SIGNIFICANT WORKPLACE RELATIONS ISSUES

The Australian Industry Group

30 April 2019

Ai GROUP | INFLUENCE & POLICY

INTRODUCTION

This report mainly focusses on some key workplace relations policy proposals of the major parties given the upcoming Federal election on 18 May 2019.

Ai Group's apolitical stance ensures that we will have access to key Government Ministers regardless of which party wins Government, and that we will be able to continue to strongly represent the interests of Ai Group members.

Ai Group released a policy statement ahead of the election being announced calling on both parties to maintain a workplace relations system that:

- Enables businesses to operate productively and competitively;
- Is flexible for businesses and employees; and
- Is fair for employees and employers.

Ai Group's 2019 Annual PIR (Policy-Influence-Reform) Conference will be held on 3 and 4 June 2019 at the Hyatt Hotel in Canberra. The Conference will be held shortly after the Federal election. The debate at the Conference about the future shape of Australia's workplace relations system will be extremely timely and important.

CONTENTS

WORKPLACE RELATIONS POLICY PROPOSALS OF THE MAJOR PARTIES

Coalition and Labor proposals for a national labour hire licensing scheme

The Coalition Government recently announced agreement in principle to a recommendation of the Migrant Workers' Taskforce for a national labour hire licensing scheme to be established in the horticulture, contract cleaning, security and meat processing industries.

Labor has announced its intention to implement a national labour hire licensing scheme across all industries.

Ai Group has submitted to both parties that the idea of a national labour hire licensing scheme only has merit if the State labour hire licensing schemes in Victoria, Queensland and South Australia are abolished. Otherwise, a national licensing scheme would simply impose an even more unreasonable cost and regulatory burden on labour hire businesses and their clients.

Labor's 'site rates and conditions' policy for labour hire

Labor has announced a policy to give labour hire employees an entitlement to the same wages and conditions as the other employees in the workplaces in which they work.

Ai Group is arguing that labour hire businesses should not be forced through legislation to apply the wage rates and employment conditions of other businesses. For example, if a business implements an employee share scheme for its employees, how can a labour hire supplier to that business be expected to offer its employees shares in another company? Also, if a retailer offers its employees discounted groceries, how is a labour hire provider supposed to do the same? Further, if an airline offers its employees access to heavily discounted airfares, it is unfair and unworkable to expect a labour hire supplier to do the same.

Labour hire businesses need to be able to make their own decisions, in conjunction with their own employees, on what salaries and employment conditions are appropriate, so long as the relevant awards and workplace laws are complied with. The *Fair Work Act* and awards apply to labour hire businesses and their employees, just like everyone else. In 2017, penalties for breaches of awards and workplace laws increased by up to 20 times through the Australian Government's Vulnerable Workers' changes to the *Fair Work Act*.

In addition to the adverse impacts on the labour hire industry, Labor's policy could have major adverse impacts on numerous other industries. The concept of 'labour hire' is not easily defined, as is apparent from the expansive definitions used in the labour hire licensing schemes in Queensland, South Australia and Victoria.

It is critical that contractors in the construction, maintenance, ICT and other industries retain flexibility to determine the wages and conditions that they provide to their employees, subject to meeting relevant legislative and award requirements and subject to any enterprise agreements that contractors reach with their own employees.

Higher penalties for breaches of workplace laws

The Coalition Government has expressed in-principle support for a recommendation of the Migrant Workers' Taskforce that higher penalties be implemented for employers who breach workplace laws. The Australian Labor Party has also announced an intention to increase penalties for employers.

Ai Group is arguing that the Migrant Workers' Taskforce's recommendation that criminal penalties be implemented for serious and deliberate breaches of workplace laws should be rejected. While at first glance, this might seem like a good idea, there are many reasons why this is not in anyone's interests:

- As mentioned above, penalties for breaches of workplace laws were increased by up to 20 times in 2017 and this already provides an effective deterrent.
- Given the delays in matters being heard and determined by Courts, the new penalties have only just begun to impact upon judgments.
- Implementing criminal penalties for wage underpayments would discourage investment, entrepreneurship and employment growth.
- Importantly, a criminal case would not deliver any back-pay to an underpaid worker. Where a criminal case is underway, any civil case to recoup unpaid amounts would be adjourned by the Court until the criminal case is concluded. This means that underpaid workers could be waiting years for back-pay.

Labor's proposal to remove the ability for the FWC to make changes to awards that are of benefit to businesses

Labor has announced its intention to abolish the Fair Work Commission's (FWC's) *Penalty Rates Decision* within 100 days of forming Government.

It appears that Labor intends to proceed with the legislative amendments in the *Fair Work Amendment (Protecting Take-home Pay) Bill 2017* which was introduced into Parliament in 2017. The Bill is particularly unfair to employers. If passed, the FWC would not be able to vary any award in any manner that is likely to reduce the take home pay of any employee, regardless of the circumstances or merits of the award variation.

If passed, the Bill would operate retrospectively to 22 February 2017 (i.e. the day before the FWC handed down its *Penalty Rates Decision*).

The Bill provides that any award variation made on or after 22 February 2017, that has the likely effect of reducing take home pay of any employee, is 'of no effect'. Labor's Explanatory Memorandum for the legislation explains that the intent is to 'invalidate' relevant determinations issued by the Commission since 22 February 2017.

The provisions of the Bill are not at all clear regarding whether or not employers would have to back-pay employees for Sunday and public holiday work since 22 February 2017. Any requirement for employers to back-pay employees for over two years of work would be very unfair to employers who have applied the current award provisions in good faith.

Significantly, the Senate Standing Committee on the Scrutiny of Bills, which a Labor Senator chairs, criticised the retrospective operation of the Bill in a report issued in 2017. The Committee stated:

> "Subsection (3) provides that a determination of the Fair Work Commission made on or after 22 February 2017 is of no effect if it would reduce, or have the effect of reducing, the take-home pay of such employees. This provision therefore will operate retrospectively in relation to any determination that is made after 22 February 2017 but prior to commencement…The committee has a long-standing scrutiny concern about provisions that have the effect of applying retrospectively, as it challenges a basic value of the rule of law that, in general, laws should only operate prospectively (not retrospectively)."

Labor's Bill, as currently drafted, could throw Australia's award system into turmoil. The FWC's 4 Yearly Review of Awards has been continuing for over five years. There have been many hundreds of award variations made by the Commission since February 2017 and countless provisions in existing awards have been redrafted. The Bill would potentially disturb a vast amount of work that has been done during the 4 Yearly Review and create a huge amount of uncertainty.

The FWC's *Penalty Rates Decision* should not be used as a reason to implement sweeping and unfair changes, for small and large employers, to Australia's award system that go far beyond the issue of penalty rates.

The following facts about the FWC's *Penalty Rates Decision* are often overlooked:

1. The *Penalty Rates Decision* was made by a five Member Full Bench of the independent FWC, headed by Justice Iain Ross, the President of the Commission. After more than two years of proceedings, 39 hearing days, 143 witnesses and 5,900 submissions, the FWC decided that the existing Sunday penalty rates in the retail, hospitality and fast food industries were no longer fair or relevant, and needed to be modestly adjusted.

2. The FWC's decision was reviewed by the Full Court of the Federal Court and the Court determined that the FWC made no errors.

3. Penalty Rates were not abolished. The Sunday and public holiday penalty rates were adjusted by a modest amount, but they remain much higher than the rates that apply on weekdays.

4. The adjustments in Sunday penalty rates are being phased-in over a three to four-year period.

5. The annual adjustments to the Sunday penalty rates occur on the same day each year that employees receive a minimum wage increase through the FWC's Annual Wage Review. The effect has been that the employees have still received an increase in remuneration on that day.

6. Despite the unions' misinformation that penalty rates for nurses, firefighters and other workers are under threat, the Commission's decision only concerns retail, hospitality and fast food industry employees. There are some unique issues in these industries and no-one is suggesting that penalty rates for nurses or firefighters should be changed. The Commission made this clear in its decision.

7. The Commission's *Penalty Rates Decision* followed a major inquiry by the Productivity Commission (PC) into Australia's Workplace Relations Framework. As part of its inquiry, the PC carried out a detailed analysis of penalty rates in the retail, hospitality and fast food industries. Similar, to the FWC, the Productivity Commission decided that Sunday penalty rates in these industries were too high and should be aligned with Saturday penalty rates. Also, similar to the FWC, the PC decided that there are unique issues in these industries that are not present in other industries.

Labor's proposed 'Living Wage'

Labor has announced a 'Living Wage' policy which involves amending the *Fair Work Act* to require the FWC to give more weight to the needs of the low paid when setting and adjusting minimum wages.

The *Fair Work Act* currently includes balanced criteria that must be taken into account by the FWC when determining minimum wage increases. The criteria include the needs of low paid workers, relative living standards, employment growth, workforce participation, and the performance and competitiveness of the Australian economy. The last two Annual Wage Reviews have delivered 3.3% and 3.5% minimum wage increases to employees – far in access of inflation and average wage movements. Therefore, any suggestion that the FWC is not giving enough weight to the needs of low paid workers in not supported by the facts.

Australia has the second highest national minimum wage in the world, just behind Luxembourg and equal to France.[1]

Labor's 'Living Wage' policy would have a negative impact on Australian wage relativities. If the National Minimum Wage is moved up to a level equivalent to 60 per cent of median earnings, as proposed by the ACTU, such an 11 per cent increase could knock out the bottom 4 levels in the classification structure of many awards. This could mean that an unskilled labourer would be paid close to the rate of an electrician or fitter, and much higher than existing apprentice wage rates. This would further reduce the incentive for people to undertake apprenticeships or other forms of new training; it would most likely lead to many people leaving the trades; and it would reduce employment opportunities for low-skilled people – such as new workforce entrants.

[1] In 2017, on a Purchasing Power Parity (PPP) basis, which adjusts for differences in 'purchasing power' or cost of living.

Casual employment

Late last year, the Coalition introduced a Bill into Parliament that would amend the National Employment Standards (NES) in the *Fair Work Act* to ensure that casual employees with 12 months of regular service have the right to request conversion to full-time or part-time employment. Employers would have the right to reasonably refuse a casual employee's conversion request. The Bill defines the class of employees who are entitled to make a request for conversion but does not define casual employment for other purposes under the Act.

Labor proposes to define a 'casual employee' in the *Fair Work Act* in a way that would limit the ability of employers to engage employees on a casual basis indefinitely. A specific definition has not yet been proposed and Labor has undertaken to consult with industry on the definition.

Labor has also proposed to give casual employees with 12 months of regular service the right to request conversion to full-time or part-time employment. Employers would have the right to reasonably refuse a casual employee's conversion request and the FWC would have the power to decide whether an employer's refusal was reasonable in the circumstances.

ABS statistics show that the level of casual employment in Australia has been the same for the past 20 years – about 20% of the workforce.

Casual employment provides vital flexibility to businesses and employees, and many employees prefer to work on a casual basis. There are more than 2.5 million casual employees in Australia. Any move to restrict casual employment could have a devastating effect of employment.

Young people are more likely to work on a casual basis than older people and have much higher levels of unemployment and underemployment than the rest of the workforce. Therefore, the imposition of restrictions on casual employment could have a particularly harsh impact upon young people.

ACTU arguments in support of a narrow definition of casual employment, as well as their arguments to remove an employer's right of reasonable refusal, were recently rejected by a Full Bench of the FWC in the major *Casual and Part-time Employment Case*. In this case, which continued for over three years, the Commission decided that the ACTU's claims would impose unreasonable restrictions on businesses and would potentially lead to widespread job losses.

The definition of an independent contractor / 'sham contracting' laws

Labor has announced an intention to increase protections for 'gig workers', such as those who work through web platforms like Airtasker, Deliveroo and Uber.

It is unclear what specific changes are proposed but there has been some debate about whether the common law definition of an 'independent contractor' is adequate to address 'gig work'.

The reality is that ‘gig workers’ represent less than one percent of the Australian workforce. By far, the industry in which the largest number of independent contractors are engaged is the construction industry, e.g. electricians, plumbers, etc. It is essential that the current common law approach to defining an ‘independent contractor’ is not disturbed. This approach caters for the very wide range of legitimate independent contracting arrangements.

Tough sham contracting laws exist to deal with those employers who misrepresent employment arrangements as independent contracting arrangements. These laws provide penalties of up to $63,000 per breach, together with unlimited damages.

Labor’s proposed amendments to the NES

Labor has announced an intention to amend the NES in the *Fair Work Act* should it win Government, to give employees an entitlement to up to 10 days of paid domestic violence leave per year.

Labor also proposes to include superannuation in the NES. It is unclear how the proposed NES provisions would interact with superannuation legislation which:

- Identifies the level of contributions required under the Superannuation Guarantee (currently 9.5 per cent);
- Defines ‘Ordinary Time Earnings’;
- Gives employees the freedom to choose a superannuation fund;
- Provides the rules for default funds, which employers contribute to if an employee does not choose a fund;
- Provides rules relating to superannuation provisions in enterprise agreements;
- Sets tough penalties for non-compliance;
- Gives extensive powers to the regulator (i.e. the Australian Taxation Office – ATO) to investigate and prosecute employers who do not comply with the law;
- Enables the ATO to issue Superannuation Guarantee Rulings;
- Deals with the tax deductibility of employer superannuation contributions in different circumstances;
- Gives the ATO a major education and advisory role in respect of superannuation; and
- Deals with numerous related matters.

Labor's proposal to abolish the ABCC

Labor has announced that it will abolish the Australian Building and Construction Commission (ABCC) if it wins Government.

It is vital that the ABCC is maintained to ensure that all participants in the construction industry comply with the law.

The establishment of the ABCC was a central recommendation of the Cole Royal Commission into the Building and Construction Industry. In his final report, Commissioner Cole said: "*There is widespread disrespect for, disregard of, and breach of the law in the building and construction industry*".[2] The Royal Commission decided that "*there should be an independent monitoring and prosecuting authority in the industry to monitor conduct, and uphold the rule of law*".[3]

The Heydon Royal Commission into Trade Union Governance and Corruption also identified the critical need to retain the ABCC. The final report includes the following conclusion: "*Having regard to all of the available material, the argument that there is no need for an industry specific regulator cannot be sustained"*.[4]

The CFMMEU continues to show a blatant disregard for industrial laws and treats the fines that are imposed as the cost of doing business, as highlighted by the following comments in a recent Federal Court judgment of Justice Tracey:[5]

> "[O]ver recent years I have become increasingly concerned about the ongoing misconduct of the CFMEU and its officials and the implications of this conduct when penalties are being determined".
>
> "The contravening conduct has continued unabated to a point where there is an irresistible inference that the CFMEU has determined that its officials will not comply with the requirements of the FW Act with which it disagrees.
>
> "If this results in civil penalties being imposed they will be paid and treated as a cost of the union pursuing its industrial ends.
>
> "The union simply regards itself as free to disobey the law."

The CFMMEU is the only party in the construction industry that acts as though it is above the law and refuses to change its ways. In the circumstances it is completely appropriate that a significant proportion of the ABCC's resources are being devoted to taking action against the CFMMEU and its officials.

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[2] *Royal Commission into the Building and Construction Industry*, February 2003, Final Report, Volume 1, page 155.

[3] Ibid.

[4] *Royal Commission into Trade Union Governance and Corruption*, December 2015, Volume 5, paragraph 97.

[5] *Construction, Forestry, Maritime, Mining and Energy Union v Australian Building and Construction Commissioner* (The Broadway on Ann Case) [2018] FCAFC 126.

If the ABCC is abolished, many cases involving intimidation, thuggery and unlawful conduct will never be brought before the Courts, because of employer concern about retaliatory action by the CFMMEU.

Labor's proposal to abolish the Building Code 2016

Labor has announced that it will abolish the *Code for the Tendering and Performance of Building Work 2016* (Building Code 2016) if it wins Government.

A key recommendation of both the Gyles Royal Commission in New South Wales and of the Cole Royal Commission was the importance of using the substantial purchasing power of Government to stimulate reform and to ensure that construction industry participants operate within the law.

Unions in the construction industry routinely use the commercial risk faced by contractors as a lever to secure industrial concessions. Without proper regulation, this results in restrictive work practices and cost burdens which drive up project costs to the detriment of Governments, industry and the wider community. Higher project costs lead to less funds being available for vital community infrastructure such as hospitals, schools and roads. The importance of the Building Code 2016 in breaking this cycle cannot be understated.

The Building Code 2016 imposes a commercial risk on contractors that prevents them from capitulating to unreasonable demands of unions. The unions understand the importance of Code-compliance to contractors and therefore they are less likely to make unreasonable demands. It is essential that the Code is retained.

Termination of enterprise agreements

Labor has announced a policy which would prevent employers applying to terminate an expired enterprise agreement, without the agreement of the employees covered by the enterprise agreement.

A large proportion of the expired enterprise agreements that are terminated in Australia relate to projects that are finished and where there are no employees remaining under the coverage of the enterprise agreement. Therefore, any requirement for an employer to reach agreement with employees before making an application to terminate an expired enterprise agreement is often not feasible because in many circumstances there are no employees covered by the agreement.

The *Fair Work Act* already requires that the FWC take into account the views of the employees and unions covered by an expired enterprise agreement when deciding whether it would be in the public interest to terminate the agreement.

According to statistics published by the FWC, less than three per cent of the applications to terminate expired enterprise agreements over the past 2-3 years have been contested by one or more parties. Over 97 percent are not contested. Also, of the contested matters, most applications have been made by unions and employees, not employers.

There have only been a handful of rigorously contested enterprise agreement termination applications over the past five years. There were very exceptional circumstances in each case, and the agreement was only terminated after a very lengthy period of bargaining and extensive FWC proceedings. Also, in each case generous over-award wages and conditions were maintained despite the termination of the agreement.

The scope of enterprise agreements

Labor has announced an intention to tighten up the provisions in the *Fair Work Act* relating to the scope of enterprise agreements, to prevent an employer entering into an agreement with a small group of employees and later applying the agreement to a much larger group of employees.

This proposal could have major unintended consequences because it is very common for the number of employees who work in an enterprise to increase over time (e.g. on a construction project).

Recent Federal Court and FWC decisions relating to the legislative requirement that 'genuine agreement' be reached between the employer and its employees have already had the effect of tightening up the requirements in this area.[6] Also, the requirement in the *Fair Work Act* that an enterprise agreement must apply to a 'fairly chosen' group provides further protection to employees.

THE COMPOSITION OF THE SENATE

As has been the case during the current term of Government, the composition of the Senate will have a big impact on the ability of the next Government to make changes to workplace relations laws.

A half-Senate election will be held on 18 May 2019. There are a total of 76 Senators. The seats of 40 of these Senators are being contested at this election (i.e. half of the 72 Senators from the six States and all four of the Senators from the two Territories).

Given that there are 76 Senators, the votes of 39 Senators are needed to pass legislation.

The current composition of the Senate is:

- Coalition: 31 Senators
- ALP: 26 Senators
- Australian Greens: 9 Senators
- Other parties and independents: 10 Senators

[6] For example, see *CFMEU v One Key Workforce Pty Ltd* [2017] FCA 1266.

15 Coalition Senators and 13 ALP Senators are up for re-election.

Six of the nine Australian Greens Senators are up for re-election

Four of the 10 other Crossbench Senators are not up for re-election, as their terms continue until 2022: Pauline Hanson (One Nation), Cory Bernardi (Australian Conservatives), Stirling Griff (Centre Alliance) and Rex Patrick (Centre Alliance).

Ai GROUP'S PIR CONFERENCE ON 3 AND 4 JUNE 2019

Ai Group's 2019 Annual PIR (Policy-Influence-Reform) Conference will be held on 3 and 4 June 2019 at the Hyatt Hotel in Canberra.

The Conference will be held shortly after the Federal election. The debate at the Conference about the future shape of Australia's workplace relations system will be extremely timely and important.

Confirmed speakers include:

- Brendan O'Connor, Labor Shadow Minister for Employment and Workplace Relations;
- Justice Iain Ross AO, President of the Fair Work Commission;
- Sandra Parker, Fair Work Ombudsman;
- Kate Jenkins, Sex Discrimination Commissioner;
- Liam O'Brien, ACTU Assistant Secretary;
- Natalie James, Chair of the Victorian Inquiry into the 'On-Demand' Workforce;
- Professor Jennifer Burn, NSW Anti-slavery Commissioner and Director of Anti-slavery Australia;
- Chris Taylor, General Counsel, WorkPac;
- Jennifer van Bronswijk, Group Manager - People Partnerships, Coates Hire;
- Steve Schofield, Group Head of Human Resources and Industrial Relations, Downer Group;
- John Brogden AM, Chairman of Lifeline
- Malcolm Farr, Leading Journalist;
- Innes Willox, Chief Executive, Ai Group;
- Stephen Smith, Head of National Workplace Relations Policy, Ai Group;
- Julie Toth, Chief Economist, Ai Group

For over 30 years, Ai Group's PIR Conferences have been Australia's premier forum for workplace relations leaders. The Annual PIR Conference is a valuable opportunity to hear from a great line up of speakers, to discuss and debate the key issues, and to have input into the policy positions of Ai Group. As always the PIR Conference provides a great opportunity to catch up with HR and WR leaders from other companies and to share ideas and strategies.

To register, complete and return the registration form. Further information can be obtained from Sarah McCormick of Ai Group on 03 9867 0224 or email events@aigroup.com.au.

ANNUAL WAGE REVIEW

Final consultations in this year's Annual Wage Review will take place on 14 and 15 May.

Ai Group's main submission and reply submission propose a two per cent minimum wage increase which equates to an increase of about $14.40 per week in the National Minimum Wage and about $16.75 per week at the base trade level.

The ACTU has proposed a wage increase of six per cent. In its public comments, Ai Group described the ACTU claim as obviously unsustainable and a sure-fire way of destroying jobs, harming businesses, and threatening Australia's long period of economic growth.

The decision in the case is likely to be handed down in early June, with the minimum wage increases operative from 1 July 2019.

Last year, the FWC awarded an increase of 3.5 per cent and the previous year it awarded a 3.3 per cent increase.

FURTHER FEDERAL COURT TEST CASE ON CASUAL EMPLOYMENT

WorkPac has initiated a further important Full Federal Court case about casual employment. The case will be heard by the Full Federal Court on 8 and 9 May 2019.

The *WorkPac v Rossato* case is separate to the *WorkPac v Skene* case which resulted in a very problematic decision of the Full Federal Court last year in which the Court decided that the term 'casual employee' in the *Fair Work Act* has no precise meaning and whether or not an employee is a casual for the purposes of the Act depends upon the circumstances surrounding the employee's employment.

In the *WorkPac v Rossato* Case, the Court will consider further arguments about the meaning of the expression 'casual employee' in the *Fair Work Act* and also arguments about the ability for an employer to offset any annual leave loading paid against other entitlements that may be owed.

The Australian Government, the CFMMEU and Matthew Peterson (the lead plaintiff in a class action being pursued by law firm Adero) have intervened in the proceedings.

FEDERAL COURT DECISION IS STILL RESERVED IN THE MONDELĒZ V AMWU CASE – MEANING OF A "DAY"

The decision of the Full Federal Court is still reserved in the *Mondelēz v AMWU* case. The final hearing in the case took place on 21 February 2019.

The case relates to an application by Mondelēz International for a declaration relating to the meaning of the expression *'10 days of paid/personal carer's leave'* in section 96 of the *Fair Work Act*.

The outcome of the case will be important for most employers in Australia. In payroll systems, personal/carer's leave entitlements are typically recorded in hours, not days, on the basis of the number of ordinary hours that an employee works. For example, employees who work 38 ordinary hours per week are typically credited with 76 hours of paid personal/carer's leave per year, regardless of whether their ordinary hours are arranged on the basis of 7.6, 8, 10 or 12 hours per day.

Ai Group Workplace Lawyers represented Mondelēz in the proceedings and briefed Stuart Wood QC and Dimitri Ternovki of Counsel. The Australian Government intervened in the case.

The relevant employees of Mondelēz work 12-hour shifts at the company's Claremont plant in Tasmania which manufactures Cadbury chocolate. The current enterprise agreement agreed to by Mondelēz states that the employees at the Claremont plant are entitled to 96 hours of personal/carer's leave per year. This is a lot more generous than the 76 hours that employees are entitled to under the *Fair Work Act* if the Act is interpreted in the manner in which Ai Group, Mondelēz and the Australian Government contends.

WAGE OUTCOMES UNDER ENTERPRISE AGREEMENTS

On 29 March 2019, the Department of Employment released its report on *Trends in Federal Enterprise Bargaining* for the December 2018 quarter. Average annualised wage increases (AAWI) for enterprise agreements approved in the December 2018 quarter are summarised in the following table.

Industry Sector or Type of Agreement	AAWI (%) for agreements approved in December 2018	Change from September 2018 (%)
All sectors	2.8	Down 0.4
Private sector	3.0	Same
Public sector	2.7	Down 0.6
Manufacturing	2.8	Up 0.1
Metals manufacturing	2.6	Down 0.4
Non-metals manufacturing	2.9	Up 0.5
Construction	6.0	Up 0.1
Transport, postal & warehousing	2.7	Up 0.1
Mining	2.7	Up 0.5
Information media and telecommunications	2.1	Up 0.2
Retail	3.3	Up 0.3
Single enterprise non-greenfields	2.8	Down 0.4
Single enterprise greenfields	3.8	Up 0.4
Union/s covered	2.8	Down 0.4
No Union/s covered	2.5	Up 0.3

VICTORIAN LABOUR HIRE LICENSING ARRANGEMENTS COMMENCE OPERATION

The licensing provisions in the *Labour Hire Licensing Act 2018 (Vic)* commenced on 29 April 2019.

A 6-month transitional period applies for providers and users of labour hire services. Businesses that meet the definition of a provider of labour hire services have until **29 October 2019** to submit their licence application to the Labour Hire Authority. Users of labour hire services must only use a licensed provider after 29 October 2019.

The definitions of a 'labour hire provider' and 'worker' in the legislation are very broad and include numerous contracting arrangements that would not typically be regarded as 'labour hire'.

Heavy maximum penalties apply for non-compliance with the legislation.

For further information, see Ai Group Member Advice Nat 005/19.

NATIONAL WORKPLACE RELATIONS POLICY AND ADVOCACY TEAM

This report has been prepared by Ai Group's National Workplace Relations Policy and Advocacy Team. The Team represents the interests of Ai Group Members through:

- Protecting and representing the interests of Ai Group Members in relation to workplace relations matters;
- Writing submissions and preparing evidence for major cases in the Fair Work Commission (FWC) and Courts;
- Representing Members' collective interests in modern award cases and reviews;
- Representing Ai Group Members collective interests in significant cases in the FWC and Courts;
- Representing individual Ai Group Members in cases of significant importance in the FWC and Courts;
- Keeping Ai Group Members informed and involved in workplace relations developments;
- Providing forums for Ai Group Members to share information on best practice workplace relations approaches, and to influence policy developments, e.g. through Ai Group's PIR (Policy-Influence-Reform) Forum and PIR Diversity and Inclusion Forum;
- Developing policy proposals for worthwhile reforms to workplace relations laws;
- Making representations to Government and Opposition parties in support of a more productive and flexible workplace relations system;
- Leading and influencing the workplace relations policy agenda;
- Writing submissions and appearing in numerous inquiries and reviews carried out by a wide range of bodies including Parliamentary Committees, the Productivity Commission, the Australian Human Rights Commission, the Australian Law Reform Commission, and others;
- Carrying out research; and
- Opposing union campaigns on issues which would be damaging to competitiveness and productivity.

Ai Group welcomes and values your input and support. Should you wish to discuss any of the issues in this report, please contact Stephen Smith, Head of National Workplace Relations Policy on email stephen.smith@aigroup.com.au or telephone 02 9466 5521.

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