



**THE HON JULIA GILLARD MP**  
**DEPUTY PRIME MINISTER**

Minister for Education

Minister for Employment and Workplace Relations

Minister for Social Inclusion

**SPEECH**

**Address Inaugural Sitting of Fair Work Australia**

**1 July 2009**

**SYDNEY**

**Introduction**

Your Honour, this is an historic day.

We celebrate the beginning of a new chapter in Australia's industrial relations history with the commencement of the *Fair Work Act 2009* and the creation of Fair Work Australia.

Fair Work Australia will play a role that lies close to the heart of the Australian democracy; that of Australia's independent industrial umpire.

In fulfilling this role, Fair Work Australia stands on the shoulders of the Australian Industrial Relations Commission and, before it, the Commonwealth Court of Conciliation and Arbitration. A great history, a great tradition.

Like those bodies, Fair Work Australia will be a defender of our society's value of the fair go.

Fair Work Australia, like its predecessors, will apply the new laws fairly and impartially and exercise its statutory functions according to that wonderful formulation, the 'equity, good conscience and the merits of the matter'.

With the continuing fall in the rate of industrial action that has occurred over past decades, Justice Higgins' description of 'the barbarous processes of strike and lock-out' perhaps seems an irrelevance now in 2009.

But it remains important now, as it was in 1904, to ensure that the independent industrial umpire is empowered to act where necessary, so that in our society, the strong will not be able to treat the weak unfairly.

As I outlined in my second reading speech to the Fair Work Bill, Australia's version of fairness began with industrial relations:

- with the concept of the living wage, determined first in the Harvester judgement;
- with the idea that people's democratic rights don't cease when they step onto the factory, shop or office floor;
- with the recognition of the need for time for family, relaxation and community; and
- with an end to divisive industrial conflict.

With the commencement today of the *Fair Work Act 2009*, we have in place a system that will be fair, simple and effective. It will deliver a balance that will allow Australia to become more competitive and prosperous with decent workplace rights. It is a system that provides fairness and decency at work while allowing employers to get on with growing businesses. The Fair Work Act brings to an end the division and bias of the Work Choices laws.

I am optimistic that we have a system that will form a solid foundation to achieve Australia's first national workplace relations system for the private sector.

What we celebrate today began more than a century ago when the Labor movement enshrined the Australian right to a 'fair go' in one of the first conciliation and arbitration systems in the world.

The Fair Work Act builds upon these core Australian values to build a new enterprise bargaining system to meet the needs of the nation in the future.

### ***Safety net***

The bedrock of the system is the provision of a comprehensive safety net of employment conditions through the National Employment Standards and modern awards.

The initial creation of new modern awards by the Australian Industrial Relations Commission from the many thousands of pages of state and federal instruments is significant and challenging task - and a task that is of national importance.

It is a task that has been, and is continuing to be, performed by the Commission with its customary level of expertise and dedication, with the assistance of expert submissions from unions and employer associations. I take this opportunity to once again thank all members of the Commission and the parties for your hard work on delivering this important national reform.

Under the new system, the safety net will not be unyielding to the needs of a changing and growing society. The body that we celebrate today, Fair Work Australia, will play a crucial role in consulting with the employers, employees and the community at large to review modern awards every four years to ensure they continue to meet community needs and expectations.

It is customary at occasions such as this to celebrate the achievements of the great arbitrators of the past, with the top of the list being Justice Higgins and the concept of the living wage determined in the Harvester Judgement of 1907.

But there are many great achievements of Australia's industrial arbitrators, achievements of course shared equally with the unions who argued for these changes and progressive employers who saw their merits.

Achievements that have made our society what it is today, and that too often, we take for granted include:

- The 44 hour week in 1927, followed by the 40 hour week in 1947, followed by the Reasonable Hours Test Case in 2002.
- Equal pay for indigenous employees in 1966.
- And for women, as a result of a series of cases starting from 1969, the right to equal pay.
- Maternity leave in 1979. This was of course the start of a journey, one that is not yet complete, towards responding to the needs of parents in the workplace.
- In 1990 – paternity leave, and in 1995, the carer's leave test case, that finally gave those who care for others the dignity of an entitlement to leave to meet those responsibilities.
- The security and decency afforded to employees through the *Termination, Change and Redundancy* test case of 1984.
- In 1994, superannuation - finally a decent retirement for all Australians.
- Also in 1994, a supported wage system, to give access to the dignity and independence of work for our most disadvantaged.

Under the Fair Work Act, modern awards will provide a decent safety net of basic conditions of employment for employees that cannot be stripped away.

But under the Fair Work Act, arbitration will not be the principle means of creating new and innovative employment conditions for the future.

As has occurred over the past 16 years, it is bargaining at the level of the enterprise that will continue to be the primary means to secure innovative and creative workplace conditions in the workplace, and then to test and modify them over the years.

The Fair Work Act has enterprise bargaining at its heart, and bargaining will be the primary means of driving continued workplace improvements and reform.

The shift to enterprise bargaining in 1993 completed the transformation of the Australian economy, together with the flotation of the exchange rate, financial deregulation and the phasing down of tariffs and subsidies.

Enterprise bargaining has been undeniably positive for both employers and employees. It has led to an exceptional period of growth in real wages, underpinned by productivity increases at the enterprise level.

Workplaces that have engaged in bargaining have been able to develop cooperative relationships and creative responses to allow the business to adapt and respond to the competitive pressures of deregulation of the economy and globalisation. Through bargaining we have seen:

- new efficient ways of working that increase labour productivity and business competitiveness;
- new ways of attracting and retaining skilled staff; of helping employees to balance work and family responsibilities; of rewarding good performance and building loyalty and commitment;
- new ways of training the workforce; of reducing waste and improving service to clients; and consulting and working cooperatively.

The ability to adapt to external pressures that comes with genuine bargaining has never been more important than it is now in light of the global economic recession.

As we near our second decade of enterprise bargaining, there are different needs among users of the workplace relations system.

There will always be a group of employees and employers who will rely on a fair and simple safety net through the award system. For these groups, the focus will be on providing a simple, easy to understand and apply safety net.

The low paid bargaining stream provides the opportunity for Fair Work Australia to assist employers and their employees to bargain for the first time. The stream encourages Fair Work Australia to be a hands-on facilitator, to help the parties themselves to negotiate agreements that benefit both the employers and their employees.

Fair Work Australia has a new role in making sure that the good faith bargaining obligations are implemented in practice. All bargaining representatives must participate genuinely and reasonably by meeting and by listening and responding to the ideas and proposals of the other.

There are of course many Australian employers and unions who are now experts at bargaining. Many employers and unions have sophisticated and mature relationships, characterised by mutual trust and recognition of the shared interests and shared futures of the employer and employees. For these groups, their only interaction with Fair Work Australia may well be when they lodge their agreements every three or four years.

But for those who need its help, Fair Work Australia has the opportunity under the *Fair Work Act 2009* to find new ways of working with employers, employees and their representatives to foster cooperative, constructive and productive workplace cultures.

With the new range of functions and powers in the Fair Work Act and capacity to operate in a less formalistic way, Fair Work Australia can be creative in how it assists employers and employees. It can tailor the means by which it assists parties to bargain for the first time or helps employers and unions to move on from an adversarial or destructive relationship.

The predecessors to Fair Work Australia have embodied and promoted the values of fairness, independence and objective expertise, values that continue to deserve the highest respect and consideration.

In the best traditions of its predecessors, Fair Work Australia will continue to exhibit these values and will adapt to meet the needs of an ever-changing economy and society.

It will embrace new technology and ways of working. It will work cooperatively with the Office of the Fair Work Ombudsman and, as we move to the national system, with State tribunals and services, to provide seamless service delivery to the Australian public on all aspects of workplace relations.

I take this opportunity to welcome the appointment of Mr Nicholas Wilson as the Fair Work Ombudsman. Under the new Act, the Office of the Fair Work Ombudsman has a new focus on the promotion of harmonious, productive and cooperative workplace relations and providing advice and education in addition to the important compliance role. These activities will be essential to achieve the kinds of modern workplaces we need to take our nation forward.

I also welcome the appointment of Mr Tim Lee as General Manager of Fair Work Australia. In this role Mr Lee will work closely with you, your Honour, the members here today and the Office of the Fair Work Ombudsman to provide excellent service to all users of the system.

### **Conclusion**

In conclusion, I congratulate Your Honour on your appointment as the inaugural President of Fair Work Australia. You bring a wealth of experience and wisdom to this role.

I also congratulate each of the members of Fair Work Australia who have been newly sworn here today.

Your Honour, I am delighted to address you today at this inaugural sitting of Fair Work Australia.

Having achieved the passage of the Fair Work Act 2009 through the Australian Parliament, I can now say, on this historic day, that the Rudd Labor Government has delivered in full on the commitments we gave to the Australian people at the last election to bring fairness to our workplaces.

Your Honour, I have every confidence that Fair Work Australia will serve our nation fairly and effectively in the years to come.

Thank you.