a workplace determination under the Act.