

## **AUSTRALIA'S DECENT WORK ACTION PLAN BACKGROUND PAPER**

### **Background to Decent Work**

The Asian Regional Meeting of the International Labour Organisation (ILO) in Bangkok in 2001 urged all member States in the region to develop national plans of action for 'decent work' that define, within the overall framework of the ILO Decent Work Agenda, national priorities, a timetable for implementation and a set of indicators for the purposes of regular tripartite monitoring and evaluation.

'Decent work' is the focus of the four strategic objectives of the ILO, namely the promotion of:

- **rights at work** as defined by the 1998 *Declaration on Fundamental Principles and Rights at Work* (ie freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labour, effective abolition of child labour, elimination of discrimination in respect of employment and occupation);
- **employment** (ie "opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity" );
- **social protection** concerning "the vulnerabilities and contingencies which take people out of work, whether these arise from unemployment, loss of livelihood, sickness or old age". In addition to workplace relations measures such as provision for sick leave, it also includes consideration of workers' compensation arrangements and social security measures; and
- **social dialogue** including discussions with non-government organisations, such as employer and employee organisations, on the development and implementation of policies and programmes.

### **Australia's commitment to the ILO and its objectives**

Australia has been a member of the ILO since 1919 and it's contribution to the ILO budget in 2005 was in excess of AU\$6million.

Australia has ratified 58 of the ILO's 185 Conventions, 47 of which are in force. Conventions ratified include six of the eight fundamental Conventions, which are addressed in the section dealing with rights at work.

### **Work in Australia**

Australia is a stable, democratic society with a skilled workforce and a strong, competitive economy. Australia's workforce of approximately 10 million is highly trained. Many senior managers and technical staff have international experience, while almost half of Australia's workforce has university, trade or diploma qualifications.

Australia's unique workplace relations system was established in 1904 and has continued to evolve into a mature and comprehensive system. The development of Australia's action plan will reflect the nature of our workforce and be suitably flexible

to address the priorities of the parties associated with this unique workplace relations system.

### Economic and workplace relations reform

Australia's economic performance over the last fifteen years has benefited from a robust policy framework, reflecting macroeconomic and microeconomic reforms. The Government's overhaul of the tax system, welfare and labour market assistance, in addition to the further development of a mature and comprehensive workplace relations system has facilitated a period of strong and sustained economic growth. The shift from industry-wide to enterprise level bargaining has been an important part of this success. The shift to enterprise bargaining began in the early 1990s with a growing recognition of the importance of increasing Australia's international competitiveness by linking increases in wages and improvements in employment conditions to increases in productivity, skills and flexibility at the workplace level.

Workplace relations reform has been instrumental in reducing labour inefficiencies and increasing flexibility within the workplace. To a large extent, this ensured that wage increases remained broadly in line with productivity growth during the economic recovery of the 1990s, contributing to a virtuous combination of low inflation, rising real wages, employment growth, good productivity growth and rising profits.

### **Decent work in Australia**

#### Rights at work

##### *Freedom of association and the right to collective bargaining*

In the Commonwealth jurisdiction, ILO Conventions 87 and 98 are given effect to by the *Workplace Relations Act 1996* (WR Act) and the *Workplace Relations Regulations*. There are no prerequisites or prescribed conditions for the formation or functioning of an organisation for workers' or employers'. Where such an organisation voluntarily decides to become registered under the provisions of the WR Act, it must meet certain statutory requirements. Persons eligible for membership of a registered organisation have a legally enforceable right to be admitted to membership under section 166(1) of Schedule 1B to the WR Act.

The WR Act contains a range of measures to protect unions and their members against discriminatory conduct. The WR Act also protects the rights of organisations and their members in relation to the making of agreements, and provides the framework for the award safety net and the 'no disadvantage' test. The WR Act provides for flexibility in the setting of terms and conditions of employment, including individual and collective bargaining and agreement-making.

##### *Forced Labour*

The abolition of forced labour is ensured by a range of Federal, State and Territory laws. These include criminal laws addressing slavery, organised crime, people trafficking, transnational organised crime, illegal migration and related matters, and

legislation providing for the establishment and maintenance of corrective services, penalties and sentencing options, and the protection of basic worker rights.

### *Child Labour*

Australian law and practice, as it stands, fully meets the ILO's objective of ensuring the effective abolition of child labour.

This is achieved in States and Territories through laws requiring children to attend school, providing for child welfare, concerning occupational health and safety in workplaces and providing for minimum ages for employment in selected occupations.

While Australian law and practice meets the objectives of Convention 138, Australia is unable to ratify the Convention as no State or Territory government has legislated to set a general minimum age for employment (as per Article 2 of the Convention).

The Australian Government is committed to the ratification of Convention 182 and has made public statements to this effect. All of Australia's constituent States and Territories are in the process of achieving full legislative compliance with the Convention.

### *Equal pay and discrimination*

The WR Act contains a number of provisions to prevent and eliminate discrimination at work on a range of grounds including race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin. The WR Act establishes a framework with clear rights and responsibilities for employers and employees, supporting fair processes and practices including in relation to awards, agreements and termination of employment. The WR Act enables the Australian Industrial Relations Commission (AIRC) to make orders requiring equal remuneration to be provided where equal remuneration for work of equal value does not exist.

Complaints of pay inequity may also be made to the Human Rights and Equal Opportunity Commission (HREOC) if unequal remuneration arises from an act determined to be discriminatory under the provisions of the *Sex Discrimination Act 1984* (Commonwealth) (the SDA). HREOC was established by the *Human Rights and Equal Opportunity Commission Act 1986*. The Act provides for the Commission's administration and gives it responsibility in relation to seven international instruments ratified by Australia, including Convention 111. HREOC is responsible for the investigation and conciliation of complaints under the *Racial Discrimination Act 1975*, *Sex Discrimination Act 1984*, *Disability Discrimination Act 1992* and the *Human Rights and Equal Opportunity Commission Act 1986*.

The *Equal Opportunity for Women in the Workplace Act 1999*, which replaced the *Affirmative Action (Equal Employment Opportunity for Women) Act 1986* in December 1999, requires private sector businesses, community organisations, non-government schools and trade unions with more than 100 employees, and higher education institutions, to develop and implement equal employment opportunity programmes for women.

## Employment

### *Employment policies and programmes*

The Government contributes to the promotion of full, productive and freely chosen employment through supporting job seekers with income support and promoting job creation programmes. These income support and active labour policies are aimed at helping jobseekers, including lone parents, young people, older workers and people with disabilities, to find employment.

### *Indigenous employment*

Indigenous employment is an Australian Government priority. Australia's Indigenous Employment Policy has three components: the Indigenous Employment Programme; the Indigenous Small Business Fund; and new measures to improve Job Network outcomes for Indigenous Australians.

The Australian Government has committed substantial funding to reforming and improving employment services. Existing government indigenous-specific employment programmes are being refocused to deliver more targeted and individualised coverage for indigenous job seekers and improved opportunities to access mainstream employment assistance and services.

### *Vocational education and training*

Formal vocational education and training (VET) programmes in Australia range from basic adult education to advanced technical and business diplomas and include a range of employment related training. Around half of VET clients undertake relatively short training programmes, while others undertake more extended programmes, leading to nationally recognised qualifications.

The Australian Government's New Apprenticeships Incentives Programme provides a range of measures aimed at increasing New Apprenticeship opportunities by encouraging employers in the public, private and community sectors to offer ongoing employment and structured training opportunities to trainees and new apprentices.

### *Workers' Compensation*

The Australian Government and each State and Territory, require that employers take out compulsory workers' compensation insurance. They also regulate health and safety at work for employees who fall within their jurisdiction.

### *Occupational Health and Safety*

There are ten principal occupational health and safety (OHS) statutes across Australia – six State, two Territory and two Australian Government (one relating to Australian Government employees, the other relating to seafarers). Australia has recently reviewed its national framework for OHS and workers compensation, and established the Australian Safety and Compensation Council (ASCC). Australia has in place the

*National OHS Strategy 2002 -2012*, which aims to sustain a significant and continual reduction in the incidence of work-related fatalities, with a reduction of at least 20% by 30 June 2012, and a reduction in the incidence of workplace injury by at least 40% by the same date.

In Australia a consistent legislative approach is taken by all jurisdictions that imposes the same general “duty of care” on employers to protect the health and safety of their employees, and other persons at the workplace. Most Australian jurisdictions use an enforcement approach that is compliance based with a focus on cooperation rather than confrontation and deterrence. Employers are required to manage safety implementation in the workplace, backed by an active compliance mechanism. The system is outcome based, and uses a combination of risk assessment and prescription through regulations, guidelines and codes of practice to allow workplaces to develop safe work practices that best suit their workforce.

The Australian Government ratified Convention 155, *Occupational Safety and Health, 1981* in March 2004. The Australian Government is consulting the constituent States and Territories on the possibility of ratifying Convention 162, *Asbestos, 1986* and the *Protocol to ILO Convention 155, Occupational Safety and Health, 1981*.

### Social Protection

Many of the social protections for workers in Australia are provided for in legislation, both at Commonwealth and State and Territory level. A suite of legislation provides a set of minimum standards which must be observed by employers. These include, for example, annual leave, parental leave, sick leave and redundancy payments.

Industrial instruments such as awards, collective and individual agreements often provide for more generous benefits than the legislated minimum standards. These industrial instruments are also given statutory force by the relevant legislation.

Some aspects of social protection are funded directly by the employer, (eg. various forms of leave such as sick, maternity, parental, personal and long-service; and redundancy payments). Other aspects are funded by contributions by employers and/or workers to an insurance-type scheme, (eg. workers’ compensation and superannuation) and publicly funded as is the case with the Government’s social security scheme. Social security is available only to Australian residents subject to means testing. This includes unemployment, sickness, family and maternity benefits and the age pension.

The Government also provides a safety net for employee entitlements in the event of an employer’s insolvency.

Universal free medical and hospital care is also available to Australian residents under a tax-funded Medicare scheme.

## Social Dialogue

The statutory-based National Workplace Relations Consultative Council (NWRCC) has two sub-committees. The International Labour Affairs Committee (ILAC) discusses the adoption of, and reporting on, ILO international standards, and was established consistent with Australia's obligations under Convention 144, *Tripartite Consultation (International Labour Standards)*. The Committee of Industrial Legislation (COIL) provides a mechanism for consultation with peak employer and union organisations on workplace and related legislative matters.

Australia's workplace relations systems provide opportunities for the industrial parties and governments to participate in discussions, mediation, conciliation and arbitration to resolve disputes and set minimum standards for wages and conditions of employment. The current workplace relations system also promotes social dialogue at the enterprise level through both collective and individual agreement-making.

### **Australia's Progress on a Decent Work Action Plan**

The Department of Employment and Workplace Relations (DEWR) is currently in the process of consulting various federal government agencies, each of the State and Territory governments, the Australian Chamber of Commerce and Industry and the Australian Council of Trade Unions, in the preparation of a national action plan. It is envisaged that the action plan will outline relevant government/agency policies; current and proposed activities that relate to the ILO's strategic objectives; where these objectives are being met and where they will continue to be pursued.

Decent Work action plans are a "bottom up" approach to realising the ILO's Decent Work agenda at the national level, that is, they are developed by the countries themselves rather than the ILO. This approach recognises that countries will respond to the Decent Work agenda differently, implementing policies and programmes that suit national conditions.

Australia's draft action plan will reflect the range of activities across the public, private and community sectors that contribute towards achieving Decent Work Agenda objectives. An action plan will be an important tool to assist governments, workers and employers in prioritizing issues, allocating resources and assessing progress against outcomes where they are aligned with the ILO's Decent Work programme.

Once finalised, the action plan will be reviewed and updated regularly to reflect Australia's long-term commitment to the ILO's Decent Work agenda.